

**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 **10<sup>th</sup> day of October, 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 October, 2018.

**AGENDA AS FOLLOWS:**

1. Roll Call;
2. Pledge of Allegiance; \_\_\_\_\_  
Mayor Alan Zavodny
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; \_\_\_\_\_
4. Minutes of the September 12<sup>th</sup>, 2018 meeting of the Mayor and City Council; Council President Gary D. Smith  
\_\_\_\_\_
5. Consideration of Progress Estimate #14 for Constructors, Inc. in the amount of \$430,975.23; \_\_\_\_\_  
Council member Thomas J. Kobus
6. Consideration of Claims;
7. Committee and Officer Reports;
8. Consideration of the Sanitary Sewer Rehabilitation Plans/Specifications and advertising for bids of the project; \_\_\_\_\_  
Council member Dana E. Trowbridge
9. Consideration of Ordinance No. 1295 entitled: An ordinance authorizing the issuance of Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018, of the City of David City, Nebraska, in the principal amount of not to exceed Three Million Dollars (\$3,000,000), for the purpose of providing interim financing for a portion of the costs of constructing improvements to the sanitary sewer system owned and operated by the City pending the issuance of permanent sewer system revenue bonds; agreeing to issue such bonds to pay the notes at maturity or to pay the notes from other available funds; prescribing the form of said notes; pledging and hypothecating the revenue and earnings of the sanitary sewer system of said City for the payment of said notes and interest thereon; provided for the collection, segregation and application of the revenue of said Sanitary Sewer System; entering into a contract on behalf of the City with the holders of said notes; and providing for publication of this ordinance in pamphlet form; \_\_\_\_\_  
Council member Kevin N. Hotovy  
\_\_\_\_\_  
Council member Patrick J. Meysenburg  
\_\_\_\_\_  
Council member John P. Vandenberg  
\_\_\_\_\_  
City Clerk Joan E. Kovar

10. Consideration of Resolution No. 16-2018 concerning the request by Henningsen Foods, Inc., for the City to relinquish ownership of an existing sewer line along the south side of "D" Street to Henningsen Foods, Inc., and grant Henningsen's permission to install a pumping station and forced sanitary line on City right-of-way;
11. Consideration of appointing Olsson Associates (Dave Ziska) as the Street Superintendent for fiscal year, January 1, 2019 through December 31, 2019;
12. Consideration of a Contract for Services with Marvin Planning Consultants concerning the David City North Area Blight Study;
13. Consideration of the request by the Butler County Ambassadors to install frisbee golf In the City Park area;
14. Consideration of the request by Sarah Styskal for fencing off an area in the City park for a dog park;
15. Public Hearing to consider the application of the David City Golf Club d.b.a. David City Golf Course, 899 Park Drive, for a Class C Liquor License;
16. Consideration of the application of the David City Golf Club, d.b.a. David City Golf Course, 899 Park Drive, for a Class C Liquor License;
17. Public Hearing to consider annexing an area of the Kozisek property located in the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 20 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Beginning at the southwest corner of Lot 4, Block 2, Kozi Addition to David City, Butler County, Nebraska, said Point being on the east line of Fourteenth Street in said David City; thence easterly, 140.11 feet to the southeast corner of said Lot 4; thence southerly, parallel with the east line of said Fourteenth Street, 379.3 feet; thence westerly, 140.11 feet, to a point on the east line of said Fourteenth Street, said point being 374.44 feet south of the southwest corner of said Lot 4; thence northerly, 374.44 feet, to the Point of Beginning, containing 1.21 acres, more or less;
18. Consideration of Ordinance No. 1296 annexing an area of the Kozisek property located in the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 20 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, as described above;
19. Public Hearing to consider amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations Section 8.03:01 Residential Fence Regulations by amending 6) All fences shall be located inside the boundaries of the property upon which constructed, unless the two property owners agree, in writing, to place the fence on the property line, and said agreement is filed with the County Clerk. In no case shall a fence be constructed and maintained within an established easement; 8) Any new fence shall not be attached to any neighboring fence, unless the two property owners agree, in writing;
20. Consideration of Ordinance No. 1297 amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations Section 8.03.01 Residential Fence Regulations as described above;
21. Consideration of Resolution No. 15 – 2018 to consider the request by Daniel J. & Janet M. Sydal to subdivide their property described: A tract of land being part of Lots 7 and 8, David City Land and Lot Company's Suburban Lots, located in the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 18, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Lot 8, and assuming the south line of said Lot 8 to have a bearing of N 89°32'24" W; thence N 89°32'24" W, 155.00 feet; thence N 00°20'17" W, 348.83 feet; thence S 89°32'24" E, 84.35 feet, parallel with the south line of said Lot 8; thence N 00°24'47" E, 135.82 feet, parallel with the east line of said Lot 8; thence N 89°58'34" E, 75.33 feet, parallel with the north line of said Lot 8; thence S

00°24'47" W, 36.14 feet on the east line of said Lot 8; thence S 89°35'50" E, 131.70 feet; thence S 00°32'08" W, 449.25 feet, thence N 89°32'24" W, 130.74 feet on the south line of said Lot 7, to the point of beginning, containing 2.85 acres, more or less, into two tracts, approximately 1.50 acres and 1.35 acres;

22. Discussion and Consideration of Employee Health Benefits as presented by Ryan Ruth, First State Insurance;
23. Discussion and Consideration of the following as requested by Patrick Meysenburg:
  - New weight limit on "O" Street
  - Consideration of removing the stop sign at 9<sup>th</sup> & "A" Street
  - Placing "no parking" signs on "O" Street west of 4<sup>th</sup> Street
24. Consideration of the request by Nick Schneider, 507 Oak Street, to move a house he bought from David City High School to a new lot on his property;
25. Adjourn.

## CITY COUNCIL PROCEEDINGS

October 10, 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 September 27<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 President Gary Smith, and Council members Pat Meysenburg, John Vandenberg, Thomas Kobus, Dana Trowbridge, and Kevin Hotovy, Attorney Jim Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Craig Reinsch of Olsson Associates, Philip Lorenzen of D.A. Davidson, Jean Hicks, Megan Hicks, Sarah Styskal, Jim Angell, Darci Betzen, Galen Krenk, Joe Wilson, Russell & Monica Heller, Patrick Meysenburg, Bruce Meysenburg, Kevin Stara, Greg Sabata, Randy Robeson, Nicholas Schneider, Ryan Ruth of First State Insurance Agency, Superintendent of Schools Chad Denker, Planning Commission Member Pam Kabourek, Sheriff Marcus Siebken, Park/Auditorium Supervisor Bill Buntgen, Building Inspector Ray Sueper, and Water/Sewer Supervisor Travis Hays.

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 asked those present to please silence their cell phones.

The minutes of the September 12<sup>th</sup>, 2018 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council

member Kobus. Voting AYE: Council members Hotovy, Smith, Meysenburg, Trowbridge, Vandenberg, and Kobus. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to approve Progress Estimate #14 for Constructors, Inc., in the amount of \$430,975.23. Council member Smith seconded the motion. Voting AYE: Council members Hotovy, Meysenburg, Vandenberg, Kobus, Trowbridge, and Smith. Voting NAY: None. The motion carried.

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

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

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

Craig Reinsch of Olsson Associates stated: "Good evening. I'm here after two years of talking about relining some sewers and we're ready to proceed, so I wanted to give you a little summary before doing so. The original study we completed in September of 2016. With USDA getting involved in the funding of the Wastewater Project, we combined both of the projects together and updated the preliminary engineering report to include both of those in May of 2017. The project will include the north ½ of town, selected locations, and then also video inspection of the south ½ of town as we've discussed. There will be an impact to homeowners in certain areas and those will be coordinated by the contractor. We will be using a term called "service reinstatement" and that is when we run for those areas that are going to be lined from manhole to manhole, they will run the line through first, come back with a robot, and then cut out those services, because they form the pipe up and then do that. There will be some services that we are calling out to be dug up and replaced because they're offset or broken, and we will be lining up some services as well."

Mayor Zavodny asked: "What's the time lag between it being lined and it being rotor rooted out?"

Craig stated: "You mean the time that they're cut? We are hoping that it's within a day or two; or within hours. Again, we need to coordinate that with the contractor, make sure that they can get through certain areas because they have to pull the line, they have to inflate it, they have to cool it; so, there is a little bit of a process. But once we get the Contractor on board and have the exact process, because not all of them are quite the same, then we will have some instructions to send out to home owners so that they know what to expect when their line is addressed."

Council member Kobus stated: "I don't think you can expect any homeowner to wait a day for a sewer line. I think they need to tap what they get done, either that day, or that afternoon, or whatever."

Craig stated: "Right; and we'll have to talk to the Contractor to confirm that. There are a lot of abandoned services that we've found; those are not going to be reinstated so that will save some money for the City."

Council member Trowbridge asked: "If you need to open the ground for a connection, whose expense is that? Ours?"

Craig stated: "Yes. This is an infiltration issue that affects the City and so we are lining a few feet of the service, we are not running it all the way in. It's really just to affect the infiltration that's going on. We will be digging up and replacing some pipe so this isn't going to be completely trenchless, there will be some excavation. We will have an informational fact sheet, that we've drafted now, but will update it after bidding, and once the Contractor is there and once we have a better schedule on how they are going to leap frog this. As far as schedule goes, the project was submitted to the Department of Environmental Quality on September 28<sup>th</sup>. It is all but approved based on my conversation with them today. It is subject to USDA's (United States Department of Agriculture) review and concurrence, which means we have to wait for them to give us the thumbs up before we can go out for bid, as a condition of the funding. I am going to have a conversation with them on Friday, per their request, to make sure that we are ready to go. I've kind of let them know what the schedule is, but I will tell you, it is subject to their thumbs up. Tonight, we have a request to authorize to go out for bidding. If everything falls into place we would like to start advertising on the 18<sup>th</sup> and 25<sup>th</sup> of October as well as November 1<sup>st</sup>, we have a tentative bid opening on November 6<sup>th</sup>, for bid consideration at the Council meeting on November 14<sup>th</sup>, and then a preconstruction meeting in either December of this year or January of next year, and final construction would be towards the end of next year."

Council member Trowbridge made a motion to authorize Craig Reinsch of Olsson Associates to advertise for bids for the Sanitary Sewer Rehabilitation Project contingent upon USDA approval. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Meysenburg, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Council member Trowbridge introduced Ordinance No. 1295 entitled: An ordinance authorizing the issuance of Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018, of the City of David City, Nebraska, in the principal amount of not to exceed Three Million Dollars (\$3,000,000), for the purpose of providing interim financing for a portion of the costs of constructing improvements to the sanitary sewer system owned and operated by the City pending the issuance of permanent sewer system revenue bonds; agreeing to issue such bonds to pay the notes at maturity or to pay the notes from other available funds; prescribing the form of said notes; pledging and hypothecating the revenue and earnings of the sanitary sewer system of said City for the payment of said notes and interest thereon; provided for the collection, segregation and application of the revenue of said Sanitary Sewer System; entering into a contract on behalf of the City with the holders of said notes; and providing for publication of this ordinance in pamphlet form.

Phil Lorenzen of D.A. Davidson presented the following:



**David City, NE**

**2018 Project Financing**

USDA Project funding : Wastewater Treatment Plant and Sliplining of portions of Sewer Collection System USDA has entered into Contract with the City of David City providing long-term, 2.00% financing upon project completion expected by Consulting Engineers to have a December 2019 USDA

D.A. Davidson will provide the interim construction financing through the issuance of Sanitary Sewer Revenue Bond Anticipation Notes, Series 2018. Adopt Bond Ordinance Oct 10, 2017. Original issue Nov 12, 2018

Consulting Engineers, Olsson Associates advises bids are awarded on the WWTP and that the City will at October 2, 2018 City Council meeting authorize bids to be taken on the collection system project.

With that engineering update, it is desired to issue all of the needed Construction financing by

**WWTP Project Costs**

Construction Cost Contract amount		\$	2,554,800
Engineering Costs			348,905
	0.689736	\$	2,903,705

**Collection System Rehab Project**

Estimated Construction Cost		\$	1,061,700
Engineering Costs	0.310264	244,475	\$ 1,306,175
<b><u>Subtotal</u></b>	<b>1.000000</b>	<b>\$</b>	<b>4,209,880</b>

**Deduct Other Fund Sources**

USDA Grant Funds	\$	(492,000)
City Funds Available Set Aside/2016 Project		(66,000)
City Cash Applied		(755,500)
	\$	(1,313,500)

**Net Project Construction Borrowing Requirements** **\$ 2,896,380**

**Add Capitalized Interest During Construction** **\$ 75,000.00**  
**\$ 2,971,380.00**

<b><u>Add Financing Costs(Est.)</u></b>	Bond Counsel	\$	6,000.0
	Underwriting		22,500
	DTC/CUSIP		1,000
	PA&R		750
		\$	30,250.0

**Total Bond Anticipation Par Amount** **\$ 3,001,630.0**

<b><u>Round up to nearest \$5,000 Amount</u></b>	<b>\$ 3,000,000</b>
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## **SOURCES AND USES OF FUNDS**

**CITY of DAVID CITY, NEBRASKA  
TAXABLE BOND ANTICIPATION NOTES, SERIES 2018  
USDA WWTP Project (Sewer Revenue)  
\$2.896M Project  
Non-Rated, 7/15/2020 Final Maturity  
[ Preliminary -- for discussion only ]**

Dated Date 11/12/2018  
Delivery Date 11/12/2018

### **Sources:**

Bond Proceeds:	
Par Amount	2,950,000.00
	<hr/>
	2,950,000.00
	<hr/>

### **Uses:**

Project Fund Deposits:	
Project Fund	2,896,380.00
Cost of Issuance:	
Rating Fee (est.)	7,500.00
Bond Counsel	4,425.00
CUSIP/DTC	1,000.00
	<hr/>
	12,925.00
Delivery Date Expenses:	
Underwriter's Discount	36,875.00
Other Uses of Funds:	
Rounding Amount	3,820.00
	<hr/>
	2,950,000.00
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### BOND PRICING

**CITY of DAVID CITY, NEBRASKA**  
**TAXABLE BOND ANTICIPATION NOTES, SERIES 2018**  
**USDA WWTP Project (Sewer Revenue)**  
**\$2.896M Project**  
**Non-Rated, 7/15/2020 Final Maturity**  
**[ Preliminary -- for discussion only ]**

Bond Component	Maturity Date	Amount	Rate	Yield	Price
BAN due 2020:	07/15/2020	2,950,000	3.750%	3.750%	100.000
		2,950,000			

Dated Date	11/12/2018	
Delivery Date	11/12/2018	
First Coupon	07/15/2019	
Par Amount	2,950,000.00	
Original Issue Discount		
Production	2,950,000.00	100.000000%
Underwriter's Discount	-36,875.00	-1.250000%
Purchase Price	2,913,125.00	98.750000%
Accrued Interest		
Net Proceeds	2,913,125.00	



### CALL PROVISIONS

**CITY of DAVID CITY, NEBRASKA**  
**TAXABLE BOND ANTICIPATION NOTES, SERIES 2018**  
**USDA WWTP Project (Sewer Revenue)**  
**\$2.896M Project**  
**Non-Rated, 7/15/2020 Final Maturity**  
**[ Preliminary -- for discussion only ]**

#### Call Table: CALL

Call Date	Call Price
01/15/2020	100.00





# **BOND SUMMARY STATISTICS**

**CITY of DAVID CITY, NEBRASKA**  
**TAXABLE BOND ANTICIPATION NOTES, SERIES 2018**  
**USDA WWTP Project (Sewer Revenue)**  
**\$2.896M Project**  
**Non-Rated, 7/15/2020 Final Maturity**  
**[ Preliminary -- for discussion only ]**

Dated Date	11/12/2018
Delivery Date	11/12/2018
First Coupon	07/15/2019
Last Maturity	07/15/2020
Arbitrage Yield	3.744993%
True Interest Cost (TIC)	4.527266%
Net Interest Cost (NIC)	3.750000%
All-In TIC	4.804547%
Average Coupon	3.750000%
Average Life (years)	1.675
Weighted Average Maturity (years)	1.675
Duration of Issue (years)	1.641
Par Amount	2,950,000.00
Bond Proceeds	2,950,000.00
Total Interest	185,296.88
Net Interest	222,171.88
Bond Years from Dated Date	4,941,250.00
Bond Years from Delivery Date	4,941,250.00
Total Debt Service	3,135,296.88
Maximum Annual Debt Service	3,060,625.00
Average Annual Debt Service	1,871,819.03
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	12.500000
Total Underwriter's Discount	12.500000
Bid Price	98.750000

Bond Component	Par Value	Price	Average Coupon	Average Life	Average Maturity Date	PV of 1 bp change
BAN due 2020	2,950,000.00	100.000	3.750%	1.675	07/15/2020	501.50
	2,950,000.00			1.675		501.50

	TIC	All-In TIC	Arbitrage Yield
Par Value	2,950,000.00	2,950,000.00	2,950,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-36,875.00	-36,875.00	
- Cost of Issuance Expense		-12,925.00	
- Other Amounts			
Target Value	2,913,125.00	2,900,200.00	2,950,000.00
Target Date	11/12/2018	11/12/2018	11/12/2018
Yield	4.527266%	4.804547%	3.744993%



## BOND DEBT SERVICE

**CITY of DAVID CITY, NEBRASKA**  
**TAXABLE BOND ANTICIPATION NOTES, SERIES 2018**  
**USDA WWTP Project (Sewer Revenue)**  
**\$2.896M Project**  
**Non-Rated, 7/15/2020 Final Maturity**  
**[ Preliminary -- for discussion only ]**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
07/15/2019			74,671.88	74,671.88	74,671.88
01/15/2020			55,312.50	55,312.50	
07/15/2020	2,950,000	3.750%	55,312.50	3,005,312.50	3,060,625.00
	2,950,000		185,296.88	3,135,296.88	3,135,296.88

dcSWROprHist17

**CITY OF DAVID CITY, NEBRASKA**  
**SANITARY SEWER/WASTEWATER SYSTEM**



### HISTORICAL OPERATING RESULTS, YEAR ENDING SEPTEMBER 30

	2010	2011	2012	2013	2014	2015	2016	2017
<b>Revenues</b>								
Charges for Services	\$ 621,186	\$ 619,911	\$ 578,802	\$ 657,859	\$ 696,549	\$ 675,126	\$ 761,443	\$ 802,383
Other	5,923	51,237	1,348	26,915	8,955	972	4,133	81,000
	\$ 627,109	\$ 671,148	\$ 580,150	\$ 684,774	\$ 705,504	\$ 676,098	\$ 765,576	\$ 883,383
<b>Expenses</b>								
Personal Services	\$ 133,761	\$ 129,435	\$ 122,205	\$ 123,009	\$ 185,969	\$ 129,241	\$ 177,071	\$ 179,159
Production	-	-	-	-	-	-	-	-
General Operations	227,247	356,548	227,429	258,540	265,763	300,243	403,418	415,821
Depreciation/Amortization	153,829	155,644	141,075	138,335	140,382	146,388	143,751	150,837
	\$ 514,837	\$ 641,627	\$ 490,709	\$ 519,884	\$ 592,114	\$ 575,872	\$ 724,240	\$ 745,817
Operating Income (Loss)	\$ 112,272	\$ 29,521	\$ 89,441	\$ 164,890	\$ 113,390	\$ 100,226	\$ 41,336	\$ 117,566
<b>Other Revenue &amp; Expense</b>								
Interest Income	\$ 10,430	\$ 16,324	\$ 10,855	\$ 7,632	\$ 7,089	\$ 7,573	\$ 8,218	\$ 7,298
(Interest Expense)	\$ (60,671)	\$ (54,725)	\$ (48,587)	\$ (43,491)	\$ (36,342)	\$ (28,950)	\$ (21,975)	\$ (15,502)
Other	-	-	-	-	-	-	-	-
	\$ (50,241)	\$ (38,401)	\$ (37,732)	\$ (35,859)	\$ (29,253)	\$ (21,377)	\$ (13,757)	\$ (8,204)
Net Income (Loss)	\$ 62,031	\$ (8,880)	\$ 51,709	\$ 129,031	\$ 84,137	\$ 78,849	\$ 27,579	\$ 109,362
Transfers From (To) Other Funds								
Net Income After Transfers	\$ 62,031	\$ (8,880)	\$ 51,709	\$ 129,031	\$ 84,137	\$ 78,849	\$ 27,579	\$ 109,362
<b>Earnings Available for Debt Service</b>	\$ 62,031	\$ (8,880)	\$ 51,709	\$ 129,031	\$ 84,137	\$ 78,849	\$ 27,579	\$ 109,362
Add Back Interest Expense	\$ 60,671	\$ 54,725	\$ 48,587	\$ 43,491	\$ 36,342	\$ 28,950	\$ 21,975	\$ 15,502
Add Back Depreciation/Amortization	153,829	155,644	141,075	141,075	141,075	141,075	143,751	150,837
Total Available For Debt Service	\$ 276,531	\$ 201,489	\$ 241,371	\$ 313,597	\$ 261,554	\$ 248,874	\$ 193,305	\$ 275,701

Last payment on outstanding original \$2,728,924 NDEQ Loan is payable in FY 2018/19  
City's annual payment share of 1998 NDEQ loan has been \$186,000.  
There is no other debt for which Sewer Revenues are pledged.

Phil Lorenzen September 2018

<b>At 2.00% USDA Loan has ESTIMATED debt service of:</b>	
WWTP City Share of Annual Debt Service 25-Year payment	\$ 94,176
Sewer Collection Sliplining project 40-Year payment	\$ 22,456
Estimated USDA Loan Debt Service, annually	\$ 116,632
<b>Current NDEQ Loan requires approx \$186,000 annual payment</b>	

Phil Lorenzen stated: "I would like to see the ordinance adopted to allow, not to exceed, three million dollars (\$3,000,000) with the understanding that we are not going to saddle the City with a rate that you and I think is unacceptable. It seems to me we could go ahead and do this in pieces. So maybe we do a million and a half (\$1,500,000) now, and a million and a half (\$1,500,000) later. Not only would that maybe catch a lower interest rate in the near future but it would cut out 6, 7, or 8 months of interest on the market, so that's kind of my game plan. I'm suggesting that we would name an interest rate somewhere around 3.75% which brings me to my second topic of complication, and that is, that given the major participation of this project to Henningsen, it becomes a private purpose activity in the eyes of Bond Counsel. We've been talking about this for 60 days or so, and they, and I've checked with another Bond Counsel firm, have determined that this would be private purpose, and Jim could address that matter. The easiest solution would appear to Bond Counsel and me if we would do this transaction as a taxable transaction. Interest costs would probably be 1% to 1.25% higher than it would be on a tax exempt, but we save some costs in the long run and it makes it a lot easier transition to go through this process. This loan is only out for a year, a year and a half at the most, and so it seems to me that is the most reasonable course to follow and that is my recommendation, plus the 3.75% estimate of rate."

Discussion followed with additional information being shared by Phil Lorenzen. Phil stated that an ordinance had been distributed previously, however, an updated ordinance has been provided with changes to Page 9 as follows:

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 hereof pending the issuance of permanent Sanitary Sewer System Revenue bonds by the City of David City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018" of the aggregate principal amount of not to exceed Three Million Dollars (\$3,000,000) (herein referred to as the "Notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof; said Notes shall bear as date of original issue their date of delivery and each of said Notes shall mature on July 15, 2020; provided, that the Notes shall mature and bear interest at the rate per annum as shall be determined in a written designation (the "Designation") signed by the Mayor or City Clerk of the City (the "Authorized Officers") on behalf of the City Council of the City and which may be agreed to by the initial purchaser, D.A. Davidson & Co. as underwriter or via underwriting or direct placement (the "Purchaser") in consultation with D.A. Davidson & Co. acting as placement agent (the "Purchaser"), which Designation may also determine or modify the principal amount of the Notes, date of maturity of the Notes, and pricing terms as set forth in Section 6 below, all within the following limitations:

- (a) the aggregate principal amount of the Notes shall not exceed \$3,000,000, provided, however, the Notes may be sold with original issue discount or original issue premium, and in the event the Notes are sold with an aggregate net original issue discount such aggregate principal amount may be increased in an amount necessary to compensate for any such net original issue discount;
- (b) the maturity of the Notes may not be later than December 31, 2020;
- (c) the true interest cost of the Notes shall not exceed ~~5.00~~ 5.75%;
- (d) the Notes may be issued with taxable interest ("Taxable Notes") or tax-exempt interest ("Tax-Exempt Notes");

The Authorized Officers (or any one of them) are hereby authorized to make such determinations on behalf of the City Council and to evidence the same by execution and delivery of the Designation and such determinations, when made and agreed to by the Purchaser, shall constitute the action of the City Council without further action of the City Council.

Also provided, however, the City reserves the right to redeem any or all of said Notes prior to maturity any time on or after January 15, 2020 (or on such other date as may be determined in the Designation), upon not less than thirty

Page 9

Council Member Trowbridge moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member Hotovy seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted YEA: Meysenburg, Smith, Vandenberg, Trowbridge, Hotovy, and Kobus. 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.

Thereupon said Ordinance No. 1295 was then read by title and Council Member Hotovy moved for its final passage, which motion was seconded by Council Member Trowbridge. The Mayor stated the question "Shall Ordinance No. 1295 be passed and adopted?" Upon roll call, the following voted YEA: Meysenburg, Vandenberg, Smith, Kobus, Hotovy, and Trowbridge. 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. 1295**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SANITARY SEWER SYSTEM REVENUE BOND ANTICIPATION NOTES, SERIES 2018, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION DOLLARS (\$3,000,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM OWNED AND OPERATED BY THE CITY PENDING THE ISSUANCE OF PERMANENT SANITARY SEWER SYSTEM REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE SANITARY SEWER SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID SANITARY SEWER SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

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

- (a) that the City owns and operates a sanitary sewer system (the "Sanitary Sewer System"), which represents a revenue-producing undertaking of the City. Reference herein to the Sanitary Sewer System shall include all additions and improvements thereto hereafter acquired by the City;
- (b) that other than the loan from the Nebraska Department of Environmental Quality, dated December 15, 1998, that matures on December 15, 2018 (the "NDEQ Loan") the City has no other indebtedness outstanding payable from revenues of the Sanitary Sewer System;
- (c) that improvements to the City's Sanitary Sewer System are necessary in order to continue to provide the City and its residents with adequate sanitary sewer service;
- (d) that the City has approval for future financial assistance for the costs of such improvements in an amount up to \$4,399,500 from the United States Department of Agriculture pursuant to a Letter of Conditions dated July 31, 2017;
- (e) that to provide for the costs of improving the Sanitary Sewer System of the City it is necessary to issue Sanitary Sewer System Revenue Bond Anticipation Notes of the City of David City, Nebraska, pursuant to Section 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, 2012, in the aggregate principal amount of not to exceed \$3,000,000;
- (f) that all conditions, acts and things required to exist or to be done precedent to the issuance of Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018, in the principal amount of not to exceed \$3,000,000 (the "Notes") do exist and have been done as required by law and there shall be and there are hereby ordered issued Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018, of the city of David City, Nebraska, as provided herein.

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 hereof pending the issuance of permanent Sanitary Sewer System Revenue bonds by the City of David City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Sanitary Sewer System Revenue Bond Anticipation Notes, Series 2018" of the aggregate principal amount of not to exceed Three Million Dollars (\$3,000,000) (herein referred to as the "Notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof; said Notes shall bear as date of original issue their date of delivery and each of said Notes shall mature on July 15, 2020; *provided, that the Notes shall mature and bear interest at the rate per annum as shall be determined in a written designation (the "Designation") signed by the Mayor or City Clerk of the City (the "Authorized Officers") on behalf of the City Council of the City and which may be agreed to by the initial purchaser, D.A. Davidson & Co. as underwriter, or via direct placement with D.A. Davidson & Co. acting as placement agent (the "Purchaser"), which Designation may also determine or modify the principal amount of the Notes, date of maturity of the Notes, and pricing terms as set forth in Section 6 below, all within the following limitations:*

- (a) the aggregate principal amount of the Notes shall not exceed \$3,000,000, provided, however, the Notes may be sold with original issue discount or original issue premium, and in the event the Notes are sold with an aggregate net original issue discount such aggregate principal amount may be increased in an amount necessary to compensate for any such net original issue discount;*
- (b) the maturity of the Notes may not be later than December 31, 2020;*
- (c) the true interest cost of the Notes shall not exceed 5.75%;*
- (d) the Notes may be issued with taxable interest ("Taxable Notes") or tax-exempt interest ("Tax-Exempt Notes");*

*The Authorized Officers (or any one of them) are hereby authorized to make such determinations on behalf of the City Council and to evidence the same by execution and delivery of the Designation and such determinations, when made and agreed to by the Purchaser, shall constitute the action of the City Council without further action of the City Council.*

Also provided, however, the City reserves the right to redeem any or all of said Notes prior to maturity any time on or after January 15, 2020 (or on such other date as may be determined in the Designation), 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 Treasurer of the City of David City, Nebraska, as Paying Agent and Registrar designated in Section 3 hereof, upon presentation and surrender of the Note or Notes when due or when called for payment prior to maturity.



Section 3. The City Treasurer is hereby designated as the Paying Agent and Registrar for the Notes. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at the City's administrative offices in David City, Nebraska. The names and registered addresses of the registered owner or owners of the Notes shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar by surrender or such Note for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent and thereupon the Paying Agent and Registrar on behalf of the City will register such transfer and will deliver at such office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Note or Notes of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Notes by this Ordinance, one Note may be transferred for several such Notes of the same interest rate and maturity and for a like aggregate principal amount, and several such Notes may be transferred for one or several such Notes, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Note, the surrendered Note or Notes shall be canceled and destroyed. All Notes issued upon transfer of the Notes so surrendered shall be valid obligations of the City evidencing the same obligations as the Notes surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Notes upon transfer of which they were delivered. Notwithstanding the foregoing, the Notes and any interest therein may be transferred only upon the note register and only if (1) the transferor has submitted to the City the transferred Note accompanied by an assignment in substantially the form attached to the Note duly executed by the transferor or the transferor's attorney or legal representative; which assignment shall disclose the name, address and tax identification number of the assignee; (2) the City shall consent to such assignment, and (3) the assignee is a bank or a qualified institutional buyer as defined in Rule 144A promulgated by the Securities and Exchange Commission and the transferor has obtained and provided to the City, prior to such transfer and assignment, an investor letter approved by the City. Upon any transfer meeting the requirements of this section, the City shall execute and deliver in exchange for the Note a new Note, registered in the name of the transferee, of the same series, of the same outstanding principal amount, maturing in the same amount at the same time and bearing interest at the same rate.

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 called for redemption for a period of 30 days next preceding the date fixed for redemption. If the date for payment of the principal of or interest on the Notes shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

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

**[THIS NOTE MAY BE TRANSFERRED ONLY IN THE MANNER AND ON THE TERMS AND CONDITIONS AND SUBJECT TO THE RESTRICTIONS STATED IN SECTION 3 OF THE ORDINANCE (AS DEFINED IN THIS NOTE)]**

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BUTLER

SANITARY SEWER SYSTEM REVENUE BOND ANTICIPATION NOTE  
OF THE CITY OF DAVID CITY, NEBRASKA  
[TAXABLE] SERIES 2018

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	_____, 20____	_____, 2018	

Registered Owner: Cede & Co.

Principal Amount: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

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 at the rate per annum shown above from the date of original issue shown above payable upon maturity. Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this note and any interest due upon maturity or earlier call for redemption are payable at the office of the Treasurer of David City, 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.

This note is redeemable at the option of the City prior to maturity anytime on or after \_\_\_\_\_, 20\_\_\_\_ 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 improvements to the City's Sanitary Sewer System, including the cost of issuance of said notes, pending the issuance of permanent Sanitary Sewer System revenue bonds. The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City (the "Ordinance") in strict compliance with Sections 18-1803 through 18-1805, R.R.S. Neb. 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 Sanitary Sewer System revenue bonds, payable from the revenues of the Sanitary Sewer System of the City under the terms of the Ordinance authorizing the notes of this issue, the issuance and sale of further bond anticipation notes of the City or from any other monies of the City lawfully available for such purposes. **The notes of this issue shall not be a debt of the municipality within the meaning of any constitutional or statutory limitation upon the creation of general obligation**



**indebtedness of the municipality and the municipality shall not be liable for the payment thereof out of any money of the municipality other than from the proceeds of the issuance of the City's Sanitary Sewer System Revenue bonds or from revenues of the City's Sanitary Sewer System, subject as to such revenues to rights of senior indebtedness that may be issued by the City and outstanding.**

The City reserves the right to issue additional Sanitary Sewer System revenue 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's Sanitary Sewer System. Any such notes may be authorized with lien and pledge upon the revenues of the Sanitary Sewer System equal to that provided for the notes of this issue. 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 City 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 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.

DAVID CITY, NEBRASKA

\_\_\_\_\_  
Mayor Alan Zavodny

ATTEST:

\_\_\_\_\_  
City Clerk Joan Kovar  
(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

By \_\_\_\_\_  
Authorized Officer

(Form of Assignment)

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

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

\_\_\_\_\_

Registered Owner(s)

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

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

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

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

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Notes,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Notes.

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

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

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the Bond Participants and/or Beneficial Owners of the Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange note certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

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

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

(i) any successor securities depository or its nominee; 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 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 the Purchaser, as the initial purchaser thereof, upon receipt of a purchase price of not less than 98.75% (or such other amount as may be determined in the Designation) of the principal amount of the Notes (and such purchase price may include a placement agent fee or underwriter's discount,

as applicable) plus accrued interest thereon to date of payment for the Notes. 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. Any of the Authorized Officers of the City are hereby authorized to execute and deliver the Designation for and on behalf of the City. Such purchaser and its agents, representatives and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Notes, including, without limitation, authorizing the release of the Notes at closing.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its revenue bonds payable from the revenues of the Sanitary Sewer System or other bonds. The City further covenants and agrees to issue and sell the revenue bonds payable from the revenues of its Sanitary Sewer System or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the Notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources. The City hereby agrees that it will impose rates and charges for the service from and use of its Sanitary Sewer System sufficient to enable the City to issue and sell permanent Sanitary Sewer System revenue bonds to pay the Notes herein authorized at or prior to maturity. Subject to the senior lien and pledge in favor of any revenue bonds payable from revenues of the Sanitary Sewer System to be issued by the City (including the NDEQ Loan), the City hereby pledges the revenues of the Sanitary Sewer System for the payment of the Notes, both principal and interest as the same fall due and the holders of the Notes herein authorized shall have a lien upon the revenues of the City's Sanitary Sewer System. The principal and interest on the Notes shall be paid, to the extent not paid from other sources, from revenues of the Sanitary Sewer System. The pledge of the revenues of the Sanitary Sewer System provided for in this Ordinance shall not prevent the City from issuing Sanitary Sewer System revenue refunding bonds.

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

Section 9. The City Clerk shall make and certify a complete transcript of the proceedings had and done by said City precedent to the issuance of said Notes which shall be delivered to the 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. If the Notes are sold as Taxable Notes and designated as such in the Designation, then the following provision shall not apply to the Notes:

The City hereby covenants to the purchasers and holders of the Notes that it will make no use of the proceeds of said issue, including money held in any sinking fund attributable to said Notes which would cause said Notes to be arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended, 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 tax-exempt interest bearing 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 Clerk (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, or a private placement memorandum as appropriate, 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. The officers of the City or any one or more of them are hereby authorized to take any and all actions deemed by them necessary in connection with the issuance of the Notes.

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 "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 15. In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City, being the only "obligated person" with respect to the Notes, agrees that it shall enter into a continuing disclosure undertaking or agreement for the Notes (an "Undertaking") to provide certain continuing disclosure information to the Municipal Securities Rulemaking Board (the "MSRB") through the Electronic Municipal Market Access website ("EMMA") or such other means as may be proscribed by the MSRB, in an electronic format as prescribed by the MSRB. Each Authorized Officer is authorized to finalize the form of the Undertaking and to execute the same on behalf of the City. Any failure by the City to comply with the Undertaking shall not constitute an event of default under this Ordinance or with respect to the Notes; however, if the City fails to comply with the Undertaking, any Bondholder or beneficial owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations thereunder. The obligations of the City contained in this Section 15 shall only be applicable in the event that the Notes are issued as Tax-Exempt Notes.

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

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2018.

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City Clerk Joan Kovar

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Mayor Alan Zavodny

[SEAL]

**EXHIBIT A**

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

**ISSUER NAME:** The City of David City, in the State of 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.

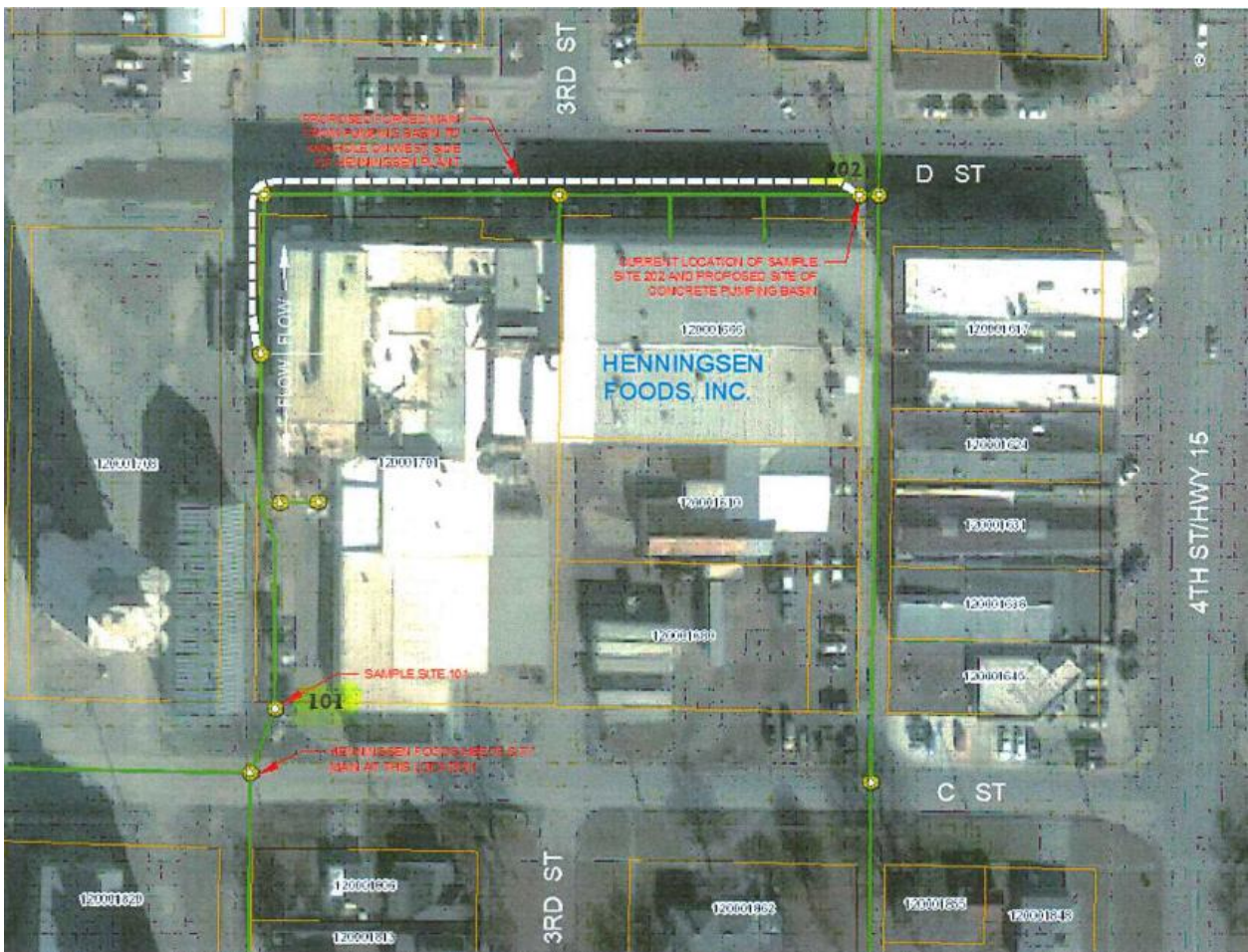
*VCAP and Remedial Actions.* The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal 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.

Council member Hotovy introduced Resolution No. 16 – 2018, concerning the City of David City relinquishing ownership of an existing sewer line to Henningsen Foods, Inc., and moved for its passage and adoption. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Trowbridge, Smith, Kobus, and Hotovy. Voting NAY: None. The motion carried and Resolution No. 16 - 2018 was passed and adopted as follows:

**RESOLUTION NO. 16 – 2018**

WHEREAS, Henningsen Foods, Inc., proposes to combine all of their effluent into one outfall, which should improve their ability to manage the effluent and make test and record keeping more efficient, and

WHEREAS, Henningsen Foods, Inc., proposes to install and operate a pumping station and force main from existing outfall labeled as #202, which will route all effluent currently discharged at that location to existing outfall #101. Outfall #202 will then be disconnected from the City sanitary sewer and be discontinued, and



WHEREAS, Henningsen Foods, Inc., will install a concrete pumping basin. The location of the basin will be in the northeast corner of the facility, where there is a manhole

near the existing outfall #202. This forced sanitary main will allow for water flow to be pumped from the northeast corner of the facility heading to the west along the south side of "D" Street around the northwest corner of the facility to another existing manhole located on the west side of the facility. From the west manhole, the water will be gravity flow directly south into the Henningsen pH adjustment basin. The final discharge will go into the existing outfall #101 and enter the City's west "C" Street sanitary sewer line, and

WHEREAS, Henningsen Foods, Inc., is requesting 1) that the City relinquish ownership of the existing sewer line along "D" Street and south to the "C" Street sanitary sewer main in favor of Henningsen Foods, Inc., so Henningsen's will own the line, 2) that the City grants permission to Henningsen Foods, Inc., to install the pumping station and north-south line on City right-of-way, and

WHEREAS, it is understood by both parties, that the entire cost of installation, operation, and maintenance of the project, and aforementioned sewer line, will be paid and owned by Henningsen Foods, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City of David City will relinquish ownership of the existing sewer line between outfall #101 and outfall #202 in favor of Henningsen Foods, Inc., so Henningsen's will own the line, and 2) the City grants permission to Henningsen Foods, Inc., to install the pumping station and forced sanitary line on City right-of-way, with the understanding that the entire cost of installation, operation, and maintenance of the project will be paid and owned by Henningsen Foods, Inc., is hereby approved.

Passed and adopted this 10<sup>th</sup> day of October, 2018.

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Mayor Alan Zavodny

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City Clerk Joan E. Kovar

Council member Vandenberg made a motion to appoint Olsson Associates (Dave Ziska) as the Street Superintendent for fiscal year, January 1, 2019 to December 31, 2019. Council member Smith seconded the motion.

Council member Kobus asked: "Okay, if you do that, so the engineering firm is in charge of the projects? Do they sign off the liability on those projects to the engineering firm? That's the biggest thing about that superintendent deal."

Craig Reinsch of Olsson's asked what projects Council member Kobus was referring to and Mayor Zavodny stated "Well let's say at some point we would pave "O" Street, just as an example."

Craig Reinsch of Olsson's stated: "This is not my forte, but the Street Superintendent allows you to go through that street allocation process. It's no different than now, where we have been your street superintendent for however long, but you have other engineers doing other street projects around town, I don't know that that would change. So, I would say that the liability would be on a per project basis. I can ask Dave Ziska to be sure and let you know later."

Voting AYE on the motion to appoint Olsson Associates (Dave Ziska) as the Street Superintendent for fiscal year, January 1, 2019 to December 31, 2019: Hotovy, Kobus, Meysenburg, Trowbridge, Vandenberg, and Smith. Voting NAY: None. The motion carried.

NOTE: On Thursday, October 11, 2018, Craig Reinsch e-mailed me the following:  
*I called and talked with Dave Ziska about Councilman Kobus' question about liability regarding the Street Superintendent. The Street Superintendent is not the City engineer, but is tasked with putting together the SSAR and lane mile reports, and other reporting functions (i.e. 1 and 6 year plans) to the State DOT regarding street funds, allocations, etc. It doesn't include design associated with projects included on the plan. (Olsson charges a \$4,000 fixed fee to act as the Street Superintendent for the City)*

Council member Hotovy made a motion to approve a contract for services with Marvin Planning Consultants concerning the David City North Area Blight Study. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Meysenburg, Kobus, Trowbridge, Vandenberg, and Hotovy. Voting NAY: None. The motion carried.

## CONTRACT FOR SERVICES

David City, Nebraska



### North Blight and Substandard Study

This agreement between the City of David City (City) and Marvin Planning Consultants (MPC) is hereby entered into this \_\_\_\_\_ day of 2018. This agreement shall consist of this document and such other drawings; conditions and stipulations as shall be mutually agreed to and attached hereto.

The purpose of this agreement is for the project entitled David City North Area Blight Study. A scope of services to be performed under this agreement is contained in Section I, Such work shall begin upon signing of this document and is estimated to be continuous until either party terminates said agreement.

### SECTION 1 Scope of Services

- A. MPC shall provide the following services to City:
1. Complete necessary field work and analysis for determining the study area as Blighted and Substandard.
  2. Complete necessary maps and photos for the report.

3. Develop necessary maps and graphics to convey the discoveries,
4. Meet to discuss report.
5. Attend all meetings with City Council,

MPC may combine reports listed above in order to facilitate review and comment. Additional services may be performed by MPC at the direction of City and with modification to the contract amount in Section 2. Such services shall be mutually agreed to and attached to this document.

The standard of care for all professional services performed or furnished by MPC under this Agreement will be the care and skill ordinarily used by members of the MPCs profession practicing under similar conditions at the same time and in the same locality. MPC makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with services provided.

All documents prepared or furnished by MPC pursuant "to this Agreement are instruments of service developed exclusively for use of City, and MPC shall retain an ownership and property interest therein. Other reuse of any such documents by City shall be at City's sole risk; and City agrees to indemnify, and hold MPC harmless from all claims, damages. and expenses including attorneys fees arising out of such reuse of documents by City or by others acting through City.

B. City shall provide the following:

1. A project manager as a direct liaison with MPC to provide instruction and direction on behalf of City.
2. Copies of all studies and data in its possession or that it may obtain that are relevant to the performance of this contract.
3. Reasonable assistance in contacting residents and agencies, scheduling activities and distributing information about the project.
4. Examine all alternate solutions, studies, reports, sketches, drawings, specifications, proposals and other documents presented by MPC (including obtaining advice of an attorney and other consultants as City deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.
5. Give prompt written notice to MPC whenever City observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of MPC services, or any defect or nonconformance in MPCs services or in the work of any Subconsultant.
6. MPC shall be entitled to use and rely upon all such information and services provided by City or others in performing services under this Agreement.

## SECTION 2 Contract Sum and Payment

The CITY shall pay MPC a fixed fee of \$3,500.00 for the performance of the scope of services in Section I , Services not provided MPC shall include the following: attorneys fees, work on the redevelopment plan (unless a specific contract and scope of services are agreed upon), and other items not directly tied to the Blight and Substandard Study.

CITY shall be billed monthly for services performed. All Invoices not paid within 30 days will be increased at the rate of 1 per month from said day; except as stated below. In addition, MPC may, after giving seven days written notice to City, suspend services under this



Agreement until MPC has been paid in full all amounts due for services, expenses, and other related charges,

Additional services as may be agreed to and as may be added to Section LA above shall be billed in accordance with the agreement or addendum authorizing such service.

## SECTION 3 - General Considerations

A. Controlling Law

This Agreement is to be governed by the law of the State of Nebraska.

B. Successors and Assigns

Neither party shall assign, sublet, or transfer its rights, interests or obligations under this Agreement without the express written consent of the other party.

c. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by MPC to any Contractor, Subcontractor Supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than City and MPC
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit on City and MPC and not for the benefit of any other party.

D. Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notice shall be effective upon the date of receipt.

E. Severability and Waiver

Any provisions or part of the Agreement held to be void or unenforceable under any laws or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and MPC, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

F. Termination of Contract

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, City shall pay to MPC all amounts owing to MPC under this Agreement, for all work performed up to the effective date of termination.

Signed \_\_\_\_\_ this day of \_\_\_\_\_, 2018,

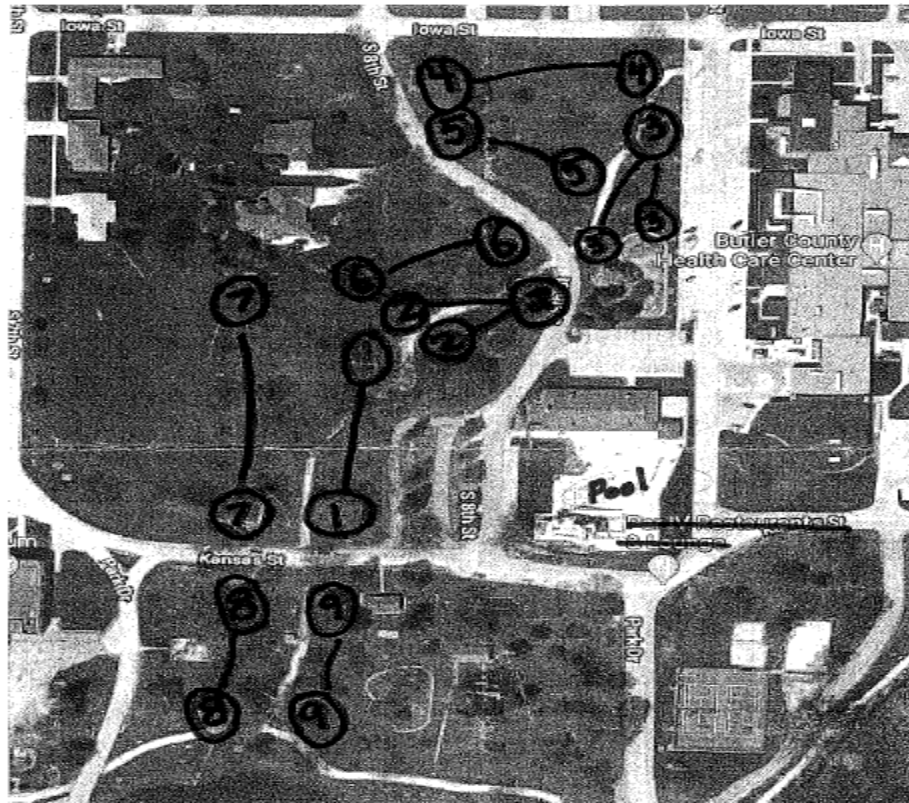
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Mayor

## Potential Study Area



The Butler County Ambassadors, presented the following potential layout as part of their request to install frisbee golf in the City Park area:



Council member Trowbridge stated: "Mr. Mayor, my motion is to deny the request of the Butler County Chamber of Commerce Ambassadors to place a disc (frisbee) golf course in our municipal park. I'd like to expand upon that when we get into the discussion. I fully understand that this motion limits further commentary to the Council table, and after the public discussion on this issue during the last City Council meeting and the past two Committee of the Whole meetings, I think there's been appropriate time and we have taken a fair amount of time for discussion on this issue, so I don't feel that we're shutting anything off at this point in time. We had some agreement at the last meeting that we were going to bring this to a vote at this meeting." Council member Kobus seconded the motion.

Council member Trowbridge stated: "I don't have any problem with disc golf, I simply have a problem with disc golf in our municipal park, because of the way it's laid out, and our responsibility around this table, there are seven of us including the Mayor, and public safety is one of the concerns that we have to be good stewards of, and when I have grandmothers telling me that if you put disc golf in the park, it will be the last time I come down with my grandchildren. Not something I like to hear. Doesn't give me a good feeling that they're involved in doing this at that location. The location is everything. As we study disc golf, frisbee golf is kind of the nifty name for it. They don't throw frisbees, they're discs. They're significantly heavier than a frisbee, they are differently configured than a frisbee, and you can throw that, I probably could throw one 50mph off my fingertips. A good person that is strong can do 70 mph, and a 70-mph throw will probably fly 510', all of it out of control. So, as we have the 3-year-old wandering into an area where he maybe shouldn't be, we put him at great risk. You can kill people with these things, and we can't keep them out, and the difference between this and the David City Golf Course is, you don't allow mothers, grandmothers, and children to wander through your golf course while golf is being played, they don't picnic out on the golf course, and they don't pick flowers and look around out there, so it's a significantly different venue. One



interesting piece from the web that I picked up says: *"Disc golfers cannot safely and equitably share the park with all the varied present users of the proposed course area. Disc golf is simply incompatible with the concept of passive recreation"*, and I believe that to be a fair statement. I don't go to parks so I have to be wary of getting hit with things that will hurt me, severely, and I think all of us need to take that as an example, and we need to protect the public from those things. We also should help try and find a place to put this that is appropriate if we have that amount of interest in it. We should be helpful as a Council, as a City, to expand upon the recreational activities. I don't have any problem with that. It's going to take some land, it's going to take some planning, and it's going to take a fair amount of money. Thank you."

Mayor Zavodny stated: "The idea has grown on me, I just don't like where it is proposed. The professional player who talked about the courses he designs said, everything we've got in place are the things you don't want with the walking paths, with the congested areas, those kinds of things, so the things he said you don't want in a course would be a problem for us. I also think Mr. Kirby's comments on it should be weighed too as he lives right there (385 So. 8<sup>th</sup>) and has an interest in what happens there. I saw Deb Dinkelman's Facebook appeal, and there was some support, and I told Deb what I was going to say because she couldn't make it tonight, but I weighed all that and the conclusion I came to is that it's a pretty neat recreational idea but that's just not the place for it. I won't vote unless it's a tie, but if it does come to that, for this location I will be a "no" vote."

City Clerk Kovar asked: "Can we make a negative motion?"

City Attorney Egr stated: "Well, if it comes into the point where...Robert's Rules of Order does provide that you can if there are certain circumstances, and I think this is probably one of those motions that would probably qualify for one of those particular circumstances."

Council member Hotovy stated for clarification: "So this is a "yes" vote to "not allow" frisbee golf in the City Park area?"

Mayor Zavodny stated: "The motion is to deny, so a "yes" vote is a "no" for frisbee golf."

Roll call was taken for the motion to "deny" the request of the Butler County Ambassadors to install frisbee golf in the City Park area. Voting AYE: Council members Vandenberg, Kobus, Smith, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried so frisbee golf will not be allowed in the City Park.

Sarah Styskal stated that at the last meeting the Council requested that they select a location and size of a portion of the City Park to fence off for a dog park, and they decided that the area straight west of the camping facility and the army tank would be a good location.



200 ft. x 70 ft approximate. 10 ft. double drive gate at north end. 3 4' wide walk gates at the entrance.

Sarah Styskal stated: "There is an open line between the trees where you could throw fetch. You have the camping area, then (to the west) the army tank, and then there's the area we are talking about, and then it goes up the hill to the practice fields. We chose that location because there is an unobstructed area. There is actually three lines of trees; one at the bottom of the hill, then there is an open area of no trees where you could run dogs and throw fetch, then there's another line of trees that we use like a divider between the large dogs and the small dogs, and then a third line of trees. We had a couple of fence companies come out, and we did 200' x 70' wide, with a 10' double drive gate at the north end that you would be able to get lawn mowers in, trucks, etc., and then three 4' wide walk in gates at the entrance. So, you would have a walk-in gate that goes into an entrance, I believe they said about 15' x 30', and then once you're inside that entrance you can take your dog off lease and then you can go in the small dog fenced off area or the large dog fenced off area. It goes north almost all the way to the watering station for the practice field. It can be larger or smaller, we just thought this would be a decent size for the dogs. There would be plenty of parking in this area. We contacted both No Sweat and American Fence. The minimum height for the fence would be 4' and it would be chain link with a black vinyl coating. Joan checked with the insurance carrier and they said that

they didn't have a required fence height and there would not be a charge for any additional liability, but the City would probably want to add the fencing to the property insurance. Another concern at the last meeting was the maintenance. The Parks Department is already mowing and so they would just need to weed-eat around the fence, and the Committee that we formed, the five of us gals, would rotate monthly, we'd go out and inspect for any needed repairs and clean up, and then have bi-yearly community volunteers where people could come out and volunteer to do any repairs that the fencing needed or any of the agility equipment. We'd like to get the local high schools and FFA Chapters to do projects that wouldn't cost us anything that they could do as a school project to build agility equipment to bring out to the Park. As far as funding, we are looking at applying for the B.C. Area Foundation Fund Grant application, is our primary source of funding. That is due at the end of the month, once we get approval, and are able to move forward. Other options are area business sponsorships such as Timpfe, Henningsen Foods, Fargo Assembly, all the large businesses in town, the veterinarian clinics, communities, individual donations; we have a Facebook page and currently we have 187 members of that that are in support of the park. There are various grant opportunities that you can go online and apply for to help fund this, and our committee would be willing to spend time having fund raisers throughout the year, and all funds would directly go to the building establishment of the Park and ongoing maintenance repairs, so, what I'm saying is, if we could get all of these; if we can get this Butler County Grant, essentially, hopefully, the fencing or any other expenses would not be incurred by the City."

Mayor Zavodny asked: "What is your projected budget that you need to raise?"

Sarah stated: "Well, for the fencing through No Sweat, a 48" tall vinyl coated was \$16,534.00; that's for the fencing, posts, concrete, labor. We liked No Sweat because they offered a 12-year warranty on the fencing and a 2-year workmanship warranty. As far as that, we'd like to put in a watering station for the dogs and for people to be able to use, so the City, we would have to tap into water and I don't know how much that would cost, we haven't looked into that, but if we could get enough money raised, hopefully we would be able to cover all of that."

Mayor Zavodny asked: "How much were you planning on asking the Butler County Foundation for?"

Sarah stated: "\$20,000 at least."

Council member Kobus asked: "So, you get 50 dogs in there, somebody brings in a couple mean ones, and you've got kids in there, what happens? You can look on the news yesterday; those dogs jumped out of the car, literally that guys going to have to have I don't know how many surgeries on his arm, tore up his dog.... That's what I'm afraid of; I don't know."

Council member Trowbridge asked: "The question is, who's the policeman?"

Sarah Styskal stated: "Well, I like to think the greater good of people, that when you're there you would be a responsible dog owner, and just like when you are walking your dog through the park on a leash, they're not in a fence, they could take off and go get a kid at any time. I would think that parents would be responsible enough to not let their 3-year old just run free with 30 dogs running around."

Mayor Zavodny stated: "I think you are very credible and you believe what you are telling me, but one thing I've noticed when you count on volunteers, they will be there that first year maybe, and then it starts to.....somebody's dog dies and then they're out, they're not interested

anymore. Trying to do something through volunteers is really, really, difficult to do in keeping the commitment. That's probably the flaw in the plan from an operational standpoint, I see."

Discussion followed.

Council member Hotovy stated: "Something like this takes more time than what we have right now, especially when you are talking that construction wouldn't happen this year. I am thinking maybe we should table this, that gives you some more time to figure out the financial side, you can get together with the park department and maybe a council member or two, take them out, actually set some flags in the ground as to what 70' x 200' actually is. Adjustments could be made there, maybe you get by with 60' x 100' and your upfront costs drop significantly."

Council member Trowbridge asked: "Could you appoint a committee of a couple of people to work with them, to try and figure out, "is this doable?"

Mayor Zavodny stated: "Who would be interested in working on this; working with Sarah and the dog committee, checking the actual location, physically putting out flags, really looking at the area and the area around it, and figuring out the financial piece?"

Council members Hotovy and Vandenberg volunteered to work on this committee. Sarah was told to go ahead and work on getting donations, contingent upon council approval.

Mayor Zavodny stated: "Once you get the money we can say "well you did your end."

Mayor Zavodny opened the Public Hearing at 8:05 p.m. to consider the application of the David City Golf Club d.b.a. David City Golf Course, 899 Park Drive, for a Class C Liquor License.

Galen Krenk stated: "In the past, we would have a contract with someone and they would have their own liquor license and they would lease the building from us. We are going away from that. We will now be the liquor license holder, hire a manager and an assistant manager, and get away from leasing the building. We are going to have all of the expense and all of the income."

There being no further comments from the Public, Mayor Zavodny declared the Public Hearing closed at 8:14 p.m.

Council member Hotovy made a motion to approve the application of the David City Golf Club d.b.a. David City Golf Course, 899 Park Drive, for a Class C Liquor License. Council member Trowbridge seconded the motion. Voting AYE: Council members Kobus, Smith, Meysenburg, Vandenberg, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Mayor Zavodny opened the Public Hearing at 8:15 p.m. to consider annexing an area of the Kozisek property located in the SW ¼ of the SW ¼ of Section 20 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Beginning at the southeast corner of Lot 4, Block 2, Kozi Addition to David City, Butler County, Nebraska, said Point being on the east line of Fourteenth Street in said David City; thence easterly, 140.11 feet to the southeast corner of said Lot 4; thence southerly, parallel with the east line of said Fourteenth Street, 379.3 feet; thence westerly, 140.11 feet, to a point on the east line of said Fourteenth Street, said point

being 374.44 feet south of the southwest corner of said Lot 4; thence northerly, 374.44 feet, to the Point of Beginning, containing 1.21 acres, more or less.

Council member Trowbridge stated: "Watching this happen, it's happening one lot at a time over there, after the first go around of the Kozisek Addition, and the first go around was under the old rules where they put in the streets, and now we're under the new rules so I believe we are skirting the obligations of the developer by doing it one lot at a time. We also happen to have a couple lots that don't fit in any street plan, where there are houses where a street probably would have gone if we would have done a plat. A plat has not been done of this property as I understand it, and I'm confused, are we simply allowing the avoidance of our current set of rules. I don't know, it's a question I would like others to look into it, and I'm not trying to be hard on this particular one and I don't have any problem with annexing this property, but this I believe is the second time we've done it one piece or two lots at a time."

Mayor Zavodny stated: "That makes a lot of sense because we know we aren't going to allow that on the ground across from Aquinas, they had to plat the whole thing showing streets and lots."

Building Inspector Ray Sueper stated: "The Comprehensive Plan of 2005 would instruct you to annex the entire Kozisek property in light of the need for housing. You have the authority to do that in its entirety if you wish."

Mayor Zavodny asked: "How big of an area, should we annex the whole piece of property, are we talking about here?"

Building Inspector Ray Sueper stated: "An annexation should probably be recommended by the Planning Commission to you, it's not my position to recommend that. I can reiterate what's in your Comp Plan to you and advise you what's in there."

Council member Trowbridge stated: "I would estimate 60 acres out there; and I'm not saying not to annex this one, but moving forward, I think we need a plan."

There being no further comments, Mayor Zavodny declared the Public Hearing closed at 8:20 p.m.

Council member Hotovy introduced Ordinance No. 1296 annexing an area of the Kozisek property located in the SW ¼ of the SW ¼ of Section 20, T15N, R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, as described above. Mayor Zavodny read Ordinance No. 1296 by title. Council member Hotovy made a motion to pass Ordinance No. 1296 on the **first reading only**. Council member Trowbridge seconded the motion. Voting AYE: Council members Smith, Meysenburg, Vandenberg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. The motion carried and Ordinance No. 1296 was passed on 1<sup>st</sup> reading as follows:

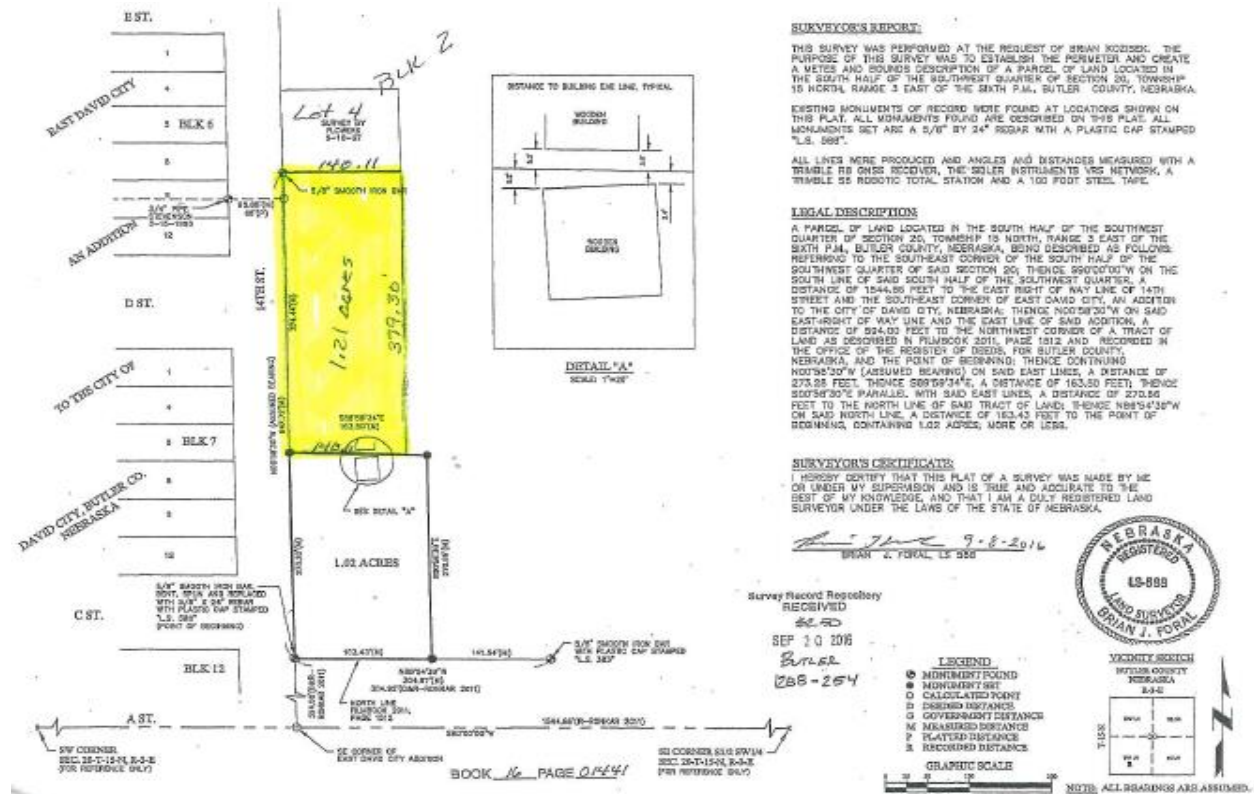
**ORDINANCE NO. 1296**

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A TRACT OF LAND LOCATED IN THE SW ¼ OF THE SW ¼ OF SECTION 20 T15N R3E OF THE 6<sup>TH</sup> P.M., BUTLER COUNTY, NEBRASKA, LEGALLY DESCRIBED BELOW, REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.



WHEREAS, a majority of the City Council of the City of David City, Nebraska, favors the annexation of the following described real property and the extension of the city limits to include said property, as follows:

Beginning at the southwest corner of Lot 4, Block 2, Kozi Addition to David City, Butler County, Nebraska, said Point being on the east line of Fourteenth Street in said David City; thence easterly, 140.11 feet to the southeast corner of said Lot 4; thence southerly, parallel with the east line of said Fourteenth Street, 379.3 feet; thence westerly, 140.11 feet, to a point on the east line of said Fourteenth Street, said point being 374.44 feet south of the southwest corner of said Lot 4; thence northerly, 374.44 feet, to the Point of Beginning, containing 1.21 acres, more or less;



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

Section 1. That the boundaries of the City of David City, Nebraska, be amended and changed in order to include the above described property.

Section 2. That this Ordinance be filed with the Office of the County Assessor and County Clerk of Butler County, Nebraska, and that the City Clerk be directed to amend the plat filed in her office to show the inclusion of the real estate listed above and that the boundary of David City as amended by this Ordinance be certified and placed on record in the office of the City Clerk of David City, Nebraska.

Section 3. That any Ordinance, setting or establishing boundaries of the City of David City, Nebraska, which is in conflict with this Ordinance be and the same is hereby repealed.

Section 4. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

**Passed on 1<sup>st</sup> reading only 10/10/18**  
Mayor Alan Zavodny

**Passed on 1<sup>st</sup> reading only 10/10/18**

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 8:21 p.m. to consider amending the Zoning Ordinance No. 1060 Article 8: Supplemental Regulations Section 8.03:01 Residential Fence Regulations by amending 6) All fences shall be located inside the boundaries of the property upon which constructed, unless two property owners agree, in writing, to place the fence on the property line, and said agreement is filed with the County Clerk. In no case shall a fence be constructed and maintained within an established easement; 8) Any new fence shall not be attached to any neighboring fence, unless two property owners agree, in writing.

Building Inspector Ray Sueper stated: "This is a clean-up ordinance as suggested by the Planning Commission based on recent issues that have come up."

Discussion followed. Mayor Zavodny asked for any additional comments from the Public. There being none, Mayor Zavodny declared the Public Hearing closed at 8:24 p.m.

Council member Hotovy introduced Ordinance No. 1297 amending Zoning Ordinance No. 1060, Article 8: Supplemental Regulations Section 8.03.01 Residential Fence Regulations as described above.

Mayor Zavodny read Ordinance No. 1297 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 Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Vandenberg, Smith, Trowbridge, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass and adopt Ordinance No. 1297 on the third and final reading. Council member Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Vandenberg, Kobus, Smith, Meysenburg, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1297 was passed on 3<sup>rd</sup> and final reading as follows:

**ORDINANCE NO. 1297**

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 8: SUPPLEMENTAL REGULATIONS TO AMEND SECTION 8.03 FENCES BY AMENDING SECTION 8.03.01 RESIDENTIAL FENCE REGULATIONS; 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 8: SUPPLEMENTAL REGULATIONS

### SECTION 8.03 FENCES

#### **8.03.01 RESIDENTIAL FENCE REGULATIONS**

- 1) Fences constructed in any Primary front yard shall be of an open weave, chain-link, or picket-style nature, and may not exceed 48 inches in height. The Primary front yard shall be defined as the address side of the home which faces the street. Fences constructed in the Secondary FRONT yard, of a double frontage lot may be up to 72 inches in height, but must still meet the required front yard setback for construction for pedestrian safety along sidewalks, and may not project into any Primary front yard, (Past the front address side of the residence). Any fence closer than 12 feet to a front yard property line must be of an open weave, or see thorough in nature.
- 2) Fences constructed in any rear or NON-STREET side may be of a solid, or privacy style, not to exceed 6 feet in height.
- 3) Decorative post caps may protrude an additional six inches above any required maximum height.
- 4) Earth berms, whether manmade or not, terraces, and retaining walls that elevate the fence shall be considered a part of the fence, and shall be included in the overall height of the fence. It is not intended that any structure other than a fence be permitted on any part of a lot or premises by this section, and all other structures shall comply with the provisions of this Ordinance.
- 5) No vegetation, stone wall, hedge, or solid fence shall obstruct the required Sight triangle. No fence shall be situated or constructed in such a way as to obstruct vehicular traffic or otherwise create a pedestrian or traffic safety hazard.
- 6) All fences shall be located inside the boundaries of the property upon which constructed, unless two property owners agree, in writing, to place the fence on the property line, and said agreement is filed with the County Clerk. In no case shall a fence be constructed and maintained within an established easement.
- 7) Any new fence shall be installed with the good side facing outward from the property in all directions.
- 8) Any new fence shall not be attached to any neighboring fence, unless two property owners agree, in writing.
- 9) All fences, either new or replacement, shall require a permit to perform such work.
- 10) The use of barbed wire or electric style fencing within the City Limits is prohibited herein. Exception: Buried pet fences.
- 11) Farm fences, outside the City Limits, constructed for agricultural purposes on parcels in the Transitional Agriculture or Residential Agriculture Districts are exempt from the requirements of this Code and any Fees.

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 \_\_\_\_\_ 10<sup>th</sup> day of \_\_\_\_\_ October \_\_\_\_\_, 2018.



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Mayor Alan Zavodny

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City Clerk Joan Kovar

Council member Hotovy introduced Resolution No. 15 – 2018 to consider the request by Daniel J. & Janet M. Sygal to subdivide their property described: A tract of land being part of Lots 7 and 8, David City Land and Lot Company's Suburban Lots, located in the SW ¼ of the SE ¼ of Section 18, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Lot 8, and assuming the south line of said Lot 8 to have a bearing of N 89°32'24" W; thence N 89°32'24" W, 155.00 feet; thence N 00°20'17" W, 348.83 feet; thence S 89°32'24" E, 84.35 feet, parallel with the south line of said Lot 8; thence N 00°24'47" E, 135.82 feet, parallel with the east line of said Lot 8; thence N 89°58'34" E, 75.33 feet, parallel with the north line of said Lot 8; thence S 00°24'47" W, 36.14 feet on the east line of said Lot 8; thence S 89°35'50" E, 131.70 feet; thence S 00°32'08" W, 449.25 feet; thence N 89°32'24" W, 130.74 feet on the south line of said Lot 7, to the point of beginning, containing 2.85 acres, more or less, into two tracts, approximately 1.50 acres and 1.35 acres, and moved for its passage and adoption. Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Smith, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried and Resolution No. 15 - 2018 was passed and adopted as follows:

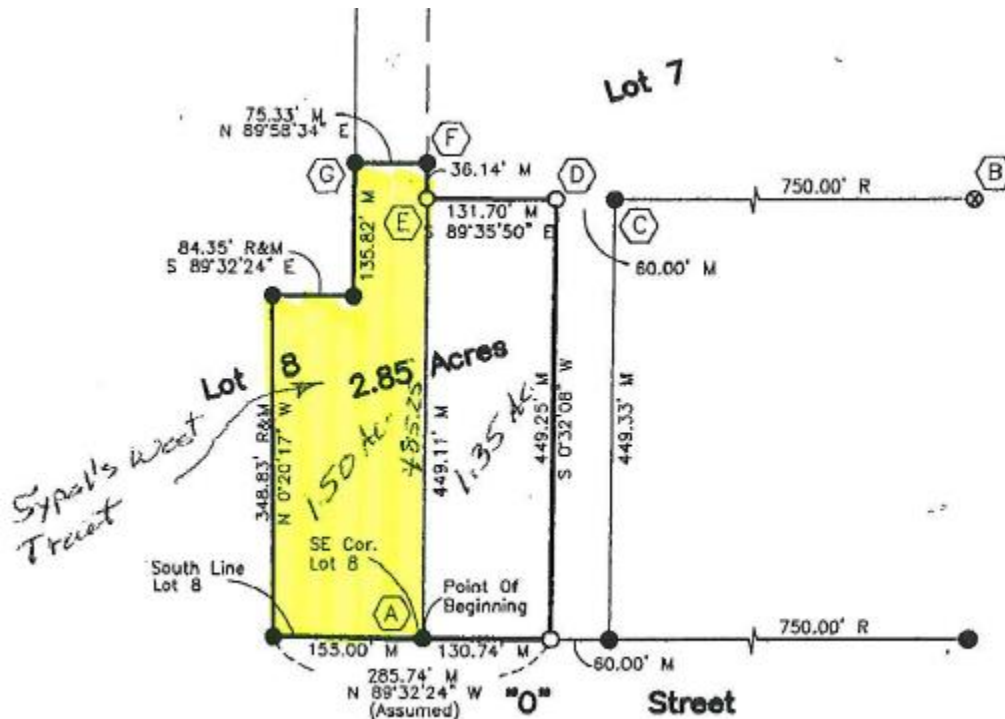
#### **RESOLUTION NO. 15 - 2018**

WHEREAS, Daniel J. & Janet M. Sygal, as the owners of property legally described as: A tract of land being part of Lots 7 and 8, David City Land and Lot Company's Suburban Lots, located in the SW ¼ of the SE ¼ of Section 18, T15N, R3E of the 6<sup>th</sup> P.M. in Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Lot 8, and assuming the south line of said Lot 8 to have a bearing of N 89°32'24" W; thence N 89°32'24" W, 155.00 feet; thence N 00°20'17" W, 348.83 feet; thence S 89°32'24" E, 84.35 feet, parallel with the south line of said Lot 8; thence N 00°24'47" E, 135.82 feet, parallel with the east line of said Lot 8; thence N 89°58'34" E, 75.33 feet, parallel with the north line of said Lot 8; thence S 00°24'47" W, 36.14 feet on the east line of said Lot 8; thence S 89°35'50" E, 131.70 feet; thence S 00°32'08" W, 449.25 feet; thence N 89°32'24" W, 130.74 feet on the south line of said Lot 7, to the point of beginning, containing 2.85 acres, more or less, have submitted a request to divide this property into two tracts as follows:

#### **TRACT I DESCRIPTION**

A tract of land located in Lot 8, David City Land and Lot Company's Suburban Lots, in the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

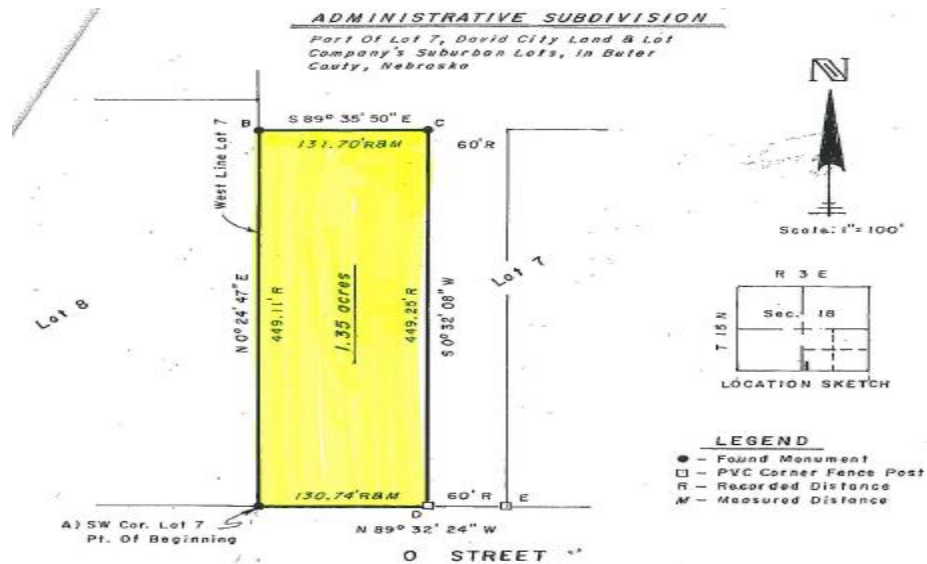
Beginning at the Southeast corner of said Lot 8; thence N  $89^{\circ}32'24''$  W on an assumed bearing on the south line of said Lot 8, 155.00 feet; thence N  $0^{\circ}20'17''$  W, 348.83 feet; thence S  $89^{\circ}32'24''$  E, 84.35 feet; thence N  $0^{\circ}24'47''$  E, 135.82 feet; thence N  $89^{\circ}58'34''$  E, 75.33 feet, to a point on the east line of said Lot 8; thence S  $0^{\circ}24'47''$  W, 485.25 feet, to the Point of Beginning, containing 1.50 acres, more or less.



#### TRACT II DESCRIPTION

A tract of land located in Lot 7, David City Land and Lot Company's Suburban Lots, in the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 18 T15N R3E of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

Beginning at the southwest corner of said Lot 7; thence N  $0^{\circ}24'47''$  E on an assumed bearing on the west line of said Lot 7, 449.11 feet; thence S  $89^{\circ}35'50''$  E, 131.70 feet; thence S  $0^{\circ}32'08''$  W, 449.25 feet, to a point on the south line of said Lot 7; thence N  $89^{\circ}32'24''$  W, 130.74 feet, to the Point of Beginning, containing 1.35 acres, more or less.



WHEREAS, there were no objections expressed concerning the request of Daniel J. & Janet M. Sypal.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Daniel J. & Janet M. Sypal to subdivide their property legally described above into Tract I and Tract II, as legally described above, is hereby approved.

Passed and approved this 10<sup>th</sup> day of October, 2018.

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Mayor Alan Zavodny

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City Clerk Joan Kovar

Ryan Ruth, First State Insurance Agency, stated: "I collected applications from the employees in mid-September. I do not have rates back for the fully insured under 50, they told me the 15<sup>th</sup> which would be Monday, and then I just got an e-mail yesterday with some follow up questions from the underwriters on the fully underwritten plans, so I don't have rates. What I did bring though, was discussion on the HRA / H.S.A., as I just wanted to get some of that figured out so when we do get to rates we might be able to speed that along a little bit quicker."

Ryan presented the following and reviewed differences between the HRA and the H.S.A. Accounts. Discussion followed.

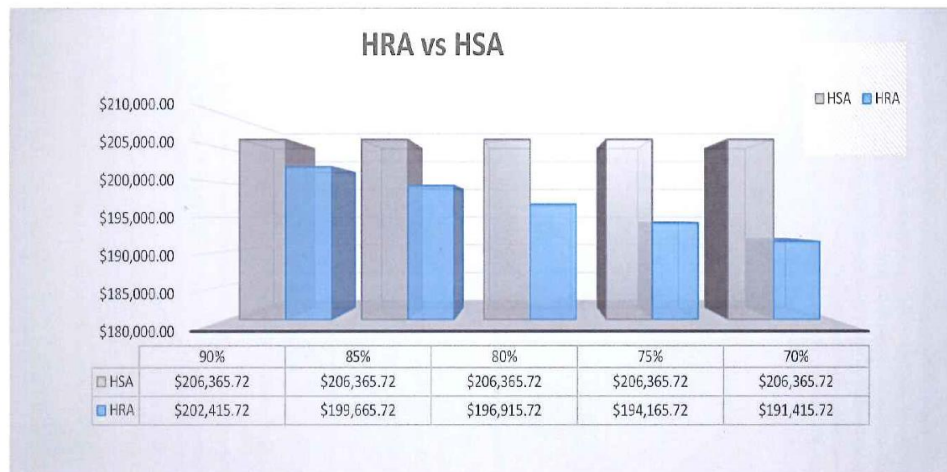


## City of David City HRA Breakdown

	Employees	Individual Deductible	Family Deductible	Monthly Premium	Annual Premium	Fully Insured Renewal with HSA Contribution				
Plan #304	7	\$5,500.00	\$ 11,000.00	\$ 4,199.35	\$ 50,392.20	\$ 206,365.72	\$ 206,365.72	\$ 206,365.72	\$ 206,365.72	\$ 206,365.72
Plan #302	7	\$4,500.00	\$ 9,000.00	\$ 8,414.46	\$ 100,973.52					
Totals					\$ 151,365.72					

HRA Contribution					HRA Potential Claim Experience %				
					90%	85%	80%	75%	70%
Individual	6	\$2,500.00	Total	\$ 15,000.00	\$ 51,050.00	\$ 48,300.00	\$ 45,550.00	\$ 42,800.00	\$ 40,050.00
Family	8	\$5,000.00	Total	\$ 40,000.00	\$ 202,415.72	\$ 199,665.72	\$ 196,915.72	\$ 194,165.72	\$ 191,415.72
Sub Total				\$ 55,000.00	-1.91%	-3.25%	-4.58%	-5.91%	-7.24%

HRA Plan Cost			Total	\$ 500.00	Potential Savings with HRA				
Set-Up Fee	1	\$500.00	Total	\$ 1,050.00	Current Plan				
Employees	14	\$75.00	Sub Total	\$ 1,550.00	\$ 3,950.00	\$ 6,700.00	\$ 9,450.00	\$ 12,200.00	\$ 14,950.00



The dollar one H.R.A. seemed to be the preferred plan, keeping the \$2,500 individual and \$5,000 family to be fair to the employees. Ryan will try to have numbers to present at the October 24<sup>th</sup> Committee of the Whole Meeting.

Patrick Meysenburg had requested the next agenda items that included:

- New weight limit on "O" Street
- Consideration of removing the stop signs at 9<sup>th</sup> & "A" Street
- Placing "no parking" signs on "O" Street west of 4<sup>th</sup> Street

Patrick Meysenburg stated: "I came to town one morning and saw there was a weight limit and when was this issued? What does this all cover? What was the vote?"

It was stated that Resolution No. 14 – 2018 was passed and approved on September 12, 2018, setting a weight limit of 16,000 GCW for truck traffic on "O" Street from 4<sup>th</sup> Street east to 11<sup>th</sup> Street. It covers anything that weighs more than the 16,000 GCW; trucks, trailers, campers, anything. It was a unanimous vote.

Patrick Meysenburg stated: "John, you work for the Butler Public Power, so your trucks cannot go down that road, they have to go around if there is a service call just on the other side. Tom, you work for the County, your grader has to go down that road or it has to go all the way around. Kevin, you farm, there are tractors that come down that road, and I talked to Don at John Deere and he's not happy with it either because it's starting to deter his customers from coming in to bring their equipment in to have it worked on because they have to go all the way around. We have Randy Robeson here too, and Greg Sabata, he goes that way too, and I talked to a lot of others that go that route that weren't able to make the meeting."

Mayor Zavodny stated: "I don't think anything you've said is wrong but we have a very thin layer of asphalt and the road is disintegrating before our eyes. We do not have \$2,000,000 laying around to redo "O" Street. The Downtown project was funded by the "3-legged stool" sales tax issue. We will have to address "O" Street in the near future. The street department is repairing it almost daily."

It was noted that the Council didn't really like the weight limit for "O" Street but they didn't see where they had any other option at this point in time.

The stop signs at 9<sup>th</sup> and "A" were discussed. Patrick Meysenburg wanted the stop signs removed. It was noted that a lot of children bicycle and walk down 9<sup>th</sup> Street on their way to the swimming pool, so that is a safety issue, and the stop signs will remain on 9<sup>th</sup> & "A" Street.

Patrick Meysenburg stated that "O" Street between 4<sup>th</sup> and the Burlington Northern Santa Fe Railroad gets really narrow with people parking along that street.

Much discussion followed.

Council member Trowbridge made a motion to place "No Parking" signs on "O" Street from 4<sup>th</sup> Street to the Burlington Northern Santa Fe Railroad. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Nick Schneider, 507 Oak Street, was present to request a permit to move a house, that he recently purchased from David City Public Schools, to his property. Building Inspector Ray Sueper had advised Nick that he would need to provide a plat map of his property. Nick Schneider stated he was informed that the City would want a street through this property from Oak Street to County Road "M", which he said he was okay with, but that he didn't have the money to put a street in. He said he would deed 60' to the City for a street, just as long as the city put the street in, so that way it would meet the planning that the City wanted. When questioned about his semi's and trucks, Nick stated that he did not want a truck stop there and that he has been parking his semi's at Northside; he stated he just wanted to put up houses.

Nick stated: "If you look at the lot, the lot behind the old Lord house exits to County Road "M" to the backside. The weird triangle shaped lot exists to Oak Street. They will both have utilities; water mains, sewer mains, and electrical. I really don't have a plan, I'm just trying to move the house at the moment, and whatever you guys tell me to do I will do."

Mayor Zavodny stated: "To your credit, you have been working on that because when we talked I said "work with Ray, get these things cleaned up, the ownership, you got that handled today finally, we've been talking about the trailers for a while we needed to get that handled, but more so define "temporarily". Is that house going to be sitting there....."

Nick stated: "I've got Jason Campbell lined up to do it as soon as you guys okay it. He won't do it until there's a permit; the same with Scribs (Scrib's House Moving), Scribs will pick the house up as soon as you guys okay it."

Council member Trowbridge asked: "Where's it going to go?"

Nick stated: "It's going to go right next to the town homes, right where the trucks around, so as soon as the house gets moved the trucks can't go there because there's no place to turn around."

Council member Meysenburg stated: "I have a problem with him moving anything else out there because he is still working on the old Lord house that he bought several years ago."

Nick stated: "That's because the lot lines weren't correct. Ray pulled the permits because the lot lines weren't correct and I had to buy the lots."

Building Inspector Ray Sueper stated: "The original permit expired for that and I've been holding the renewal on that until he actually owns the property because there was a setback problem with where that north property line is. He was too close to the property line and the property line that's shown on here is actually bisecting his shed that he built and we have to resolve that issue now with his current situation. As the new owner of the property that lower right hand section along that north lot line needs to be brought further north and re-platted administratively to allow for a 12' setback to that garage addition that he put on, and to make the 6' setback for the outbuilding that he's got on this property. As they move forward with that, now that he owns the balance of that property, it's doable, it's just going to take some time. One concern, if he puts the house in that north triangle there, and "E" Street goes through, will that meet the setbacks for a front yard setback?"

Mayor Zavodny stated: "So, our problem is, we don't have the information of exactly where the house is going to be to see if it will match the setbacks, is that what I'm hearing you say?"

Building Inspector Ray Sueper stated: "Yes".

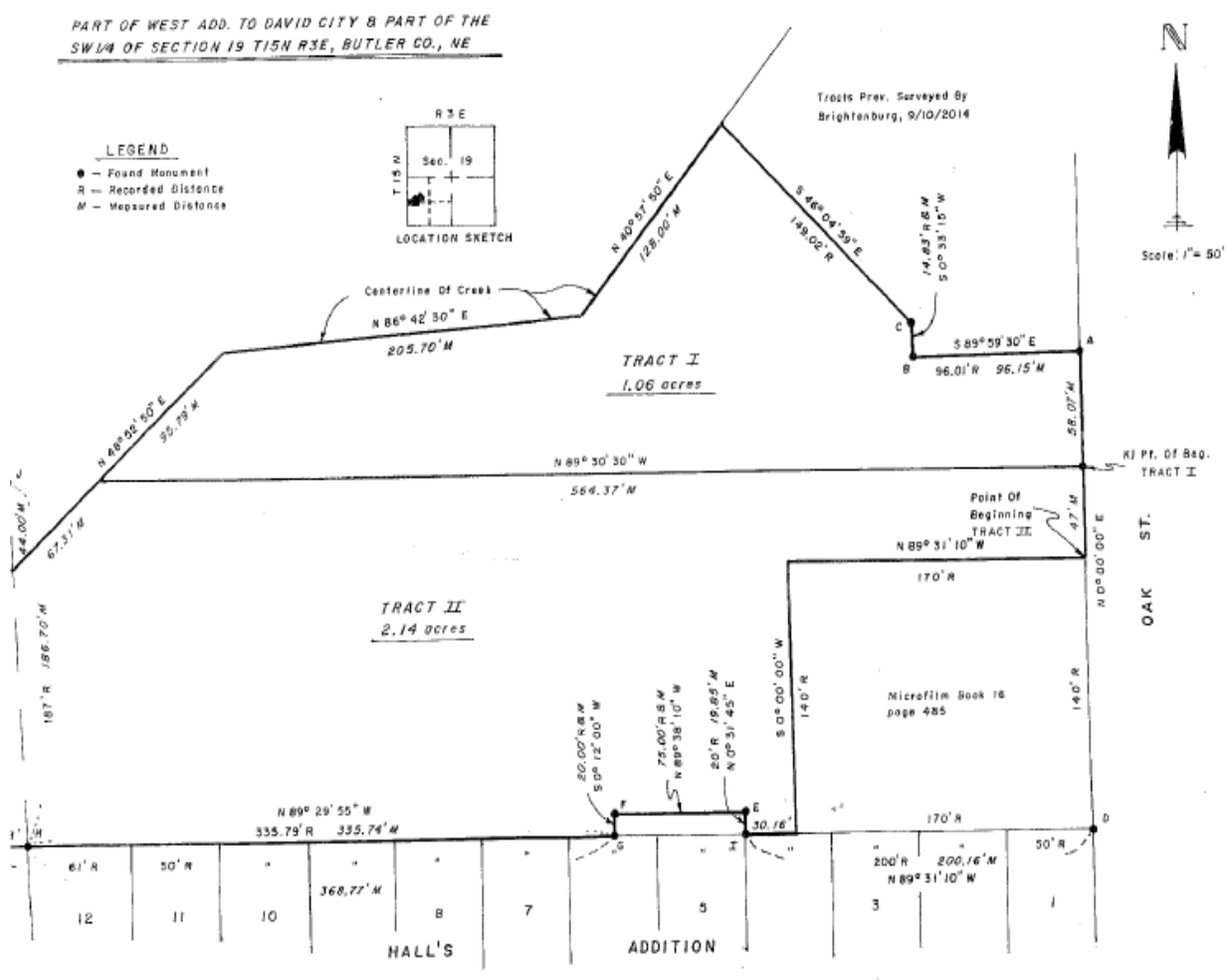
Nick Schneider stated: "This is actually the first time I've heard that you want 60' for an actual road."

Council member Meysenburg said: "We told you right from the get go that you had to put streets in, water lines, sewer lines....."

Nick Schneider stated: "I can't afford that stuff, I do not want a subdivision, I want two lots, that's all."

Discussion followed.

Council member Trowbridge made a motion to refer the request of Nick Schneider, 507 Oak Street, to move a house onto the property he bought to the Planning Commission to come up with a more detailed plan showing a street, the location of the house, and the setbacks from the houses, sheds, etc., to the property lines. Council member Smith seconded the motion. Voting AYE: Council members Kobus, Hotovy, Meysenburg, Vandenberg, Smith, and Trowbridge. Voting NAY: None. The motion carried.



There being no further business to come before the Council, Council member Council member Hotovy made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:21 p.m.





CERTIFICATION OF MINUTES  
October 10, 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 October 10<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