

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING  
OF THE MAYOR AND CITY COUNCIL OF  
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **9<sup>th</sup> day of May, 2018**, in the meeting room of the City Office, 557 North 4<sup>th</sup> Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 2<sup>nd</sup> day of May, 2018.

**AGENDA AS FOLLOWS:**

- |  |   |
|--|---|
| 1. Roll Call;  | _____<br>Mayor Alan Zavodny                   |
| 2. Pledge of Allegiance;   |   |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;   | _____<br>Council President Gary D. Smith      |
| 4. Minutes of the April 18 <sup>th</sup> , 2018 meeting of the Mayor and City Council;   |   |
| 5. Consideration of Progress Estimate #9 for Constructors, Inc. in the amount of \$462,684.10;   | _____<br>Council member Thomas J. Kobus       |
| 6. Consideration of Claims;  |   |
| 7. Committee and Officer Reports;  | _____<br>Council member Dana E. Trowbridge    |
| 8. Timpte discussion;  |   |
| 9. Consideration of awarding a bid for the Wastewater Treatment Plant Improvements;  | _____<br>Council member Kevin N. Hotovy       |
| 10. Discussion concerning the Park Shelter and Restroom/Shower Facility (we awarded the bid of \$178,000 to Rogge General Contractors, Inc., contingent upon pursuing change orders to reduce the expenditures) and consideration of such; | _____<br>Council member Patrick J. Meysenburg |
| 11. Consideration of Ordinance No. 1288 authorizing Bond Anticipation Notes, Series 2018A, Downtown Improvements;  | _____<br>Council member John P. Vandenberg    |
| 12. Discussion concerning the track renovation at the Park;  | _____<br>City Clerk Joan E. Kovar             |
| 13. Discussion with Bill Kozisek concerning an additional turning lane by Aquinas High School;   |   |

14. Public Hearing to consider amending the Zoning Ordinance 1060, Amending Article 4: General Provisions, Section 4.14 Accessory Buildings and Uses, by deleting A) i. Exception: Accessory Buildings under 200 sq. ft., and ii. Carports under 400 square feet, and adding Section J) Carports and #1 - #6;
15. Consideration of Ordinance No. 1286, amending Zoning Ordinance #1060, as described above;
16. Public Hearing to consider amending the Zoning Ordinance No. 1060, Article 5.13 I-1 Light Industrial, Article 5.14 I-2 Heavy Industrial and Article 5.15 Flex Space Mixed Use District, by adding Conditional Uses – Storage Containers, and to consider amending Article 8: Supplemental Regulations by amending Section 8.14 Storage Containers;
17. Consideration of Ordinance No. 1287, amending Zoning Ordinance #1060, as described above;
18. Consideration of authorizing the purchase of a 2018 John Deere Z950M Commercial mower in the amount of \$9,450.00 that was budgeted to be paid ½ by the Street Department and ½ by the Airport;
19. Consideration of Ordinance No. 1285, on the third (3rd) and final reading, annexing the Brian and Mistyn Kozisek property located at the corner of 14<sup>th</sup> & C Streets legally described as follows: A parcel of land located in the South Half of the Southwest Quarter of Section 20, Township 15 North, Range 3 East of the 6<sup>th</sup> P.M., Butler County, Nebraska, being described as follows: Referring to the Southeast corner of the South half of the Southwest Quarter of said Section 20; thence S90°00'00"W on the south line of said South Half of the Southwest Quarter, a distance of 1544.86 feet to the east right of way line of 14<sup>th</sup> Street and the Southeast corner of East David City, an addition to the City of David City, Nebraska; thence N00°58'30"W, on said east right of way line and the east line of said addition, a distance of 594.00 feet to the northwest corner of a tract of land as described in film book 2011, Page 1512 and recorded in the office of the Register of Deeds, for Butler County, Nebraska, and the point of beginning, thence continuing N00°58'30"W (assumed bearing) on said east lines, a distance of 273.28 feet, thence S89°59'34"E, a distance of 163.50 feet; thence S00°58'30"E parallel with said east lines, a distance of 270.66 feet to the north line of said tract of land; thence N89°54'39"W, on said north line, a distance of 163.43 feet to the point of beginning, containing 1.02 acres, more or less; (Passed on 1<sup>st</sup> reading 3/14/18; Passed on 2<sup>nd</sup> reading 4/18/18)
20. Consideration of the bids received for the demolition of the residence located on Lot 1 and the North 10' of Lot 4, Block 8, Litty's First Addition, otherwise known as 897 North 5<sup>th</sup> Street, David City, NE;
21. Consideration of authorizing the purchase of 2 rail mounting brackets and all related hardware to modify the level sensors for the SBR basins at the WWTP and prevent false level readings;
22. Adjourn.

CITY COUNCIL PROCEEDINGS

May 9, 2018

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 North 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 26<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the

City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Gary Smith, Thomas Kobus, Pat Meysenburg, Kevin Hotovy, John Vandenberg, and Dana Trowbridge, City Attorney Jim Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Philip Lorenzen of D.A. Davidson & Co., Craig Reinsch of Olsson Associates, Al Hottovy of Leo A. Daly, Reed Miller of Miller & Associates, Jeff Thompson of Timpote, Larry McPhillips of Bank of the Valley, Jeff Hilger, Planning Commission member Pam Kabourek, Library Board Member Jane Buresh, Bob Kobza, Rick Schneider, Superintendent of D.C. High School Chad Denker, Building Inspector Ray Sueper, Street Supervisor Chris Kroesing, and Park/Auditorium Supervisor Bill Buntgen.

The meeting opened with the Pledge of Allegiance.

Mayor Alan Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and asked those present to please silence their cell phones.

The minutes of the April 18<sup>th</sup>, 2018 meeting of the Mayor and City Council were approved upon a motion by Council member Hotovy and seconded by Council member Vandenberg. Voting AYE: Council members Meysenburg, Smith, Hotovy, Kobus, and Vandenberg. Voting NAY: None. Council member Trowbridge was absent. The motion carried.

Council member Hotovy made a motion to approve Progress Estimate #9 for Constructors, Inc., in the amount of \$462,684.10. Council member Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Smith, Meysenburg, and Hotovy. Voting NAY: None. Council member Trowbridge was absent. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Kobus made a motion to authorize the payment of claims and Council member Smith seconded the motion. Voting AYE: Council members Hotovy, Meysenburg, Vandenberg, Smith, and Kobus. Voting NAY: None. Council member Trowbridge was absent. The motion carried.

Mayor Zavodny asked for any comments or questions concerning the Committee and Officer Reports.

Mayor Zavodny stated: "As we have been doing in our administrator search, have we made progress on finding.....do you know about the background checks? I think Skip (Council member Trowbridge) was going to check on some releases." It was noted that no-one has heard anything back from Council member Trowbridge.

Council member Kobus made a motion to accept the Committee and Officers Reports as presented. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Hotovy, Smith, and Meysenburg. Voting NAY: None. Council member Trowbridge was absent. The motion carried.

Council member Trowbridge arrived at 7:05 p.m.

Mayor Zavodny stated: "We received this letter this evening from Timpote and it's a request for a sub-committee meeting to the David City Council:

*Dear City Council Members:*

*Over the past several years Timpote Inc., has performed an in-depth analysis of our long-term business needs as it relates to our future design, manufacturing, sales and service facility, infrastructure, and resource requirements. Our strategic assessment considered sizeable investments, both inside and outside of the State of Nebraska. With this in mind, we recently met with individuals from the Nebraska Department of Economic Development to gain an understanding of the available Economic Incentive Programs for Timpote if our upcoming investments were made in Nebraska. This letter is to formally request an opportunity to discuss this same subject with David City Council Members. Since we are not yet ready to reveal our investment plans publicly, we would greatly appreciate scheduling a sub-committee meeting with the Mayor and a council member or members to discuss available options. Given our project development schedule we would respectfully request this meeting be held as quickly as possible and propose Tuesday, May 15, 2018. Timpote's goal is to be recognized as a good corporate citizen and to work in partnership with our City's leaders. We look forward to hearing from you and having the pleasure of working closely with the David City Council members. Thank You for considering our request.*

*Respectfully,*

*Dale Jones, President and CEO;*

*Jeff Thompson, Executive Vice President Manufacturing;*

*Connie Samek, Vice President Finance;*

*Dean R. Powell, Vice President Sales & Marketing*

Mayor Zavodny stated: "If there is interest among Council members to attend this meeting, if you would let me know. We will have to keep our number down to not violate the open meetings act."

Larry McPhillips, President, Bank of the Valley, stated: "I would urge the Council to please support this project. I've seen preliminaries on it, this is a fantastic opportunity for David City; an enormous opportunity for David City. This project will create jobs, this will create a lot of other economic developments by means of housing in this community. They have been a corporate citizen in good standing in this community for 40 years and I guess I would urge everybody here on the council to give them the most consideration you can possibly give them. This is going to be great for the town. Whatever financing arrangements you can help them with, be it TIF (Tax Increment Financing) or anything, I would urge you to really give them the support that they need. Timpote is here; that doesn't mean Timpote is always going to be here. There are communities in numerous states that would just eat this alive if they had this opportunity, so I'm not going to talk long, but I would urge you to please support this project. Thank You."

Mayor Zavodny stated: "I agree with everything you said. Jeff (Thompson), I know in talking to Connie, it's on a pretty fast track."

Executive Vice President Manufacturing Jeff Thompson stated: "Well, it's construction season, right?"

Mayor Zavodny stated: "Joan had made the suggestion that we could potentially recess this evening and reconvene Tuesday evening. I know you guys want to make a decision pretty quickly from the conversations, is that something you would be interested in? Something like TIF takes a little bit of time, so I'd like to get it going sooner rather than later, we have to get the attorney involved, etc. I might have a little bit of an advantage of it, talking to Connie about what you're thinking about, but to the rest of the Council this is probably fairly new."

Council member Trowbridge stated: "No, the rest of the Council, there are some of us that are involved with this early. Earlier than most." "Jeff, do you want to visit with this select group from the Council quietly, by yourself? It sounds like that might be your preference."

Jeff Thompson stated: "Well, because we haven't made a final decision, we would really like to have a private conversation just because we haven't shared this with all of our employees."

Mayor Zavodny stated: "What I was suggesting was that if we could meet privately, talk about what you might need from us, if you want to move fast. We can't have more than 3 from the Council so that we don't violate the open meetings act. TIF is certainly something at our disposal and anything else cooperating with Nebraska Department of Economic Development. If a few of us could meet with them Tuesday morning, and then Tuesday evening we could discuss this with the full council. If we wouldn't do that then we're looking at advertising, and we're out probably a couple weeks."

Council member Trowbridge stated: "A special meeting doesn't take 2 weeks; a special meeting takes 3 days."

City Clerk Kovar stated: "I have to get it in the paper."

Council member Trowbridge stated: "Special meeting?"

City Clerk Kovar stated: "Yes, for a special meeting."

Council member Trowbridge stated: "Let's change the term then to an "emergency meeting."

City Clerk Kovar stated: "This isn't an emergency."

Mayor Zavodny stated: "I think our best course of action is, why don't we plan on meeting Tuesday during the day, we can recess, and reconvene Tuesday night. Counsel do you have anything to add to this?"

City Attorney Egr stated: "You know, what we could do, we could recess. I'm looking at the Open Meetings Act, and we could recess if there is a concern about what information would get out. I mean, the Open Meetings Act talks about we could go into closed session if a closed session is clearly necessary for the protection of the public interest as well as items A thru B, but not necessarily limited to those items and I think this involves a public interest situation. This isn't an emergency situation where you have a disaster or something like that, but I think this is a situation where you could go with a recess instead of an adjournment, this could be continued on that Tuesday evening or whatever from that standpoint. If there's a concern about the information coming out at this particular point and time, I think for the protection of the public interest and what needs to be done, I think that discussion could be done in closed

session for the protection of the interests of what's going on from Timpte's standpoint and handle it that way, in my opinion."

Mayor Zavodny stated: "Ok, we will plan on scheduling a meeting for some time during the day on Tuesday, consisting of myself, some Timpte people, Nebraska Department of Economic Development, and one or two Council members."

Mayor Zavodny stated we were ready for Agenda #9 – Consideration of awarding a bid for the Wastewater Treatment Plant Improvements.

Council member Trowbridge stated: "Why are we doing this again? We haven't had a meeting. Talking to Craig Reinsch of Olsson Associates: "You didn't put it on the agenda probably." Craig said "No". "Then my question still remains, why are we doing this? We meet with Henningsen's tomorrow morning at 10:30 a.m. in Omaha."

The item was on the agenda because action needs to be taken by June. Council members Trowbridge and Kobus volunteered to work with City Attorney Egr and Henningsen's on this, however, no-one had notified the Mayor or City Clerk as to when they had scheduled a meeting. Now, that it was known that the meeting was scheduled for Thursday, May 10<sup>th</sup> at 10:30, it was noted that the committee may be able to report back to the full Council with some decisions and/or an agreement. If this item was tabled, the Council could get a report from the Committee and consider this agenda item at the recessed Council Meeting on Tuesday, May 15<sup>th</sup>.

Therefore, Council member Hotovy made a motion to table consideration of awarding a bid for the Wastewater Treatment Plant Improvements until the council comes back in session on Tuesday, May 15<sup>th</sup>. Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Smith, Kobus, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Mayor Zavodny stated that he has been thinking about the park shelter and restroom/shower facility and stated: "My biggest concern is that we don't screw up this grant. If we are worried about \$15,000 over the life of this thing, I will make you this promise because I feel very confident that I can do this, in our budget process, I will find you \$15,000 if that's our concern. We are so far along on this that I think we are risking our grant."

Council member Trowbridge stated: "Tom (Council member Kobus) and I are the ones that are supposed to be working on this and I don't agree with you at all."

Reed Miller, President of Miller & Associates Consulting Engineers, P.C., was present. Mr. Miller stated: "I am not familiar with the deadline on the grant, but the Contractor, we asked him to extend his bid, by letter until tomorrow, otherwise the bid could be nil and void."

Council member Trowbridge stated: "Your firm was authorized, the day after our last meeting, to award the bid to Rogge (General Contractors, Inc.) in the amount of \$178,000.00 with the understanding that we were going to make a change order immediately, scraping the pre-fab shelter. Wasn't that done?"

Mr. Miller stated: "No, it was not done because the shelter is one of the reasons why you got funded. We figured you needed to discuss that."

Council member Trowbridge stated: "But we still planned on doing the shelter."

Mr. Miller stated: "By yourself?"

Council member Trowbridge stated: "Yes, that's exactly what Councilman Kobus and I have proposed."

Mr. Miller asked: "Was that a motion?"

Council member Trowbridge stated: "It was a discussion."

Mr. Miller stated: "We would rather have a motion from the entire Council on giving us direction on what we need to do."

Much discussion followed.

Mayor Zavodny asked: "Let's say we proceed, will you be the one over seeing the project to make sure that we don't have the Crete disaster of the wall falling on the young lady?"  
*[May 2004: 8-year-old Alexa Foster, a third-grader at St. James Catholic School, was attending a last-day-of-school picnic at Crete's Tuxedo Park, when she entered the restroom facility to refill her water gun. A cinderblock wall inside the public bathroom collapsed, killing her.]*

Mr. Miller stated: "We will inspect it, yes we will."

Mayor Zavodny stated: "Or like our picnic shelter, it was built on a pivot point and when the wind hit right it collapsed. What I am interested in is that an engineer is overseeing the project to make sure we've taken every step we can. That doesn't mean the right storm doesn't cause that to happen. Our responsibility is to make sure that we've taken every step we can to ensure to the best level we can, the safety and the process used."

Mr. Miller stated: "At the end of the project we will certify that it was built according to plans and specifications. We will be here at critical things, such as the foundation, the footings being poured, those kinds of things."

Mayor Zavodny stated: "So let's talk about what we have done, so we all understand exactly where we're at. We have awarded this, contingent upon change orders to reduce the number, so that's where we are. We've awarded the bid. Can we work with you and sit down with the contractor and say, "these are the changes we want to make"?"

Mr. Miller stated: "We would be happy to sit down with you and go over that with the contractor."

Mayor Zavodny stated: "I think that's where we are at."

Council members Trowbridge stated: "The grant was given for restrooms with showers, and a picnic shelter. I'm giving up on the silly showers."

Council member Kobus agreed stating: "I think that's worthless myself. It never should have been bid like that."

Mayor Zavodny stated: "If you try to take them out, I think you are jeopardizing the grant."

Council member Trowbridge stated: "I would agree with you on that one, because showers are extremely unique, where an open shelter is pretty generic."

Mayor Zavodny stated: "How do you want to proceed. If we want to save money, honestly, I think our only option at this point is on the shelter piece. Part of getting the grant was to build a shelter, we can still build a shelter and negotiate with the contractor to do negative change orders to bring the costs down and still fulfill the grant obligation based on how we submitted it. So, we approved this low bid, let's talk to the contractor and see what we can get done. I would prefer that Rogge came out, and Council members Trowbridge and Kobus, if they are still willing, would sit down with him and you (Mr. Miller) and see how far we can move this needle."

Phil Lorenzen, Vice President of D.A. Davidson & Co., stated: "We issued, on your nine-million-dollar project plus or minus, \$1,250,000.00 in General Obligation Water Bonds dated July 13, 2017, so that's part of the package of money you had and have been spending. Then we issued \$2,500,000.00 of Bond Anticipation Notes, Series 2017A, at an interest rate of 1.65% and we also delivered those on July 13, 2017. Then we delivered and issued on October 26, 2017, \$2,000,000.00 of Bond Anticipation Notes, Series 2017B, so that's the grand total of what you've issued to date, \$5,750,000.00. You currently have about \$7,667,465 of outstanding debt. The General Obligation Debt schedule shows that you are paying down very rapidly on your bonds. You've got only two payments to make, 2018 and 2019, on the Storm Water Sewer Project of 2014. Various Purpose Bonds you've got payments through 2024 that are modest in amounts. Highway Allocation Refunding Bonds, Series 2014, you have payments in 2018 and 2019 and those are done. The G.O. Water Bonds is what we issued, your payments are modest and the balance declines rapidly, that does not include the notes. Going back to what we talked about before, the sales tax revenues, some were south of the \$3,250,000.00 per year, should be adequate to go ahead and fund this project over time without any complications. Interest rates have come up a bit but it's not the end of the world, they're still incredibly low. We've provided a summary of what you've paid to date, including this pay estimate tonight, \$5,376,450. You've got just under \$4,000,000 total amount yet to pay. The project pay estimates are about \$3,050,000 and you've got \$900,000 that comes in from the Nebraska Department of Transportation in October, 2018. So, my goal was to try to determine what we really need now to complete this project and, in the market, where we are seeing some escalation in interest rates the advisability of maybe locking most of the payments in right now at these current interest rates. So, you have payments to date \$5,376,449.48; balance to pay \$3,050,000.00; Un-applied Water Bond Funds, we issued \$1,250,000 and I'm guessing there is probably \$750,000.00 left there, but we need to identify with Al Hottovy how much of that water bond issue applies to payments we've already made. I'm recommending that we would issue Series 2018A Notes in the amount of, not to exceed, \$2,000,000.00 (Two million dollars) that would leave \$300,000.00 unfunded but you have sales tax revenues and other funds that could be appropriated to that. I don't want to over-issue and then we know in October the Nebraska Department of Transportation is going to pay you \$900,000 between them and Butler County. So, my recommendation is that you would consider the issuance of, not to exceed, \$2,000,000 in Bond Anticipation Notes. Transaction costs are just a little over \$20,000 for all the fees, legal expenses, etc.

**DAVID CITY DOWNTOWN IMPROVEMENTS  
MAY 6, 2017  
PROJECTIONS  
PROJECTIONS SUBJECT TO WEATHER DELAYS  
FOR RAIN AND SNOW IN WINTER 2018**

<b>1. TOTAL CURRENT CONTRACT VALUE</b>	<b>\$9,359,470</b>
<b>2. TOTAL COMPLETED TO DATE</b>	<b>\$5,376,450</b>
<b>3. TOTAL AMOUNT TO COMPLETE</b>	<b>\$3,983,000</b>
<b>PROJECTED PAY ESTIMATES</b>	
<b>4. JUNE, 2018</b>	<b>\$500,000</b>
<b>5. JULY, 2018</b>	<b>\$500,000</b>
<b>6. AUGUST, 2018</b>	<b>\$500,000</b>
<b>7. SEPTEMBER, 2018</b>	<b>\$500,000</b>
<b>8. OCTOBER, 2018</b>	<b>\$500,000</b>
<b>9. NOVEMBER, 2018</b>	<b>\$500,000</b>
<b>10. DECEMBER, 2018</b>	<b>\$50,000</b>
<b>11. SUB-TOTAL</b>	<b>\$3,050,000</b>
<b>12. TOTAL ESTIMATED WORK COMPLETE (2 + 11)</b>	<b>\$8,426,450</b>
<b>13. RETAINED PERCENTAGE PAYMENT – JAN, 2019</b>	<b>\$940,000</b>

**REMINDER: OCTOBER 15, 2018 \$900,000 FROM NDOT**

**David City Project Payment Summary**  
**Total Paid**

May 9, 2018	<u>\$ 5,376,449.48</u>
Balance to Pay	\$ 3,050,000.00
Cash on hand	
Un-Applied Water Bond Funds	
Original Amount \$1,21	\$ (750,000.00)
Series 2018A Notes	<u>\$ (2,000,000.00)</u>
Net Required	<u>\$ 300,000.00</u>
October NDOT Paymer	\$ 900,000.00

**SOURCES AND USES OF FUNDS**

**CITY of DAVID CITY, NEBRASKA**  
**BOND ANTICIPATION NOTES, SERIES 2018**  
**\$2,000M Par Amount**  
**Non-Rated, 4/15/2021 Final Maturity**  
**[ Preliminary -- for discussion only ]**

Dated Date 05/11/2018  
 Delivery Date 05/11/2018

**Sources:**

Bond Proceeds:	
Par Amount	2,000,000.00
	<u>2,000,000.00</u>

**Uses:**

Project Fund Deposits:	
Project Fund	1,978,939.00
Cost of Issuance:	
Bond Counsel	3,000.00
CUSIP/DTC	1,061.00
Dorsey	<u>1,000.00</u>
	5,061.00
Delivery Date Expenses:	
Underwriter's Discount	18,000.00
	<u>2,000,000.00</u>



**BOND DEBT SERVICE**

**CITY of DAVID CITY, NEBRASKA**  
**BOND ANTICIPATION NOTES, SERIES 2018**  
**\$2,000M Par Amount**  
**Non-Rated, 4/15/2021 Final Maturity**  
**[ Preliminary -- for discussion only ]**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
10/15/2018			15,500	15,500	
04/15/2019			22,500	22,500	38,000
10/15/2019			22,500	22,500	
04/15/2020			22,500	22,500	45,000
10/15/2020			22,500	22,500	
04/15/2021	2,000,000	2.250%	22,500	2,022,500	2,045,000
	<u>2,000,000</u>		<u>128,000</u>	<u>2,128,000</u>	<u>2,128,000</u>

Council Member Hotovy introduced Ordinance No. 1288. Mayor Zavodny read the proposed ordinance entitled: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2018A, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

Council Member Hotovy moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member Trowbridge seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted YEA: Meysenburg, Kobus, Smith, Vandenberg, Hotovy, and Trowbridge. The following voted NAY: None. The motion to suspend the rules was adopted by three-fourths of the members elected to the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Phil Lorenzen stated: The last portion of the title emphasizes that you are agreeing to issue General Obligation Bonds to pay the notes at maturity or to pay the notes from other available funds. That's State funds, that's money on hand, so you don't have to issue all those bonds we will only issue what is absolutely necessary at the time.

Thereupon said Ordinance No. 1288 was then read by title and Council Member Hotovy moved for its final passage, which motion was seconded by Council Member Vandenberg. The Mayor stated the question "Shall Ordinance No. 1288 be passed and adopted?" Upon roll call, the following voted YEA: Meysenburg, Trowbridge, Kobus, Smith, Vandenberg, and Hotovy. The following voted NAY: None. The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the Council, the Mayor declared the Ordinance adopted and the Mayor, in the presence of the Council, signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

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

#### **ORDINANCE NO. 1288**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2018A, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

Section 1. The Mayor and City Council of the City of David City, Nebraska (the "City") hereby find and determine that by Ordinances of the City heretofore adopted, Street Improvement District Nos. 2017-1 and 2017-2, were heretofore created; that the special project engineers for the City, have prepared estimates for the cost of construction of the improvements in the aforesaid Districts; that bids have been opened and tabulated; that the City has entered into contracts for construction of the improvements; and, that there has been placed on file the City's Consulting Engineers' estimate showing that the City's costs, including costs of engineering and costs of issuance and underwriting and a portion of interest to accrue on said notes during construction, is estimated to be \$8,750,000; that it is necessary for the City to have funds available to meet its payment obligations under the terms of contracts for the cost of the improvements to be constructed relative to the aforesaid Districts and to provide for payment of a portion of the interest accruing on the Notes prior to their maturity, pending the completion of improvements and issuance of permanent financing pursuant to Sections 17-516, 17-520, and Sections 18-1801 and 18-1802 R.R.S. Neb. 2012, and other applicable Sections; that the City has authority under Section 10-137, R.R.S. Neb. 2012 to issue bond anticipation notes for the purpose of providing interim financing for the construction of said improvements, including a portion of the interest to accrue on such notes and the costs of issuance thereof, all as set out above; that the City has heretofore issued its Bond Anticipation Notes, Series 2017A, dated July 27, 2017, issued in the principal amount of \$2,500,000, and its Bond Anticipation Notes, Series 2017B, dated November 14, 2017, issued in the principal amount of \$2,000,000, to provide a portion of funds for initial construction costs; that to provide funds to meet additional portions of the overall construction costs, it is now necessary to issue an additional series of bond anticipation notes in the principal amount of not to exceed \$2,000,000; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2018A, in the amount of not to exceed \$2,000,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for a portion of the costs set out in Section 1 pending the issuance of permanent General Obligation Various Purpose Bonds by the City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Bond Anticipation Notes, Series 2018A" of the aggregate principal amount of not to exceed Two Million Dollars (\$2,000,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said notes shall be dated as of date of delivery and each of said notes shall bear interest at the rate of 2.50% per annum, payable semiannually on April 15 and October 15 in each year, commencing October 15, 2018, with the principal of said notes to become due and payable as follows:

<u>Principal</u> <u>Amount</u>	<u>Maturity</u>
\$2,000,000	April 15, 2021

provided, however, the Notes may be issued in a lesser principal amount and may bear interest at any lower rate of interest, and may be issued with an original issue discount of not greater than 0.80% of their par principal value, all as shall be provided for in a written designation of final principal amount, final interest rate, and original issue discount, if any, (the "Designation") as may be agreed to between the City and the original purchaser specified in Section 6 of this ordinance, and the Mayor or City Administrator are hereby authorized to enter into such Designation on behalf of the City without further action of the City Council; and further provided, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after October 15, 2019 upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such

notice of call for redemption shall be sufficient if it has been sent to a registered holder of said note or notes by first class mail addressed to the registered address of said registered holder. If less than all of the notes are called and redeemed, such notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding note is called for redemption, in such case upon the surrender of such note called for payment, there shall be issued to the registered owner of said note, without charge therefor, a registered note or notes for the unpaid principal balance in any of the authorized denominations authorized by this ordinance.

The principal of said notes and any interest due on said notes upon maturity or earlier call for redemption shall be payable at the office of the City Treasurer, David City, Nebraska, as Paying Agent and Registrar, upon presentation and surrender of the note or notes when due or when called for payment prior to maturity. The payment of interest on said notes, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owners by mailing payment to the address of such registered owner or owners thereof as such address shall appear on the note register maintained by said Paying Agent and Registrar. The record date for each interest payment date (the "Record Date") shall be the fifteenth day immediately preceding the interest payment date. Payments of interest shall be mailed to the registered owner of each note as of the Record Date for each interest payment date.

Section 3. The City Treasurer, David City, Nebraska, is hereby designated as Paying Agent and Registrar for the Notes herein ordered issued and is hereby authorized to make payments of interest and principal from funds available for such purposes as provided herein as the same fall due. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes. The names and registered addresses of the registered owner or owners of the Notes shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions by said Paying Agent and Registrar by surrender of such Note for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by his duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new note or notes of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the notes by this ordinance, one note may be transferred for several such notes of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such notes may be transferred for one or several such notes, respectively of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a note, the surrendered note shall be canceled and destroyed. All notes issued upon transfer of the notes so surrendered shall be valid obligations of the City evidencing the same obligations as the notes surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the notes upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any note during any period from any Record Date until its immediately following interest payment date or to transfer any note called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. Said Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Clerk and shall have the City's seal imprinted or impressed on each Note. Said Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any Note during the period from any Record Date to the next following interest payment date transfer any Note called for redemption for a period of 30 days next preceding the date fixed for redemption.

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

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BUTLER

BOND ANTICIPATION NOTE  
OF THE CITY OF DAVID CITY, NEBRASKA  
SERIES 2018A

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	April 15, 2021	_____, 2018	

Registered Owner: Cede & Co.

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon from the date of original issue shown above to maturity or earlier redemption, at the rate per annum shown above, payable semiannually on April 15 and October 15 of each year, commencing October 15, 2018. The principal of this note and any interest due upon maturity or earlier call for redemption is payable at the office of the City Treasurer, as Paying Agent and Registrar, in David City, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. The payment of interest hereon, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owner by mailing payment to the address of such registered owner hereof as such address shall appear on the note register maintained by said Paying Agent and Registrar, as of the close of business on the fifteenth day prior to each Interest Payment Date, to such owner's address as shown on such books and records (the "Record Date"). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

This note is redeemable at the option of the City prior to maturity anytime on or after October 15, 2019 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at the address shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of David City for the purpose of providing interim financing to pay a portion of the cost of constructing improvements in Street Improvement District Nos. 2017-1 and 2017-2, to pay the cost of issuance of said notes and to pay a portion of the interest to accrue on said notes, pending the issuance of permanent general obligation bonds. The issuance of this note and the other notes of

this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Section 10-137, Reissue Revised Statutes of Nebraska, 2012, and all other applicable laws.

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its general obligation bonds, the issuance and sale of its bond anticipation notes, or from other monies of the City lawfully available for such purposes.

The City reserves the right to issue additional Bond Anticipation Notes for the purpose of paying the balance of the costs of the projects financed in part by this issue of notes or of other improvement projects of the City, for the purpose of refunding the notes of this issue at or prior to maturity and for the purpose of paying for additional improvements for the City. The ordinance under which these notes are issued constitutes an irrevocable contract between the City and the holders of all of said notes and said contract cannot be changed or altered without the written consent of the holders of seventy-five percent (75%) in principal amount of the notes of this series then outstanding.

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

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

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

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

CITY OF DAVID CITY, NEBRASKA

\_\_\_\_\_  
Mayor

ATTEST:

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

(SEAL)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes of the issue designated therein and issued under the provisions of the ordinance authorizing said issue.

CITY TREASURER  
DAVID CITY, NEBRASKA  
acting as Paying Agent and Registrar

\_\_\_\_\_

(Form of Assignment)

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

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Registered Owner(s)

Witness: \_\_\_\_\_

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

Section 6. Each of the Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The Notes shall be issued initially as "book-entry-only" notes using the services of The Depository Trust Company (DTC), with one typewritten note certificate per maturity being issued to DTC. In such connection, said officers are authorized to execute and deliver a Letter of Representations in the form required by DTC, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Notes. Upon the issuance of the Notes as "book-entry-only" notes, the following provisions shall apply:

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

- (i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Notes,
- (ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or
- (iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Notes.

The Paying Agent and Registrar shall make payments with respect to the Notes only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Note.

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

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the Bond Participants and/or Beneficial Owners of the Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the

Bond Participants of the availability through the Depository of note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange note certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

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

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

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

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

(f) In the event of any partial redemption of a Note unless and until such partially redeemed Note has been replaced in accordance with the provisions of Section 2 of this ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Note as is then outstanding and all of the Notes issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed note certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of such City. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Notes to be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., as the initial purchaser thereof, upon receipt of not less than 98.20% of the principal amount of the Notes plus accrued interest thereon to date of payment for the Notes all as shall be stated in the Designation. Said initial purchaser shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Mayor or Clerk of the City are each individually hereby authorized to execute a Note Purchase Agreement for the sale of the Notes to D.A. Davidson & Co, as initial purchaser of the Notes. The officers of the City, or any one or more of them are hereby further authorized to take any and all actions and enter into any and all agreements deemed necessary

or appropriate in connection with the issuance and sale of the Notes, and any such actions previously taken are hereby ratified and confirmed.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its Various Purpose Bonds or other bonds. The City further covenants and agrees to issue and sell its Various Purpose Bonds or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the bond anticipation notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

Section 8. The City hereby reserves the right to issue additional bond anticipation notes for the purpose of paying the balance of the cost of the projects of the City set out in Section 1 hereof, for the purpose of refunding the Notes herein ordered issued at or prior to maturity and for the purpose of paying for additional improvements for the City.

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

Section 10. The City hereby covenants to the purchasers and holders of the Notes that it will make no use of the proceeds of said Notes issue, including money held in any sinking fund attributable to said Notes which would cause said Notes to be arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended, and further covenants and agrees to take all actions necessary under current federal law to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Notes. The City hereby designates the Notes as its qualified tax-exempt obligations under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt bonds or other obligations, not including private activity bonds (other than qualified 501(c)(3) bonds), in the aggregate principal amount of more than \$10,000,000 in the calendar year that the Notes are issued. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized for such treatment if available.

Section 11. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

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

Section 13. The Mayor and City Administrator (or either of them) are authorized to approve and deliver a Preliminary Official Statement and a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 14. In order to promote compliance with certain federal tax and securities laws relating to the Notes herein authorized (as well as other outstanding bonds) the policy and

procedures attached hereto as Exhibit "A" (the "Tax-Exempt Financing Compliance Procedure") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Tax-Exempt Financing Compliance Procedure and any similar policy or procedures previously adopted and approved, the Tax-Exempt Financing Compliance Procedure shall control.

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

- (a) at least annually, not later than nine (9) months after the end of each fiscal year of the City (the "Delivery Date"), commencing with the fiscal year ending September 30, 2018, financial information or operating data of the City which are customarily prepared by the City and are publicly available, consisting of the City's audited financial statements; and
- (b) in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Notes:
  - (1) principal and interest payment delinquencies;
  - (2) non-payment related defaults, if material;
  - (3) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (4) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (5) substitution of credit or liquidity providers, or their failure to perform;
  - (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Notes, or other material events affecting the tax status of the Notes;
  - (7) modifications to rights of the holders of the Notes, if material;
  - (8) bond calls, if material, and tender offers;
  - (9) defeasances;
  - (10) release, substitution, or sale of property securing repayment of the Notes, if material;
  - (11) rating changes;
  - (12) bankruptcy, insolvency, receivership or similar events of the City (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the

existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

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

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

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

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

Joan Kovar, City Clerk  
PO Box 191  
557 N. 4<sup>th</sup> Street  
David City, NE 68632  
402-367-3135

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

PASSED AND APPROVED this 9<sup>th</sup> day of May 2018

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Mayor Alan Zavodny

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City Clerk Joan Kovar

[SEAL]

NOTICE OF PUBLICATION  
OF ORDINANCE NO. 1288  
IN PAMPHLET FORM

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of David City, Nebraska, held at 7:00 o'clock p.m. on May 9, 2018, there was passed and adopted Ordinance No. 1288 entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2018A, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

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

[SEAL]

Publish One Time: May 17, 2018

**EXHIBIT A**

**Tax-Exempt Financing Compliance Procedure**

**ISSUER NAME:** City of David City, Butler County, Nebraska

**COMPLIANCE OFFICER (BY TITLE):** Treasurer

**POLICY**

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

**PROCEDURES**

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the "Compliance Officer"). To the extent more than one

person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

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

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

Scope of Review.

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

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

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

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

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

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

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

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

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

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

Park Supervisor Bill Buntgen presented the following bid proposal for the renovation of the Athletic track, and a bid for track repairs:



22 South Main Street - PO Box 191 - David City, IA 51442  
P 712.263.3554 - F 712.263.5110 - E Info@midwesttennisandtrack.com

DATE: April 27, 2018  
SUBMITTED TO: Bill Buntgen, Park Supervisor  
ORGANIZATION: City of David City  
ADDRESS: PO Box 191 | David City, Nebraska 68632-0191  
PROJECT NAME: David City Athletic Track Renovation  
ADDRESS: 669 Kansas Street | David City, Nebraska 68632

**BUDGET ESTIMATE: SPURTAN® B**

**SCOPE OF SERVICES**

AREA: 5650 SY (TRACK & FIELD EVENTS)

Procedures:

- A. Removal and disposal of existing resilient surface
- B. Clean and prepare the asphalt base
- C. Locate and fill all cracks
- D. Locate and patch low areas
- E. Application of polyurethane primer coat
- F. Application of 3/8" black Spurtan® B polyurethane surfacing
- G. Layout and paint all lane lines and event markings as per NFHSAA and State standards

BUDGET ESTIMATE.....\$105,000 - \$108,000

Pricing is for budgeting purposes only and is not to be interpreted as a firm bid price. Please contact our office to receive a firm proposal and specifications.

MIDWEST TENNIS & TRACK COMPANY

  
Authorized Signature

Paul Launderville, Vice President  
Printed Signature, Title



CHAN LAURENT

5-8-18

To: City of David City  
Re: Track repairs  
Renovation procedures.

- 1. Cut out track surface around cracks and bad surface area around pole vault take off.
- 2. Fill cracks with patch binder.
- 3. Install new poly track material to match existing.

Total Investment: \$4,550.00

Accepted \_\_\_\_\_ Date \_\_\_\_\_

Payment schedule: one third due with signed contract with remainder due on completion.

Thank you, Chan Laurent

Council Member Trowbridge stated: "I see you have a bid from Tennis Courts Unlimited which makes me nervous. On this, you want the guy that did it the first time, Midwest Tennis & track. This was a real learning experience 12 years ago. There aren't many people that do these, it has outlived its useful life which was 10 – 12 years, it's been in longer than now. It was done right."

Mayor Zavodny stated that he didn't know where the \$105,000 - \$108,000 would come from.

Council member Trowbridge stated: "If we get a new City Administrator we can look for grants which is always the first thing we look for. We can talk to the Superintendents of D.C. High School and Aquinas and say "How deep are your pockets?" and knowing it's not going to help a lot. We have to reprioritize some things, is what we need to do, because this has to be fixed."

Mayor Zavodny stated: "Maybe there's never a good time, this just seems like an especially not good time. Given all of our slip lining concerns, and everything else facing us, compliance with EPA, DEQ, all that stuff, but you know, if we let it go too long then it's going to become more expensive because then you are talking major repairs as opposed to renovating.

Park Supervisor Bill Buntgen stated: "The bid from Tennis Courts Unlimited is just to fix the cracks."

Council member Trowbridge stated: "I would rather have the fellow from Iowa (Midwest Tennis and Track) doing the fixing. Let's get a price from him before we talk about this."

Chad Denker, Superintendent of Schools, David City High School, stated: "I went down and looked at the track today. I think we could get another year of use out of that track. There are some cracks in lane four, and on the back stretch it may need a little better repair work, but I think over all we've ran on worse tracks than this. I think we could get another year out of it, after that I think you're on borrowed time; you're probably already on borrowed time now because I'm guessing it's maybe 16 years old and you normally get ten, twelve if you're lucky. One of the concerns I do have is the timing of that project. I truly think, and I agree with Skip, I do like that company out of Iowa. I've had experience with them before and they do good work. I think it's a project you'd want them to come in the Monday after State Track in terms of timing and get it done right away; the end of May, June, July. You're going to want to get a contract done with somebody over the winter and say this is our starting date and get first on their list whenever you decide to do it. The other thing I wanted to mention is that before you do resurface it, as a school district we may want to have a conversation with the City about adding another pole vault pit or another runway, and another long jump/ triple jump runway, and maybe if the School District would pay for that and we could get it done before the asphalt company comes so they can asphalt over that runway. Because right now we have our junior high track team, our high school track team, Aquinas' High School track team, all down there at the same time. So, we've got kids pole vaulting 6', and kids vaulting 14', and we have one pit, so the kids get about 2 or 3 practice runs a day and that's it."

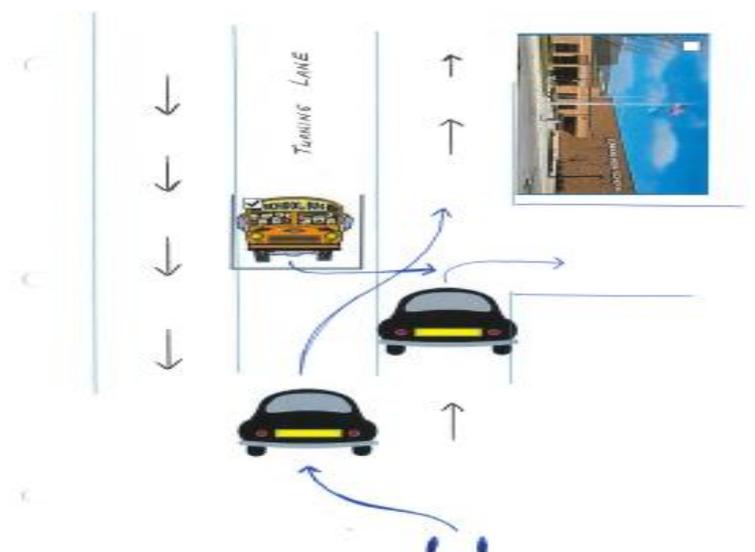
Mayor Zavodny asked: "Have you two talked a little bit about what that footprint would look like, where it would go, and that?"

Chad Denker stated: "Just a little bit today. I did go to Aquinas and talked to Ron Mimick and he kind of agreed too. If we knew this was potentially a project next year, then as

our school district gets into the budgeting season here this summer, we could talk about, say ok we'll allocate \$25,000 or whatever in our budget next year to get a couple runways poured when they come to redo the surface. So, if we could maybe coordinate that between the School and the City; that's just my two cents worth."

Mayor Zavodny stated: "Does that give us an opportunity to do more hosting of some bigger meets? Part of the payback in investing in this is if we can bring 10 – 15 schools here, they're using our restaurants, buying gas, those kinds of things. I see it as a really good "averaging our dollars" for economic investing in our community. I think the best course of action tonight is to give you (Park Supervisor Bill Buntgen) the direction of saying, if we want the company from Iowa, we go get them and say "we want you to do our project, you did the original, give us a good price to come back and keep it good, we get compliments, we're their best advertisement. Let's get it scheduled for next May. Then as we worry about the budget process this year we will have to figure out where that money comes from, because right now, I couldn't tell you. Tomorrow is not too soon trying to get a hold of them."

Bill Kozisek, who drives a school bus for Aquinas High School, was present to discuss the 3-lane highway by Aquinas. Bill stated that this is an accident waiting to happen. Bill stated that he was in the school bus headed south in the center lane preparing to turn east into Aquinas. A car headed north was slowing down to also turn into Aquinas. The oncoming car was probably speeding and not paying attention and so they pulled out into the turning lane and almost hit Bill head on. The car somehow managed to sneak between the car turning into Aquinas and the bus waiting to turn into Aquinas. Bill said that this has happened to him twice in a short amount of time. He said that he visited with Bob Schmit and Jeff Haulat of the Highway Department but was told that he would need the support of the City. There is nothing to slow the traffic down in this area and cars are speeding. The City Council also expressed concerns due to the development of Zegers 1<sup>st</sup> Addition, almost directly across the highway, west of Aquinas. This is a Commercial / Industrial Development that will eventually significantly add to the traffic in this area. This is public safety issue and Mayor Zavodny will send a letter of support to the Highway Department expressing the concerns.



Mayor Zavodny declared the Public Hearing open at 8:21 p.m. to consider amending Zoning Ordinance 1060, Article 4: General Provisions, Section 4.14 Accessory Buildings and Uses, by deleting A) i. Exception: Accessory Buildings under 200 square feet, and ii. Carports under 400 square feet; and adding Section J) Carports and #1 thru #6.

Building Inspector Ray Sueper stated: "The Planning Commission took into consideration the City Council's wishes to curb the influx of metal carports with the metal roofs and drafted an ordinance to address that in a fairly comprehensive manner for my office to enforce and that's what you have this evening." Discussion followed.

Mayor Zavodny asked for any further comments, and there being none, declared the Public Hearing closed at 8:26 p.m.

Council member Hotovy introduced Ordinance No. 1286 amending Zoning Ordinance No. 1060, Article 4: General Provisions, Section 4.14 Accessory Buildings and Uses, by deleting A) i. Exception: Accessory Buildings under 200 square feet, and ii. Carports under 400 square feet; and adding Section J) Carports and #1 thru #6. Mayor Zavodny read Ordinance No. 1286 by title. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Hotovy, Vandenberg, Kobus, Smith, and Meysenburg. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1286 on the third and final reading. Council member Meysenburg seconded the motion. Voting AYE: Council members Hotovy, Vandenberg, Kobus, Smith, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried and Ordinance No. 1286 was passed on 3<sup>rd</sup> and final reading as follows:

#### **ORDINANCE NO. 1286**

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060, ARTICLE 4: GENERAL PROVISIONS, SECTION 4.14 ACCESSORY BUILDINGS AND USES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

#### **ARTICLE 4: GENERAL PROVISIONS**

#### **SECTION 4.14 ACCESSORY BUILDINGS AND USES**

\*Accessory buildings located within the corporate limits of the City of David City, and are located within the R-1, R-2, R-3 or RM Districts, that are not attached to a primary structure must comply with the following regulations:

- A) The design and construction of an accessory building shall be consistent with that customarily used in residential construction, similar in color and style to the primary structure on the same lot.

- 1) It shall be constructed of new, grade stamped materials, unless approved in advance by the Building Inspector.
  - 2) Accessory structures with open sides must be professionally rated or engineered to resist a 90 MPH wind and shall have footings designed in accordance with the assigned weight and wind loading.
  - 3) The sidewalls of the building shall not exceed 10 feet from the lower of the exterior grade or the interior floor and the overall height shall not exceed 17 feet.
  - 4) It shall have a maximum width of 40 feet on its widest side.
  - 5) It shall not occupy more than 40% of the remaining, buildable area on the lot.
  - 6) It must be separated from other flammable structures by at least ten feet.
  - 7) It shall be set back a minimum of 20 feet from any street side property line or flush with the primary structure.
  - 8) If the square footage is greater than 500 square feet; 3 feet by 6-inch continuous footings are required.
  - 9) If the square footage is between 400 and 500 square feet, a monolithic slab footing may be used.
  - 10) Accessory buildings less than 400 square feet may be anchored to a slab of poured concrete no less than 4 inches in thickness.
  - 11) Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet.
- B) No accessory building shall be constructed prior to construction of the principal building.
- C) No accessory building shall be constructed on a separate lot from the principal structure.
- D) No accessory building shall be constructed or placed on an easement.
- E) Standard wood building material shall maintain at least 6 inches of clearance to the exterior grade. Wood which contacts the concrete or masonry directly shall be Pressure Treated.
- F) Rear and side yard setbacks shall be 6 feet from property lines.
- G) The rear setback shall increase to 10 feet if a garage door is placed on the rear alley side.
- H) Storage of any boat, camper, trailer or other vehicle shall not be permitted in any required yard; except that a boat, boat trailer, or camp trailer may be placed in a rear or side yard on an approved rock or concrete driveway.
- I) If a primary structure is removed or demolished from a parcel, the detached accessory building must be removed or demolished within six months of such removal or demolition; unless new construction is begun on a new primary structure within the immediately following six-month period.
- J) Carports
1. All carports shall be constructed of materials similar to those in the primary structure.
  2. All carports shall be anchored to a permanent footing, as discussed previously in this section.
  3. All carports shall meet all required wind loading standards set forth herein.
  4. Carports shall be anchored to the primary structure on one end.
  5. Maximum square footage shall be 400 sq. ft.
  6. No metal roofs shall be allowed.

This Ordinance shall be in full force and effect from and after passage, approval and

publication or posting as required by law.

PASSED AND APPROVED THIS 9<sup>th</sup> day of May, 2018.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

Mayor Zavodny declared the Public Hearing open at 8:31p.m. to consider amending the Zoning Ordinance 1060, Article 5.13 I-1 Light Industrial, Article 5:14 I-2 Heavy Industrial, and Article 5.15 Flex Space Mixed Use District, by adding Storage Containers to Conditional Uses, and to consider amending Article 8: Supplemental Regulations by amending Section 8.14 Storage Containers.

Bob Kobza stated: "Currently Laura and I, we own Callaway roll-offs, we have 112 storage units and dumpsters. At any one time we can have up to 45 storage units that we currently own. When we deliver them, we deliver them to water restoration projects. Paul Davis, Service Master, both from out of Columbus. What they do is, they put the product in there, run dehumidifiers, we pick the boxes up and bring them back to the lot. Otherwise, they bring the product to our lot, and run dehumidifiers in them there. They can run up to six months at a time in order to remove all of the water from the furniture and restoration that's in there. I've got to have more than 5 or 10 boxes I can have on the lot. I bought that particular location, not easily, and it cost to be in Heavy Industrial so I can do what I'm doing. We can't be restricted to a few. We've got to have the ability, and we need to expand we're out. We need another ten boxes so we could have up to 55 boxes there at any one particular time if they all come home at the same time. That's the size and scope of what we have to deal with, and by having a few there isn't going to work."

Following discussion, it was noted that "primary allowed uses" in Heavy Industrial are exempt. Therefore, this is part of their business in the Heavy Industrial Zoned Area and the storage containers are allowed as this is their primary business.

Mayor Zavodny asked for any further comments, and there being none, declared the Public Hearing closed at 8:41 p.m.

Council member Hotovy introduced Ordinance No. 1287 amending Zoning Ordinance No. 1060, Article 5.13 I-1 Light Industrial, Article 5:14 I-2 Heavy Industrial, and Article 5.15 Flex

Space Mixed Use District, by adding Storage Containers to Conditional Uses, and to consider amending Article 8: Supplemental Regulations by amending Section 8.14 Storage Containers. Mayor Zavodny read Ordinance No. 1287 by title. Council member Hotovy made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass and adopt Ordinance No. 1287 on the third and final reading. Council member Meysenburg seconded the motion.

Council member Trowbridge stated: "#5 - Properly screened according to the regulations herein." "I need a better understanding of screening. Is this for accessory uses or is this for primary uses?"

Building Inspector Ray Sueper stated: "There is a whole section on screening. If there is an adjoining residential district next to that storage container, that's when that applies."

Council member Trowbridge stated: "Ok, then let's go to #9 – Signage. Are we going to charge Bob \$25.00 a side for every time he puts his company name on the side of a box?"

Building Inspector Ray Sueper stated: "In his Industrial Use, no he would not. This is a product that he is stacking up in the back. If it needs clarification I can look at it further."

Roll call on Ordinance No. 1287 on the third and final reading: Voting AYE: Council members Vandenberg, Kobus, Smith, Hotovy, and Meysenburg. Voting NAY: Council member Trowbridge. The motion carried and Ordinance No. 1287 was passed on 3<sup>rd</sup> and final reading as follows:

### **ORDINANCE NO. 1287**

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING: ARTICLE 5.13 I-1 LIGHT INDUSTRIAL DISTRICT BY ADDING 5.13.03 CONDITIONAL USES 4. STORAGE CONTAINERS, AMENDING ARTICLE 5.14 I-2 HEAVY INDUSTRIAL DISTRICT BY ADDING 5.14.03 CONDITIONAL USES 10. STORAGE CONTAINERS, AND AMENDING ARTICLE 5.15 FLEX SPACE MIXED USE DISTRICT BY ADDING 5.14.03 CONDITIONAL USES 12. STORAGE CONTAINERS, AND AMENDING ARTICLE 8: SUPPLEMENTAL REGULATIONS TO ADD SECTION 8.14 STORAGE CONTAINERS AND TO ADD SECTION 8.15 TEMPORARY STORAGE CONTAINERS AND DUMPTERS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

#### **ARTICLE 5.13 I-1 LIGHT INDUSTRIAL DISTRICT**

##### **Section 5.13.03 Conditional Uses**

4. Storage Containers

## **ARTICLE 5.14 I-2 HEAVY INDUSTRIAL DISTRICT**

### **Section 5.14.03 Conditional Uses**

10. Storage Containers

## **ARTICLE 5.15 FLEX SPACE MIXED USE DISTRICT**

### **Section 5.15.03 Conditional Uses**

12. Storage Containers

## **ARTICLE 8: SUPPLEMENTAL REGULATIONS**

### **Section 8.14 Storage Containers**

Storage Containers shall only be allowed in the FS, I-1 and I-2 Districts and shall follow the minimum standards:

1. No Storage Container shall be allowed unless a Conditional Use Permit has been issued by the City.
2. Lots, one acre or less, shall only have one container.
3. Lots in I-1 and I-2 may have up to four containers but may not be stacked.
4. Lots within the FS District shall be limited to one container.
5. The storage containers must be located within an outdoor storage area that is properly screened according to the regulations herein.
6. No storage container may be located within 15 feet of any property line.
7. All previous signage on the storage container shall be removed.
8. The storage container shall be painted an earth tone color, including greens, tans, terra cottas. Color is subject to approval as part of the Conditional Use Permit.
9. All new signage shall comply with the City's Zoning Ordinance.
10. Storage containers shall be placed on a concrete slab, white rock or stones and must be kept in good repair. Any storage container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
11. No storage containers shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Storage containers are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.

### **Section 8.15 Temporary Storage Containers and Dumpsters**

Temporary Storage Containers and Dumpsters shall be allowed and shall follow the minimum standards:

1. One temporary storage container/dumpster is allowed per dwelling unit for up to three weeks; provided, that:
  - a. The temporary storage container/dumpster may only be used for purposes of storage in conjunction with moving or relocating residents' household belongings.
  - b. Each dwelling unit is entitled to no more than two temporary storage containers/dumpsters per year (any 12-month consecutive period).
  - c. The temporary storage container/dumpster must be located on a hard surface.
  - d. The temporary storage container/dumpster may not be located on any public or private street. Additionally, the temporary storage container/dumpster may not be placed in any sight triangle or in any location that would interfere with traffic safety.

- e. A resident may apply for a permit for an extension to allow a storage container/dumpster to remain for an additional two weeks. There shall be no fee for the permit.
2. Storage containers/dumpster may be used as temporary construction site storage for nonresidential construction projects and for residential construction, subject to the following:
  - a. No storage containers/dumpster shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Storage containers/dumpsters are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.
  - b. Storage containers/dumpsters must be located on a platted lot that has an active building permit.
  - c. Storage containers/dumpsters on lots shall not remain on the lot longer than 12 months, even if a building permit is still active.
  - d. Items stored in storage containers must be used on the same platted lot where the storage containers are located.
    - (1) The storage containers shall not be used to store items for use on other construction sites.
    - (2) Dumpsters shall be used strictly for waste materials generated on the project site.
    - (3) Dumpsters shall be emptied occasionally and shall not be allowed to extend above the upper edge of the container.
  - e. Storage containers/dumpsters shall be located at least 10 feet from all property lines.
  - f. At the time of placement, storage containers/dumpsters shall not be located within 100 feet of any occupied dwelling unit.
  - g. Storage containers/dumpsters shall be kept safe, structurally sound, stable, and in good repair. Any storage container/dumpster that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
  - h. The property surrounding the storage containers/dumpsters (within 10 feet) shall be maintained and kept free of weeds.
  - i. The maximum number of storage containers/dumpster allowed for temporary construction site storage per lot per year (any 12-month consecutive period) shall be as follows:
    - (1) A maximum of one storage container.
    - (2) A maximum of one dumpster shall be allowed to be in place at any given time.
  - j. No storage container/dumpster shall be allowed for temporary construction site storage until a temporary permit has been obtained.
    - (1) There shall not be any additional fees to obtain such permit for this use.
    - (2) The permit application shall include a site plan or plot plan showing where the container will be located on the site.
    - (3) Permitted storage containers/dumpster shall not be relocated on the site without updating the permit.
    - (4) Dumpster shall be allowed to be switched out when full, without updating the permit.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 9<sup>th</sup> day of May, 2018.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

Mayor Zavodny stated: "We authorized the purchase of a mower as far as budgetary authority, but as has been our practice, before you actually expend funds you come back to the Council, we evaluate where we are in the year and if we think this is a purchase, that even though we budgeted for, we should do."

Council member Kobus stated: "Last winter we talked about getting bids to do these lots in town. Are we going to do that?"

Mayor Zavodny stated: "I thought about that too. We should talk about a way to address those lots. This is for our own use like for our Airport and City property that we are going to be mowing and wouldn't necessarily contract for."

Street Supervisor Kroesing stated: "With the addition of the new hangars at the Airport, we continually get more and more property to mow and we have not been updating equipment."

Mayor Zavodny stated: "I personally think we need to do this, but Tom is right, I don't think it's worth our equipment and our employees time on those lots that are in limbo until they can be dealt with for us to be going in and mowing them. You can't see if someone throws a chunk of concrete in there, a steel post, those kinds of things."

Council member Hotovy made a motion to approve the purchase of a 2018 John Deere Z950M Commercial mower in the amount of \$9,450.00 that was budgeted to be paid ½ by the Street Department and ½ by the Airport. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Smith, Vandenberg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to approve Ordinance No. 1285, on the third (3<sup>rd</sup>) and final reading, annexing the Brian and Mistyn Kozisek property located at the corner of 14<sup>th</sup> & "C" Streets legally described above. Council member Hotovy seconded the motion. Voting AYE: Council members Meysenburg, Smith, Kobus, Vandenberg, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

**ORDINANCE NO. 1285**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, THE BRIAN AND MISTYN KOZISEK PROPERTY LOCATED AT THE CORNER OF 14TH & "C" STREETS LEGALLY DESCRIBED AS FOLLOWS: A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE 6TH P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: REFERRING TO THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE S90°00'00"W ON THE SOUTH LINE OF SAID SOUTH HALF OF THE SOUTHWEST QUARTER, A DISTANCE OF 1544.86 FEET TO THE EAST RIGHT OF WAY LINE OF 14TH STREET AND THE SOUTHEAST CORNER OF EAST DAVID CITY, AN ADDITION TO THE CITY OF DAVID CITY, NEBRASKA; THENCE N00°58'30"W ON SAID EAST RIGHT OF WAY LINE AND THE EAST LINE OF SAID ADDITION, A DISTANCE OF 594.00 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND AS DESCRIBED IN FILM BOOK 2011, PAGE 1512 AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS, FOR BUTLER COUNTY, NEBRASKA, AND THE POINT OF BEGINNING, THENCE CONTINUING N00°58'30"W (ASSUMED BEARING) ON SAID EAST LINES, A DISTANCE OF 273.28 FEET, THENCE S89°59'34"E, A DISTANCE OF 163.50 FEET; THENCE S00°58'30"E PARALLEL WITH SAID EAST LINES, A DISTANCE OF 270.66 FEET TO THE NORTH LINE OF SAID TRACT OF LAND; THENCE N89°54'39"W ON SAID NORTH LINE, A DISTANCE OF 163.43 FEET TO THE POINT OF BEGINNING, CONTAINING 1.02 ACRES, MORE OR LESS; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1: It is hereby found and determined by the Mayor and City Council that:

- (a) The parcel of land located in the South Half of the Southwest Quarter of Section 20, Township 15 North, Range 3 East of the 6th P.M., Butler County, Nebraska, being described as follows: Referring to the Southeast corner of the South half of the Southwest Quarter of said Section 20; thence S90°00'00"W on the south line of said South Half of the Southwest Quarter, a distance of 1544.86 feet to the east right of way line of 14th Street and the Southeast corner of East David City, an addition to the City of David City, Nebraska; thence N00°58'30"W, on said east right of way line and the east line of said addition, a distance of 594.00 feet to the northwest corner of a tract of land as described in film book 2011, Page 1512 and recorded in the office of the Register of Deeds, for Butler County, Nebraska, and the point of beginning, thence continuing N00°58'30"W (assumed bearing) on said east lines, a distance of 273.28 feet, thence S89°59'34"E, a distance of 163.50 feet; thence S00°58'30"E parallel with said east lines, a distance of 270.66 feet to the north line of said tract of land; thence N89°54'39"W, on said north line, a distance of 163.43 feet to the point of beginning, containing 1.02 acres, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;
- (b) Police, fire, and snow removal benefits will be immediately available thereto, and City electricity, water, and sewer will be available as provided by law;

- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Section 1 (a) above.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby annexed to the City of David City, Nebraska.

SECTION 5: That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 6: This Ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED THIS 9<sup>th</sup> day of May, 2018.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

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As no bids had been received, Council member Hotovy made a motion to table consideration of the bids received for the demolition of the residence located on Lot 1 and the North 10' of Lot 4, Block 8, Litty's First Addition, otherwise known as 897 North 5<sup>th</sup> Street, David City, Nebraska. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Vandenberg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to authorize the purchase of 2 rail mounting brackets and all related hardware to modify the level sensors for the SBR basins at the Wastewater Treatment Plant and prevent false level readings. Council member Hotovy seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Smith, Kobus, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "What we are going to do is recess until Tuesday, May 15, 2018 at 6:30 p.m.

City Clerk Kovar stated that she needed a motion and second.

City Attorney Egr stated: "No, we just recess.

Therefore, the meeting was declared recessed at 8:53 p.m.



CERTIFICATION OF MINUTES  
May 9, 2018

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of May 9<sup>th</sup>, 2018; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Joan Kovar, City Clerk