

**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 **14<sup>th</sup> day of June, 2017**, 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 1<sup>st</sup> day of June, 2017.

**AGENDA AS FOLLOWS:**

1. Roll Call;
2. Pledge of Allegiance;
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules;
4. Minutes of the May 10<sup>th</sup>, 2017 meeting of the Mayor and City Council;
5. Consideration of Claims;
6. Committee and Officer Reports;
7. Consideration of Ordinance No. 1264 authorizing the issuance of Water Revenue Bonds, Series 2017 to fund water system costs associated with the Downtown Improvement Project;
8. Consideration of Ordinance No. 1265 authorizing the issuance of Bond Anticipation Notes, Series 2017A to provide a portion of the construction funding for Street Improvement District Nos. 2017-1 and 2017-2 (Downtown Improvement Project);
9. Consideration of closing the Power Plant;
10. Consideration of Ordinance No. 1263, on the second reading only, to annex property legally described as: 30 15 3 PT E1/25W1/4 24.6 AC – GDC Properties LLC (property located on the west side of Hwy. 15 across from Aquinas High School, 3420 MN Rd;

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Mayor Alan Zavodny

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Council President Gary D. Smith

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Council member Thomas J. Kobus

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Council member Dana E. Trowbridge

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Council member Kevin N. Hotovy

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Council member Patrick J. Meysenburg

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Council member John P. Vandenberg

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City Clerk Joan E. Kovar

11. Public Hearing to consider the application of Diane R. Bohaty dba BBQ, Burgers & More, 536 N 5<sup>th</sup> Street, for a Class C Liquor License;
12. Consideration of the application of Diane R. Bohaty dba BBQ, Burgers & More, 536 N 5<sup>th</sup> Street, for a Class C Liquor License;
13. Public Hearing to consider de-blighting certain areas within the corporate limits of David City;
14. Consideration of Resolution No. 21 - 2017 de-blighting certain areas within the corporate limits of David City;
15. Consideration of calling a temporary recess as the City Council and calling to order as the David City Community Development Agency;

**COMMUNITY DEVELOPMENT AGENCY  
OF THE CITY OF DAVID CITY, NEBRASKA**

**Agenda for Meeting Held**

**June 14, 2017**

**During the regular Council Meeting**

**that began at 7:00 p.m.**

**on June 14, 2017**

- a. Call to Order
  - b. Roll Call
  - c. Open Meetings Act Recitations, Identification of Current Copy of Open Meetings Act Posted in the Meeting Room.
  - d. Review Redevelopment - Dana Point Development Corporation Redevelopment Plan
  - e. Consideration of Resolution No. 22-2017 CDA, forwarding a Redevelopment Plan of the City of David City, Nebraska to the Planning Commission of the City of David City for Purposes of its Review and Recommendation regarding said Plan's Conformity with the Comprehensive Plan of the City of David City.
  - f. Other Business
  - g. Adjourn – as the David City Community Development Agency.
16. Public Hearing to consider storage containers;
  17. Consideration of Ordinance No. 1266 amending Zoning Ordinance No. 1060 by amending Article 2: Definitions, to add the definitions of Storage Container, Storage Trailer and Construction Dumpster and to amend Article 8: Supplemental Regulations, to add Section 8.14 Permanent Cargo Containers and to add Section 8.15 Temporary Cargo Containers and Dumpsters;
  18. Consideration of authorizing Council President Gary Smith to execute the Grant Offer for Airport Improvement Program (AIP) Project No. 3-31-0025-011-2017 at the David City Municipal Airport to rehabilitate Runway 14/32 (Seal Coat [3,675' x 60']); Rehabilitate Taxiway (Seal Coat [720'x25']); Rehabilitate Apron (Seal Coat [5,000 Square Yards]);
  19. Consideration of the request by David City Public School to move a two stall garage to the Auditorium to replace the existing old pool house, to be used for storage of football equipment, etc.;

20. Consideration of the bids received for the Park Picnic Shelter and Restroom Project;
21. Consideration of providing Legal Shield as an option for City employees at their own cost;
22. Consideration of VR Nebraska concerning laborers for the Park Department;
23. Consideration of Resolution No. 23 - 2017 concerning the application by the Butler County Parade Committee for a parade for Sunday, July 23, 2017;
24. Consideration of the property located at 278 South 7<sup>th</sup> Street that has been reported to the City; (Tim Graybill)
25. Consideration of the property located at 909 North 9<sup>th</sup> Street that has been reported to the City; (Jeff Palik)
26. Consideration of the request by Scott Samek to sell permissible fireworks between 12:01 a.m. June 25<sup>th</sup> and 11:59 p.m. July 4, 2017;
27. Consideration of Resolution No. 24 – 2017 concerning the property located at 314 North 7<sup>th</sup> Street in which the property owner was given until June 11<sup>th</sup>, 2017 to abate the nuisance(s) and get the property in compliance with City Codes;  
(Remmers/Ziethen)
28. Consideration of authorizing Al Hottovy of Leo A. Daly to approve change orders up to \$10,000;
29. Consideration of hiring a City Administrator;
30. Consideration of the property located at 226 North 3<sup>rd</sup> Street that has been reported to the City; (Chuck Oborny owner, renters: Deena Shockley & Chris Lute)
31. Consideration of the property located at 240 North 3<sup>rd</sup> Street that has been reported to the City; (Adam Root, Owner)
32. Adjournment;

## CITY COUNCIL PROCEEDINGS

June 14, 2017

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 June 8<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: Council President Gary Smith, and Council members John Vandenberg, Thomas Kobus, Kevin Hotovy, Dana Trowbridge, and Patrick Meysenburg, City Attorney Jim Egr, and City Clerk Joan Kovar. Mayor Alan Zavodny was absent.

Also present for the meeting were: Philip Lorenzen Vice President /D.A. Davidson, Planning Commission Members Keith Marvin, Jim Vandenberg and Janis Cameron, Sheriff Marcus Siebken, Ron Mimick of Aquinas High School, Chad Denker of David City Public Schools, Chad Podolak of Nebraska Public Power District, Library Board Member Larry Griffiths, Karl & Marianne Ziethen, citizens Tom & Jane Samek, Banner Press Editor Larry Peirce, and Park/Auditorium Supervisor Bill Buntgen.

The meeting opened with the Pledge of Allegiance.

Council President Gary Smith informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the May 10<sup>th</sup>, 2017 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Trowbridge. Voting AYE: Council members Meysenburg, Hotovy, Smith, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

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

Council President Smith asked for any comments or questions concerning the Committee and Officer Reports. There being none, 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 Trowbridge, Vandenberg, Meysenburg, Kobus, Smith, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to skip over agenda items #7 and #8 until Philip Lorenzen of D.A. Davidson & Co. was present - Consideration of Ordinance No. 1264 authorizing the issuance of General Obligation Revenue Bonds, Series 2017 to fund water system costs associated with the Downtown Improvement Project; and Consideration of Ordinance No. 1265 authorizing the issuance of Bond Anticipation Notes, Series 2017 to provide a portion of the construction funding for Street Improvement District Nos. 2017-1 and 2017-2 (Downtown Improvement Project); and Council member Vandenberg seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Vandenberg, Kobus, Smith, and Hotovy. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to table consideration of closing the power plant until the July council meeting, stating that the person that asked that it be on the agenda was not present. Council member Kobus seconded the motion. Voting AYE: Council members

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

Council member Trowbridge made a motion to pass Ordinance No. 1263 on the second reading only. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Smith, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried and Ordinance No. 1263 was passed on 2<sup>nd</sup> reading only as follows:

**ORDINANCE NO. 1263**

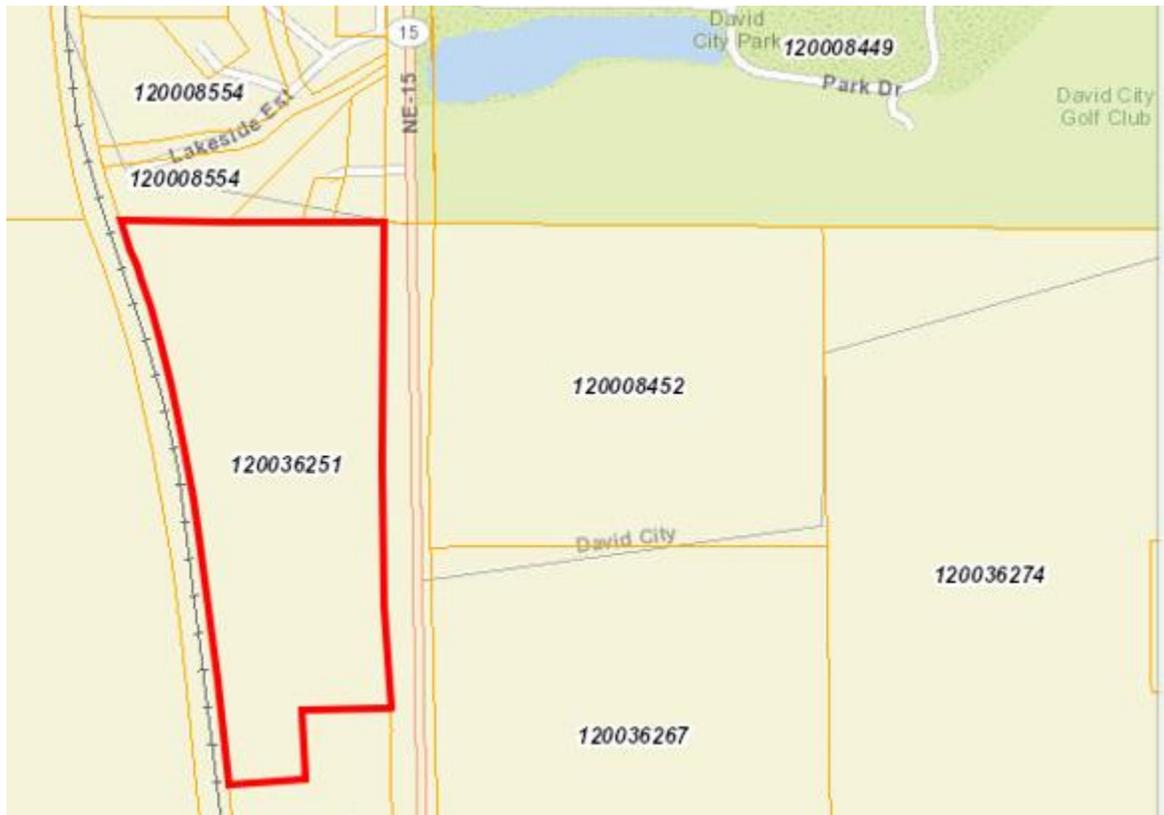
AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, A tract of land located in the East Half of the Southwest Quarter (E½ SW¼) of Section Thirty (30), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the Northeast corner of said Southwest Quarter (SW¼), and assuming the East line of said Southwest Quarter (SW¼), to have a bearing of S1°08'18"E; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of Beginning, said Point being on the Westerly right-of-way line of Nebraska Highway No. 15; thence S0°55'30"E, 1,334.83 feet, on said Westerly Highway right-of-way line; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of Beginning, said Point being on the Westerly right-of-way line; thence S9°51'02"E, 202.41 feet, on said Westerly Highway right-of-way line; thence N89°04'30"E, 5.00 feet, on said Westerly Highway right-of-way line; thence S1°08'18"E, 12.90 feet, on said Westerly Highway right-of-way line, to the Northeast corner of a parcel of land conveyed in Microfilm Book 03, page 2039; thence S89°20'30"W, 301.32 feet, on the North line of said parcel; thence S0°16'30"W, 213.14 feet, on the North line of said parcel; thence S89°51'20"W, 245.25 feet, to the Northwest corner of said parcel, said Point also being on the Easterly right-of-way line of the Burlington Northern Railroad; thence Northerly, 1,804 feet, more or less, on said Easterly Railroad right-of-way line, to a point on the North line of said Southwest Quarter (SW¼); thence N89°45'10"E, 841.08 feet, to the Point Of Beginning, containing 24.6 acres, more or less; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

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

- (a) The tract of land located in the in the East Half of the Southwest Quarter (E½ SW¼) of Section Thirty (30), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the Northeast corner of said Southwest Quarter (SW¼), and assuming the East line of said Southwest Quarter (SW¼), to have a bearing of S1°08'18"E; thence N89°45'10"W, 75.71 feet, on the North line of said Southwest Quarter (SW¼), to the Point Of Beginning, said Point being on the Westerly right-of-way line of Nebraska Highway

No. 15; thence  $S0^{\circ}55'30''E$ , 1,334.83 feet, on said Westerly Highway right-of-way line;; thence  $N89^{\circ}45'10''W$ , 75.71 feet, on the North line of said Southwest Quarter ( $SW\frac{1}{4}$ ), to the Point Of Beginning, said Point being on the Westerly right-of-way line; thence  $S9^{\circ}51'02''E$ , 202.41 feet, on said Westerly Highway right-of-way line; thence  $N89^{\circ}04'30''E$ , 5.00 feet, on said Westerly Highway right-of-way line; thence  $S1^{\circ}08'18''E$ , 12.90 feet, on said Westerly Highway right-of-way line, to the Northeast corner of a parcel of land conveyed in Microfilm Book 03, page 2039; thence  $S89^{\circ}20'30''W$ , 301.32 feet, on the North line of said parcel; thence  $S0^{\circ}16'30''W$ , 213.14 feet, on the North line of said parcel; thence  $S89^{\circ}51'20''W$ , 245.25 feet, to the Northwest corner of said parcel, said Point also being on the Easterly right-of-way line of the Burlington Northern Railroad; thence Northerly, 1,804 feet, more or less, is urban and suburban in character and contiguous and adjacent to the corporate limits of said city;



- (b) Sheriff, fire, and snow removal benefits will be immediately available thereto, and City electricity, water, and sewer will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and

the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

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

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

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

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

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

PASSED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(Passed 2<sup>nd</sup> reading only 6-14-17)  
Mayor Alan Zavodny

(Passed 2<sup>nd</sup> reading only 6-14-17)  
City Clerk Joan Kovar

Council President Smith opened the Public Hearing at 7:06 p.m. to consider the application of Diane R. Bohaty d.b.a. BBQ, Burgers & More, 536 N 5<sup>th</sup> Street, for a Class C Liquor License, and asked for any comments from the public.

City Clerk Kovar stated: "Well I will make a comment, I think it will be wonderful. I don't know her, I've never tasted her food, but I'm happy to see that someone has purchased the building and I wish her well." [Note: This location had previously been Thomas Tavern for 4 generations – Jacob, John, Albert, & Gerald]

Council member Trowbridge agreed stating: "It will be nice to have lights on in that building again."

There being no further comments, Council President Smith closed the Public Hearing at 7:09 p.m.

Council member Hotovy made a motion to approve the application of Diane R. Bohaty d.b.a. BBQ, Burgers & More, 536 N 5<sup>th</sup> Street, for a Class C Liquor License. Council member Kobus seconded the motion. Voting AYE: Council members Smith, Meysenburg, Vandenberg, Trowbridge, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Council President Smith opened the Public Hearing at 7:13 p.m. to consider de-blighting certain areas within the corporate limits of David City.

City Attorney Egr stated: "I can't find a statute that provides for de-blighting, other than is it those areas have been cleaned up and are no longer blighted? I'm really concerned about "can we de-blight?"

Planning Commission Member Keith Marvin stated: "There is nothing in the Statutes. These are areas that were part of a blight study that went back 15 or 20 years ago when we did Pinnacle Apartments. With subsequent blighting areas we are now at forty percent; we can't exceed fifty percent. These areas are blighted as long as the Council deems them to be so; the Council has the ability to take that designation off. The problem is there is no statutory process for doing so. Now working closely in the past with Mr. Bacon (Bacon & Vinton, Attorneys at Law) and several other attorneys who deal with this area, their advice to me has been, do the same process but go backwards and un-blight or de-blight the areas. On your next month's agenda, you will have a blight study for this area that is being annexed at the present time, at the request of the developer. The developer has paid all the costs; we are trying to help a local person."

Council member Trowbridge stated: "I understand that, but let's look at what we do to the local person when we de-blight the area that they live in or own; let's investigate that. Once you de-blight this section of town.....so somebody wants to buy a \$5,000 run down, junky house, knock it down and build a \$200,000 house and re-sell it. Guess what? They can't do TIF (tax increment financing) because it was blighted and now it's not blighted and you can't go back."

Keith Marvin stated: "Come back in and ask for a micro-blight."

Council member Trowbridge stated: "It is my understanding from someone who does this that you cannot do that, and I certainly don't want to experiment on the poor guy that wants to.

City Attorney Egr stated: "To me, it would make more sense if the area that we want to take out no longer meets the definition of blighted, for instance Pinnacle Apartments, we take out just the area that is no longer blighted."

Discussion followed.

Council President Smith declared the Public Hearing closed at 7:31 p.m.

Council member Kobus made a motion to table consideration of Resolution No. 21 – 2017 de-blighting certain areas within the corporate limits of David City. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Vandenberg, Smith, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

**RESOLUTION NO. 21 – 2017 - TABLED**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, DEBLIGHTING CERTAIN AREAS WITHIN THE CORPORATE LIMITS OF DAVID CITY LEGALLY DESCRIBED BELOW.

WHEREAS, it is desirable and in the public interest that the City of David City, Nebraska, a municipal corporation and City of second class, undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, Chapter 18, Article 21, Nebraska Reissue Revised Statute, for purposes of the Community Development Law, defines blighted areas, and

WHEREAS, Chapter 58, 58-209.01 states that a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and

WHEREAS, evidence demonstrates that there may be other areas that constitute a substandard and blighted area as defined in said Community Development Law, which area is in need of redevelopment, and

WHEREAS, the Planning Commission has determined that David City has already declared 40% of the City as blighted and at this time recommends that the following described real estate now be declared de-blighted:

**Southeast Area**

Beginning at the intersection of the centerlines of 11th Street and E Street in David City, Nebraska, thence eastward along the centerline of E Street to the centerline of 12th Street, thence southward along the centerline of 12th Street to a point that is equidistant between the centerlines of D and E Streets, thence *eastward* from this point to a point on the centerline of the platted alley between 13th and 14th Streets which is equidistant between the centerlines of D and E Streets, thence northward along the centerline of said platted alley to the centerline of E Street, thence eastward along the centerline of E Street to the west line of the 14th Street right-of-way, thence southward along said west right-of-way line to the centerline of A Street, which is also the corporate limit line of the City, thence westward along the centerline of A Street to the point where the corporate limit line turns southward, thence southward and westward along the corporate limit line to the centerline of 11th Street, thence southward along the centerline of 11th Street to the south line of the platted Ohio Street right-of-way, thence westward along said south line of the platted Ohio Street right-of-way to the centerline of 10th Street, thence northward along the centerline of 10th Street to the centerline of Iowa Street, thence eastward along an extension of the centerline of Iowa Street to the rear lot line of the platted lots which front on the west side of I lth Street, thence northward along said rear lot line to the rear lot line of the platted lots which front on the south side of A Street between 10th and 11th Street, thence westward along said rear lot line to the centerline of 10th Street, thence northward along the centerline of 10th Street to the centerline of A Street, thence eastward along the centerline of A Street to the centerline of 11th Street, thence northward along the centerline of 11th Street to the centerline of E Street, which is the point of the beginning.

**West Central Area (Near 11<sup>th</sup> Street)**

The point of beginning is the intersection of 7<sup>th</sup> Street and "F" Street (Nebraska Central Railroad line); thence easterly along the centerline of the railroad right-of-way to the extended east property line of a property described as David City 20 15 3 PT N1/2 SW ¼ (PID 120008407); thence northerly along said line to the northeast corner of a property described as David City 20 15 3 PT N1/2 SW ¼ (PID 120008393); thence, westerly to the centerline of 11<sup>th</sup> Street; thence, northerly along said centerline to the intersection with the centerline of "J" Street; thence, westerly along said centerline of "J" Street to the intersection of "J" Street and 9<sup>th</sup> Street; thence, southerly along said centerline of 9<sup>th</sup> Street to the intersection of 9<sup>th</sup> Street and "G" Street; thence westerly along said centerline of "G" Street to the intersection of "G" Street and 7<sup>th</sup> Street; thence, southerly to the point of beginning.

**Northwest Area (Near 3<sup>rd</sup> Street)**

The point of beginning is the intersection of 3<sup>rd</sup> Street and "G" Street; thence northerly along the centerline of 3<sup>rd</sup> Street to the extended north property line of a property described as David City 19 15 3 PT SE1/4 NW ¼ (75' x 200') Ettings Place Add; thence, westerly along said north property line to the centerline of the BNSF Railroad right-of-way; thence, southerly along said centerline to the intersection with the centerline of "G" Street; thence, easterly along said centerline f "G" Street to the point of beginning.

**Southwest Area (Near 1<sup>st</sup> Street)**

The point of beginning is the intersection of 1<sup>st</sup> Street and the centerline of "F" Street (Nebraska Central Railroad); thence, southerly along said centerline of 1<sup>st</sup> Street to the intersection with the centerline of "A" Street; thence,

westerly along said centerline of "A" Street to the centerline of County Road "M"; thence, northerly along said centerline of County Road M to the intersection with the centerline of "C" Street; thence, easterly along said centerline of "C" Street to the intersection with the centerline of Oak Street; thence, northerly along said centerline of Oak Street to the intersection with the extended south property line of a parcel described as David City PT OL 3 In PT W1/2 SW1/4 AC West ADD; thence, westerly along said property line to the intersection with the centerline of County Road M; thence, northerly along said centerline of County Road M to the intersection with "F" Street (Nebraska Central Railroad Right-of-Way; thence; easterly to the point of beginning.

WHEREAS, this City Council has held a public hearing to consider the de-blighting of the above property and there were no objections expressed;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that it is hereby found and determined that substandard and blighted conditions no longer exist on the property listed above, and the properties are hereby declared de-blighted.

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

BY TABLED  
Council President Gary Smith

ATTEST:

TABLED  
Joan E. Kovar, City Clerk

Philip Lorenzen, Vice President /D.A. Davidson, stated: "Going back four years your average sales tax revenue on the 1½% is around \$550,000. Your gross on that sales tax revenue is approaching about 3% a year; that's an unknown as it runs to the future but there are fourteen collection periods, counting this current year that you're in right now, through the end of that tax in 2030. That's fourteen periods, and I'm saying if you've got about \$600,000 a year, with some minor escalation in the take on the sales tax, that's going to generate about an eight and a half million dollar number (\$8,500,000) or somewhere in that range approximately. The total project cost you have is about nine and one half million (\$9,500,000). There's a couple million, a little short of that, that comes back from the State and Butler County, that leaves you with about six and one half million (\$6,500,000). So that revenue stream for that period of time, again, should be around \$8,500,000. Total cost of the project is net about 6.5 million, 7 million, and you should have enough revenues to go ahead and cover some interest components and so forth and it appears to me that it should cash flow; not guaranteed but it should cash flow. I think my plan is to go ahead and lock in a piece of the financing immediately and that's planned to do through General Obligation Water Bonds. The water bonds would be paid from sales tax, there is no limited market ability for sales tax. It stays a General Obligation but it will be paid from the sales tax take but the marketability is provided by essentially a City guarantee that you can levy a tax to make the payment if you wish to do so. That locks in a piece, and I say in today's market with a ten year maturity, I'm optimistic that can be locked in at about a 2½% rate and I would defer any payment of principal on that until down the road and pick and choose when you call those bonds. That's piece one, and my recommendation is, on the first ordinance, water bonds for a million and a quarter (\$1,250,000). The 2<sup>nd</sup> piece to talk about in this picture is that I am suggesting that we would authorize tonight 2½ million dollars (\$2,500,000) of short term financing with a three year maturity. The State will make a payment in the end of 2018 of \$900,000 and in the end of 2019 of \$200,000. [Note: the agreement with the State

*said: State's reimbursement to Municipality under this Agreement will not exceed \$1,600,000.00. To reimburse Municipality based on the following schedule: a. payment of first half of the balance of the N-15 improvements on October 15, 2018, up to \$800,000.00 and b. Payment of the second half of the balance of the N-15 improvements on October 15, 2019, up to \$800,000.00]* I am proposing that the notes be issued for a maturity date of July 2020. That's as long as we can go; we can go three years. The earliest I can settle these notes, with your adoption of course tonight, would be Monday the 17<sup>th</sup> day of July. I would deliver funds to you right after your next council meeting, allow you to go ahead and make payment on any progress payments that are submitted by your vendors or contractors. That fits in with the cash flow needs that you have. Then my view is when you get that first payment from the State, you can use that cash not necessarily to go ahead and pay this off, but that would pay part of the next wave of this project; you've got those two payments. So my view is if we use short term financing, and I'm optimistic that we can get short term financing locked in at somewhat below 1½% for three years. I would let those stand as long as you could and then roll those at some point in time into bonds. During that three year period when the notes are outstanding and we issue more notes next year, that's another three year period, so we have a total of four years, you're going to collect five to six hundred thousand dollars a year from the sales tax, and my view is you can go ahead and pay that down in cash and shrink the total amount of longer term financing you have to put in place. It's going to take some management collectively on all our parts but that's the big picture and these two steps tonight would allow that to be put in motion and provide for you to make your payment to the contractors starting in July. **I would recommend you would issue one million two hundred-fifty thousand dollars (\$1,250,000) of General Obligation Water Bonds**, they would be due on September 15<sup>th</sup> and I would suggest that you would have \$250,000 come due in 2025 - eight years out, \$250,000 due in 2016 – 9 years out, and \$750,000 due in 2027. They would be callable so you can pick them off and pay them as you go but you don't have to make a significant payment until 2025. If this is locked in at around a 2½% or 2¾% interest rate, well then you're looking at \$32,500, or there about, for an annual interest only payment on this obligation. **The usage of the money would be to pay the water portion of this current project.** The Engineer will have to identify those costs because we can't use this money to pay for streets but we can pay water improvements from it. **Not storm water, just municipal water and major mains.** The engineer's identified approximately \$1,000,000 in capital improvements; I've added a cost of carry and engineering expenses and we'll document that portion attributable to the water. Joan and I will have to do some bookkeeping on that process but it shouldn't be that difficult. The ordinance refers to "providing for the levy of taxes to pay the same after the application of other funds available therefor". So that's the escape; the ordinance finds that you can apply other monies that are available and that would be the sales tax."

Council member Hotovy introduced Ordinance No. 1264 entitled: **AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION WATER BONDS, SERIES 2017, OF THE CITY OF DAVID CITY, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION TWO HUNDRED-FIFTY THOUSAND DOLLARS (\$1,250,000) TO PAY A PORTION OF THE COST OF WATER SYSTEM IMPROVEMENTS CONSTITUTING MAINTENANCE, REPLACEMENT, EXTENSIONS, IMPROVEMENTS AND ENLARGEMENTS OF THE CITY'S EXISTING WATER SYSTEM; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME AFTER THE**

**APPLICATION OF OTHER FUNDS AVAILABLE THEREFOR; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

Thereupon said Ordinance No. 1264 was then read by title and Council Member Hotovy moved for its final passage, which motion was seconded by Council Member Trowbridge.

Phil Lorenzen stated: "I would call your attention to Section 3. My recommendation on this is that you would name BOKF National Association of Lincoln as the Paying Agent and Registrar for the Bonds. They will charge a \$350 fee for a setup fee and \$400 per year for that process. That will be an aid to Joan and I in terms of the requirement you now have to go ahead and make filings on the EMMA System electronically, and Joan is rock solid on that but she's got a lot on her plate, and we find now in today's market people like to see an impartial backup on making sure those filings are made and so forth, and BOKF, at no additional charge, I'd leaned on them to go ahead and wear the hat and the role of being the overseer of that process, so it's just another set of eyes to keep going straight and narrow. Government regulations have reached the point they are almost driving us crazy; that \$400 a year is well spent to make sure they're followed.

Voting YEA to the passage of Ordinance No. 1264 on the final reading: Council members Hotovy, Smith, Kobus, Meysenburg, Vandenberg, and Trowbridge. Voting NAY: None. The motion carried and Ordinance No. 1264 was passed and adopted as follows:

**ORDINANCE NO. 1264**

**AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION WATER BONDS, SERIES 2017, OF THE CITY OF DAVID CITY, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED ONE MILLION TWO HUNDRED-FIFTY THOUSAND DOLLARS (\$1,250,000) TO PAY A PORTION OF THE COST OF WATER SYSTEM IMPROVEMENTS CONSTITUTING MAINTENANCE, REPLACEMENT, EXTENSIONS, IMPROVEMENTS AND ENLARGEMENTS OF THE CITY'S EXISTING WATER SYSTEM; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY OF TAXES TO PAY THE SAME AFTER THE APPLICATION OF OTHER FUNDS AVAILABLE THEREFOR; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

Section 1. The Mayor and City Council of the City of David City, Nebraska (the "City") hereby find and determine that: (a) the existing system of waterworks of the City of David City, which is owned and operated by said City, presently includes water wells, water transmission mains, water storage facilities and a network of connecting mains and other appurtenances; (b)

the City shall continue to own and operate the water system of the City; (c) the system facilities require construction of improvements including replacement mains, enlargements and extensions and related appurtenant improvements; (d) to provide funds for costs of maintenance, replacements, extensions, improvements, enlargements, additions and related appurtenances to the existing system of water works, it is necessary to issue water bonds of the City; (e) the estimated costs of said improvements, including engineering services, underwriting costs, legal fees, publication expenses, a portion of interest to accrue on the bonds, and miscellaneous costs are estimated to be not less than \$1,250,000; (f) the City presently has no outstanding general obligation water bonds; (g) the taxable valuation of all taxable property within the City according to the last preceding assessment is \$131,080,397; and (h) because such improvements will be solely for the costs of maintenance, extensions, improvements and enlargements of the existing system of waterworks of the City, the Mayor and City Council are therefore authorized upon a vote of not less than three-fourths of all the members elected to the City Council to order the issuance of water bonds to pay a portion of the aforesaid costs in the amount of \$1,250,000 without a vote of the electors pursuant to the provisions of Section 17-534, Reissue Revised Statutes of Nebraska, 2012.

Section 2. To provide for the issuance of general obligation water bonds as authorized under Section 17-534, Reissue Revised Statutes of Nebraska, 2012 as described in Section 1 hereof, there shall be and there are hereby ordered issued the City's General Obligation Water Bonds, Series 2017, of the City of David City, Nebraska, in the aggregate stated principal amount of Not to exceed One Million Two Hundred-Fifty Thousand Dollars (\$1,250,000) (the "Bonds"), with said Bonds bearing interest at rates per annum as shall be established pursuant to the provisions of this ordinance and to become due annually on June 15 of each year as indicated below:

<u>Principal Amount</u>	<u>Maturing June 15</u>
\$250,000	2024
250,000	2025
250,000	2026
500,000	2027

The Bonds shall be dated the date of their original issuance and delivery (the "Dated Date"), and shall be in fully registered form. The Mayor and the City Clerk (each, an "Authorized Officer") are hereby authorized to hereafter, from time to time, specify, set, designate, determine and establish, as the case may be, in a written designation (the "Designation"), which may be in the form of the Bond Purchase Agreement authorized in Section 8 hereof, and in each case in accordance with and subject to the provisions of this Ordinance and the agreement of the Underwriter (hereinafter defined), the following provisions of the Bonds: (1) the date of delivery, which shall be not later than July 1, 2017, (2) the principal amount to mature on each principal maturity date, (3) subject to the conditions set forth below, the rate of interest to paid on each principal maturity, (4) the redemption provisions (which may include mandatory sinking fund redemption), and (5) the sale price and pricing terms, subject to the following:

- (a) The principal amount of any maturity as set out above may be increased or decreased by any amount as shall be set out in the Designation*
- (b) the true interest cost of the Bonds shall not exceed Three and Thirty Hundredths Percent (3.30%);*
- (c) Underwriter's discount shall not exceed One and Twenty-Five Hundredths Percent (1.25%) of the stated principal amount of the Bonds;*

*(d) the longest maturity of the Bonds shall not be later than June 15, 2027;*

*(e) two or more of the principal maturities of each of the Bonds may be combined and issued as "term bonds" and the Authorized Officers may determine the mandatory sinking fund payments and mandatory redemption amounts. Any Bonds issued as "term bonds" shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the date of redemption and may be selected for redemption by any random method of selection determined appropriate by the Registrar (as hereinafter designated) or by the Depository (as hereinafter designated).*

The Authorized Officers are hereby authorized to execute the Designation on behalf of the City, and such determinations, when made and agreed to by the Underwriter in the Designation, shall constitute the action of the Mayor and Council without further action. Interest on the Bonds shall be computed on the basis of a three hundred sixty day year consisting of twelve thirty-day months. The Bonds shall be issued in the denomination of \$5,000 or any integral multiple thereof and shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each maturity of the Bonds issued shall be as directed by the underwriter thereof. Interest on the Bonds shall be payable semiannually on June 15 and December 15 of each year, commencing December 15, 2017 (or as otherwise set forth in the Designation). The interest due on each interest payment date shall be payable to the registered owners of record as of the close of business on the fifteenth day immediately preceding the interest payment date (the "Record Date"), subject to the provisions of Section 8 hereof. Payment of interest due on the Bonds prior to maturity or redemption shall be made by the Paying Agent, as designated pursuant to Section 7 hereof, by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each Bond, as of the applicable Record Date, to such owner's registered address as shown on the books of registration, as required to be maintained in Section 7 hereof. Payment of principal due at maturity or at any date fixed for redemption, together with any accrued interest then due, shall be made by said Paying Agent to the registered owners upon presentation and surrender of the Bonds to said Paying Agent. In the event that Bonds of this issue are held in the nominee name of a national clearinghouse or depository, payment of principal or interest shall be made by wire transfer of funds in accordance with any applicable regulations governing "Depository Eligible Securities". The City and said Paying Agent may treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor said Paying Agent shall be affected by any notice or knowledge to the contrary whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond shall be valid and effectual and shall be a discharge of the City and said Paying Agent, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid. If any Bond is not paid upon presentation of the Bond at maturity or any interest installment is not paid when due, the delinquent Bond or delinquent interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 Reissue Revised Statutes of Nebraska, 2010, as now existing or as the same may be amended from time to time by the Nebraska Legislature.

Section 3. BOKF, National Association, Lincoln, Nebraska, is hereby designated to serve as Paying Agent and Registrar for the Bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and said Paying Agent and Registrar, the form of which is hereby approved. The

Mayor and City Clerk are hereby authorized to execute said agreement in substantially the form presented at the meeting at which this ordinance was adopted, but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Bonds at its [designated corporate trust office, as located initially in Lincoln, Nebraska, but subject to change in the discretion of the Paying Agent and Registrar upon notice in writing to the City and to the registered owners of the Bonds \(the "Designated Office"\)](#). The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the Designated Office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at the Designated Office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the Bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. The Bonds shall be subject to redemption at the option of the City prior to the stated maturity thereof, in whole or in part, at any time on or after the fifth anniversary of their date of original issue at par plus the interest accrued on the principal amount being redeemed to the date fixed for redemption. The City may select the Bonds to be redeemed for such optional redemption in its sole discretion. Such optional redemptions shall be at a price equal to 100% of the principal amount redeemed plus interest accrued on the principal amount being redeemed to the date fixed for redemption. The Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Any Bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new Bond evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given, at the direction of the City, by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the office of the Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the

proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to direct further notice of redemption for any such Bond for which defective notice has been given. In the event term maturities and mandatory redemption amounts are determined in the Designation, the provisions of this Section 5 shall apply generally to mandatory redemptions.

Section 6. If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of where the principal corporate office of the Paying Agent and Registrar is located, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 7. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BUTLER

GENERAL OBLIGATION WATER BOND  
OF THE CITY OF DAVID CITY, NEBRASKA  
SERIES 2017

No. R - \_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
___%	June 15, ____	_____, 2017	

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or the most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable semiannually on June 15 and December 15 of each year beginning December 15, 2017 (each an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of and interest on this bond due at maturity or upon redemption prior to maturity are payable upon presentation and surrender of this bond at the office of BOKF, National Association, in Lincoln, Nebraska, as the Paying Agent and Registrar. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed on such Interest Payment Date by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records (the "Record Date"). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto)

on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available. For the prompt payment of this bond, both principal and interest, as the same become due, the full faith, credit and resources of said City are hereby irrevocably pledged.

This bond is one of an issue of fully registered bonds of the total principal amount of \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_,000), of even date and like tenor herewith, except as to date of maturity and rate of interest and denomination, which are being issued by the City to pay a portion of the costs of maintenance, extensions, improvements and enlargements of the existing system of waterworks of the City. The issuance of this series of bonds is made in pursuance of Section 17-534 R.R.S. Neb. 2012 and other applicable statutes and has been duly authorized by Ordinance legally passed, approved and published and by proceedings duly had by the Mayor and Council of said City (the "Ordinance").

Bonds of said issue are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of their date of original issue, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption. Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed in the manner specified in the Ordinance. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof. If less than all of the principal sum hereof is to be redeemed, in such case upon the surrender hereof, there shall be issued to the registered owner hereof, without charge therefor, a registered bond or registered bonds for the unpaid principal balance of like series, maturity and interest rate in any of the authorized denominations provided for in the Ordinance.

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

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

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

PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

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

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of said City, including this bond and the bonds refunded hereby, does not exceed any limitation imposed by law. After the application of such other available funds as may be determined by the Mayor and City Council, the City agrees that it shall cause to be levied and collected annually taxes on all the taxable property in said City, in addition to all other taxes, sufficient in rate and amount to fully pay the principal of and interest on this bond as the same become due and to create a sinking fund to pay the principal and interest on the Bonds when the same becomes due.

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

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

CITY OF DAVID CITY, NEBRASKA

ATTEST:

\_\_\_\_\_  
(facsimile)  
Mayor

\_\_\_\_\_  
(facsimile)  
City Clerk

[SEAL]

CERTIFICATE OF AUTHENTICATION

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

BOKF, National Association,  
Lincoln, Nebraska  
Paying Agent and Registrar

By \_\_\_\_\_  
Authorized Signature

(FORM OF ASSIGNMENT)

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Registered Owner

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

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

Section 8. Each of the Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the City's seal. The Bonds shall be issued initially as "book-entry-only" bonds using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of representations (the "Letter of Representations") in the form required by the Depository (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 Bonds. Upon the issuance of the Bonds as "book-entry-only" bonds, the following provisions shall apply:

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

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

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

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

The Paying Agent and Registrar shall make payments with respect to the Bonds only to or upon the order of the Depository or its nominee, and all

such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

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

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

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

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

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

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

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

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for

issuance of replacement bond certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. After being executed by the Mayor and City Clerk, said Bonds shall be delivered to the Treasurer of the City who shall be responsible therefor under his/her official bond and such Treasurer shall maintain a record of information with respect to said Bonds in accordance with the requirements of Section 10-140, Reissue Revised Statutes of Nebraska, 2012, as amended, and shall cause the same to be filed with the Auditor of Public Accounts of the State of Nebraska. The Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co. (the "Underwriter"), as initial purchaser thereof, upon receipt of 98.75% of the principal amount of the Bonds plus accrued interest thereon to date of payment for the Bonds (or such other amount as may be determined in the Designation). The Underwriter shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter 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 Bonds, including, without limitation, authorizing the release of the Bonds by the Depository at closing. The Bond Purchase Agreement (the "Purchase Agreement") to be entered into between the City and the Underwriter with respect to the purchase of the Bonds from the City, in the form or substantially the form presented to the meeting, but with such changes, modifications, amendments, revisions, and alterations therein, thereof, or thereto, and bearing such date, as the Authorized Officer executing the Purchase Agreement shall in the exercise of his or her own independent judgment and absolute discretion determine to be necessary, proper, appropriate, advisable, or desirable in order to effectuate the issuance, sale, and delivery of the Bonds, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed. The Authorized Officers, or any one or more of them are hereby further authorized to take any and all actions and enter into any and all agreements and execute any documents deemed necessary or appropriate in connection with the issuance and sale of the Bonds.

Section 9. All accrued interest (if any) received from the sale of the Bonds shall be applied to pay interest falling due on the Bonds on December 15, 2017. Issuance expenses may be paid from the proceeds of the Bonds and the Underwriter is hereby authorized to make direct payment of such expenses on behalf of the City. The net proceeds of the Bonds (after payment of Underwriter's discount and costs of issuance of the Bonds) shall be deposited immediately in the Series 2017 water project fund of the City.

Section 10. After the application of such other available funds as may be determined by the Mayor and City Council, the City agrees that it shall cause to be levied and collected annually a special levy of taxes on all the taxable property in the City for the purpose of paying and sufficient to pay the interest and principal of the Bonds when and as such principal and interest become due (including as principal falling due any mandatory redemptions provided for under the terms of this Ordinance) and to create a sinking fund to pay the principal and interest on the Bonds when the same becomes due.

Section 11.

- (a) The City hereby covenants with the purchasers and holders of the Bonds herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking

fund for the payment of principal and interest on said Bonds, which would cause said Bonds to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants with the registered owners from time to time of the Bonds hereby authorized that it shall comply with all applicable provisions of the Code, prior to the date of issuance and delivery of the Bonds, and with all applicable provisions of any other tax laws and any regulations, published rulings and court decisions pursuant thereto, which relate to the exclusion from gross income of interest on the Bonds for federal income tax purposes, to the extent necessary to comply with such Code, laws, regulations, published rulings and court decisions or otherwise to preserve such exclusion, including specifically, but without limitation, all arbitrage rebate and information reporting requirements required by the Code.

(b) The City hereby represents and warrants that (i) it reasonably anticipates issuing not more than \$10,000,000 of tax-exempt obligations not including "private activity bonds" as defined in Section 141 of the Code during the 2017 calendar year, (ii) it has not designated and will not further designate more than \$10,000,000 of obligations (including the Bonds herein authorized) during the 2017 calendar year as qualified tax-exempt obligations, (iii) the Bonds herein authorized are not "private activity bonds" as such term is defined in Section 141(a) of the Code, and (iv) it hereby designates the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code. The City agrees to take all further actions, if any, necessary to qualify the Bonds herein authorized as such "qualified tax-exempt obligations," as and to the extent permitted by law.

Section 12. The City reserves the right to issue refunding bonds and provide for the investment of the proceeds thereof for purposes of providing for the payment of principal and interest on the Bonds in such manner as may be prescribed by law from time to time but specifically including the provisions of Section 10-142, Reissue Revised Statutes of Nebraska, 2012, or any amendment thereto.

Section 13. The City's obligations under this ordinance shall be fully discharged and satisfied as to the Bonds authorized and issued hereunder, and said Bonds shall no longer be deemed outstanding hereunder when payment of the principal thereof plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to have been made in accordance with the terms thereof and hereof, or (b) shall have been provided for by depositing in escrow with a national or state bank having trust powers in trust solely for such payment, (i) sufficient monies to make such payment or (ii) direct general obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America (herein referred to as "Government Obligations"), in such amount and with such maturities as to principal and interest as will insure the availability of sufficient monies to make such payment, and thereupon such Bonds shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payments, shall no longer be entitled to the benefits of this ordinance; provided that, with respect to any Bonds called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given or provided for. If monies shall have been deposited in accordance with the terms hereof with the escrow agent in trust for that purpose sufficient to pay the principal of such Bonds and all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, all liability of the City for such payment (except from such deposit) shall forthwith cease, determine and be completely discharged, and all such Bonds shall no longer be considered outstanding.

Section 14. The Mayor and City Council do hereby approve the Preliminary Official Statement with respect to the Bonds and the information therein contained, and the Mayor and City

Clerk, or any one of them is authorized to approve and deliver a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered to the Underwriter.

Section 15. 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 16. In accordance with the requirements of Rule 15c2-12, as amended (the "Rule") promulgated by the Securities and Exchange Commission, the City, being the only "obligated person" with respect to the Bonds, agrees that it will provide the following continuing disclosure information to the Municipal Securities Rulemaking Board (the "MSRB") in an electronic format as prescribed by the MSRB:

- (a) at least annually, not later than nine (9) months after the end of each fiscal year of the City (the "Delivery Date"), commencing with the fiscal year ending September 30, 2017, financial information or operating data of the City which are customarily prepared by the City and are publicly available, consisting of the City's audited financial statements; and
- (b) in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the Bonds:
  - (1) principal and interest payment delinquencies;
  - (2) non-payment related defaults, if material;
  - (3) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (4) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (5) substitution of credit or liquidity providers, or their failure to perform;
  - (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
  - (7) modifications to rights of the holders of the Bonds, if material;
  - (8) bond calls, if material, and tender offers;
  - (9) defeasances;
  - (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
  - (11) rating changes;

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

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

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

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

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

Section 17. This ordinance shall be in force and take effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 14<sup>th</sup> day of June, 2017.

ATTEST:

\_\_\_\_\_  
Council President Gary Smith

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

[SEAL]

EXHIBIT "A"

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

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

**COMPLIANCE OFFICER (BY TITLE):** City Clerk/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.  
DOCS/1881041.2

Council member Trowbridge introduced Ordinance No. 1265 entitled: **AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2017, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPRVEMENTS IN STREET IMROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.**

Philip Lorenzen, Vice President /D.A. Davidson, stated: "My view is, the \$2,500,000 from these proceeds plus the \$1,250,000 from the water bonds should be adequate to carry you through this construction season; what happens in 2017. We can easily go back and do some additional financing on that if we need to but I think that will carry you well, and I don't want to borrow more than we need to and let it just lie there. Need be, next year we can go back and borrow what we need for supplemental financing. The rates may be a bit higher but I don't see a need to over borrow now."

Council member Hotovy made a motion to suspend the statutory rule requiring an ordinance to be fully and distinctly read on three different days. Council Member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Thereupon said Ordinance No. 1265 was then read by title and Council Member Hotovy moved for its final passage, which motion was seconded by Council Member Trowbridge. Voting YEA: Council members Kobus, Meysenburg, Vandenberg, Trowbridge, Smith, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1265 was passed and adopted as follows:

**ORDINANCE NO. 1265**

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2017, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2 , PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

Section 1. The Mayor and City Council of the City of David City , Nebraska (the "City") hereby find and determine that by Ordinances of the City heretofore adopted, Street Improvement District Nos. 2017-1 and 2017-2, were heretofore created; that the special project engineers for the City, have prepared estimates for the cost of construction of the improvements in the aforesaid Districts; that bids have been opened and tabulated; that the City has entered into contracts for construction of the improvements; and, that there has been placed on file the City's Consulting Engineers' estimate showing that the City's costs, including costs of engineering and costs of issuance and underwriting and a portion of interest to accrue on said notes during construction, is estimated to be \$\$8,750,000; that it is necessary for the City to have funds available to meet its payment obligations under the terms of contracts for the cost of the improvements to be constructed relative to the aforesaid Districts and to provide for payment of a portion of the interest accruing on the Notes prior to their maturity, pending the completion of improvements and issuance of permanent financing pursuant to Sections 17-516, 17-520, and Sections 18-1801 and 18-1802 R.R.S. Neb. 2012, and other applicable Sections; that the City has authority under Section 10-137, R.R.S. Neb. 2012 to issue bond anticipation notes for the purpose of providing interim financing for the construction of said improvements, including a portion of the interest to accrue on such notes and the costs of issuance thereof, all as set out above; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2017, in the amount of \$2,500,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for the costs set out in Section 1 pending the issuance of permanent General Obligation Various Purpose Bonds by the City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Bond Anticipation Notes, Series 2017" of the aggregate principal amount of not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said notes shall be dated as of date of delivery and each of said notes shall bear interest at the rate of 1.95% per annum, payable semiannually on of March 15 and July 15 in each year, commencing January 15, 2018, with the principal of said notes to become due and payable as follows:

Principal  
Amount  
\$2,500,000

Maturity  
July 15, 2020

provided, however, the Notes may be issued in a lesser principal amount and may bear interest at any lower rate of interest as shall be provided for in written designation of final principal amount and final interest rate (the "Designation") as may be agreed to between the City and the original purchaser specified in Section 6 of this ordinance, and the Mayor or Council President are hereby authorized to enter into such Designation on behalf of the City without further action of the City Council; and further provided, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after September 15 2018 upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said note or notes by first class mail addressed to the registered address of said registered holder. If less than all of the notes are called and redeemed, such notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding note is called for redemption, in such case upon the surrender of such note called for payment, there shall be issued to the registered owner of said note, without charge therefor, a registered note or notes for the unpaid principal balance in any of the authorized denominations authorized by this ordinance.

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

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

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

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

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF BUTLER

BOND ANTICIPATION NOTE  
OF THE CITY OF DAVID CITY, NEBRASKA  
SERIES 2017

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 15, 2020	_____, 2017	

Registered Owner: Cede & Co.

Principal Amount: TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000)

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon from the date of original issue shown above to maturity or earlier redemption, at the rate per annum shown above, payable semiannually on January 15 and July 15 of each year, commencing January 15, 2018. The principal of this note and any interest due upon maturity or earlier call for redemption is payable at the office of the City Treasurer, as Paying Agent and Registrar, in David City, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. The payment of interest hereon, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owner by mailing payment to the address of such registered owner hereof as such address shall appear on the note register maintained by said Paying Agent and Registrar.

This note is redeemable at the option of the City prior to maturity anytime on or after June 15, 2017 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 Not to Exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of David City for the purpose of providing interim financing to pay a portion of the cost of constructing improvements in Street Improvement District Nos. 2017-1 and 2017-2,, to pay

the cost of issuance of said notes and to pay a portion of the interest to accrue on said notes, pending the issuance of permanent general obligation bonds. The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Section 10-137, Reissue Revised Statutes of Nebraska, 2012, and all other applicable laws.

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

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

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

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

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

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

CITY OF DAVID CITY, NEBRASKA

\_\_\_\_\_  
Mayor

ATTEST:

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

(SEAL)

CERTIFICATE OF AUTHENTICATION

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

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

\_\_\_\_\_

(Form of Assignment)

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

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

\_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

transfer and exchange note certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

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

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

(i) any successor securities depository or its nominee;

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

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

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed note certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of such City. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Notes to be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., as the initial purchaser thereof, upon receipt of 99.00% of the principal amount of the Notes 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. The Mayor or Clerk of the City are each individually hereby authorized to execute a Note Purchase Agreement for the sale of the Notes to D.A. Davidson & Co, as initial purchaser of the Notes. The officers of the City, or any one or more of them are hereby further authorized to take any and all actions and enter into any and all agreements deemed necessary or appropriate in connection with the issuance and sale of the Notes, and any such actions previously taken are hereby ratified and confirmed.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its Various

Purpose Bonds or other bonds. The City further covenants and agrees to issue and sell its Various Purpose Bonds or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the bond anticipation notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

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

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

Section 10. The City hereby covenants to the purchasers and holders of Bond Anticipation Notes, Series 2017, that it will make no use of the proceeds of said Notes issue, including money held in any sinking fund attributable to said Notes which would cause said Notes to be arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended, and further covenants and agrees to take all actions necessary under current federal law to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Series 2017 Notes. The City hereby designates the Series 2017 Notes as its qualified tax-exempt obligations under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt bonds or other obligations, not including private activity bonds (other than qualified 501(c)(3) bonds), in the aggregate principal amount of more than \$10,000,000 in calendar year 2017. 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 Council do hereby approve the Preliminary Official Statement with respect to the Bond Anticipation Notes and the information therein contained, and the Mayor and Council President (or either of them) are authorized to approve and deliver a final Offering Circular for and on behalf of the City, and said final Offering Circular shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 14. In order to promote compliance with certain federal tax and securities laws relating to the Notes herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Tax-Exempt Financing Compliance Procedure") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Tax-Exempt Financing Compliance Procedure and any similar policy or procedures previously adopted and approved, the Tax-Exempt Financing Compliance Procedure shall control.

Section 15. The City hereby (1) authorizes and directs that its Mayor execute and deliver, on date of issue of the Notes, a Continuing Disclosure Certificate in such form as shall be satisfactory to bond counsel for the City, and (2) covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Certificate) or any Beneficial Owner or any other owner of a Note may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section 15. For purposes of this Section 15, "Continuing Disclosure Certificate" means the Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Notes, as amended from time to time in accordance with its terms; "Participating Underwriter" has the meaning ascribed thereto in the Continuing Disclosure Certificate; and "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Notes (including persons holding Notes through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Notes for federal income tax purposes.

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

PASSED AND APPROVED this 14<sup>th</sup> day of June, 2017

\_\_\_\_\_  
Council President Gary Smith

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

[SEAL]

### **EXHIBIT A**

#### **Tax-Exempt Financing Compliance Procedure**

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

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

#### **POLICY**

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

manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

## PROCEDURES

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

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

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

### Scope of Review.

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

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

- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer's bonds or relating to the Issuer's Continuing Disclosure Obligations.

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

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

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

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

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

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

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

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

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Council member Kobus made a motion to advance to agenda item #26 – Consideration of the request by Scott Samek to sell permissible fireworks between 12:01 a.m. June 25<sup>th</sup> and 11:59 p.m. July 4, 2017. Council member Hotovy seconded the motion. Voting YEA: Council members Vandenberg, Trowbridge, Meysenburg, Kobus, Smith, and Hotovy. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to approve the request by Scott Samek to sell permissible fireworks between 12:01 a.m. June 25<sup>th</sup> and 11:59 p.m. July 4, 2017, at 594 4<sup>th</sup> Street, First State Insurance's south parking lot. Council member Vandenberg seconded the motion. Voting YEA: Council members Kobus, Smith, Hotovy, Vandenberg, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Kobus made a motion to advance to agenda item #27 – Consideration of Resolution No. 24 – 2017 concerning the property located at 314 North 7<sup>th</sup> Street in which the property owner was given until June 11<sup>th</sup>, 2017 to abate the nuisance(s) and get the property in compliance with City Codes. Council member Vandenberg seconded the motion. Voting YEA: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Marianne Ziethen was present and stated that the garage has been demolished and cleaned up. They are painting the house, new doors will be put on it, it is being re-roofed, and the front porch is being remodeled. She stated they do not have it sold at this time and it will be a few more weeks before they have completed the project.

Council member Hotovy made a motion to take the property at 314 North 7<sup>th</sup> Street off of the nuisance list. Council member Kobus seconded the motion. Voting YEA: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Trowbridge noted that from now on, he would like all final decisions on nuisance properties to come before the full council instead of just having one council member drive by and decide on their own if the property is in compliance. All of the council members agreed to handle it that way in the future.

Council member Hotovy made a motion to advance to agenda item #23 - Consideration of Resolution No. 23 – 2017 concerning the application by the Butler County Parade Committee for a parade for Sunday, July 23, 2017. Council member Kobus seconded the motion. Voting YEA: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Council member Kobus introduced Resolution No. 23 – 2017 concerning the Butler County Parade Committee's request for a parade on Sunday, July 23, 2017. Council member Hotovy seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried and Resolution No. 23 - 2017 was passed and adopted as follows:

**RESOLUTION NO. 23 - 2017**

WHEREAS, the Butler County Fair's Annual parade is scheduled for July 23, 2017, and

WHEREAS, the Butler County Parade Committee has designated 2:00 p.m. to 7 p.m. to allow for set-up and clean-up, with the parade beginning at 5:00 p.m., and

WHEREAS, the Butler County Parade Committee has requested that Highway 15 at the intersection of "L" Street and Highway 15 be closed so the parade can cross Highway 15, and they will also be crossing the Highway 15 detour route at either "A" or "G" Street

WHEREAS, the Mayor and Council acknowledge Revised Statutes Chapter 39-1359, Rights-of way; inviolate for state and Department of Roads purposes; temporary use for special events; conditions; notice; Political Subdivisions Tort Claims Act; applicable, which states:

- (1) The rights-of way acquired by the department shall be held inviolate for state highway and departmental purposes and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of the department or as otherwise provided in subsections (2) and (3) of this section.
- (2) A temporary use of the state highway system, other than a freeway, by a city including full and partial lane closures, shall be allowed for special events, as designated by a city, under the following conditions:
  - (a) The roadway is located within the official corporate limits or zoning jurisdiction of the city;
  - (b) A city making use of the state highway system for a special event shall have the legal duty to protect the highway property from any damage that may occur arising out of the special event and the state shall not have any such duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
  - (c) Any existing statutory or common law duty of the state to protect the public from damage, injury, or death shall become the duty of the city making use of the state highway system for the special event, and the state shall not have such statutory or common law duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
  - (d) The city using the state highway system for a special event shall formally, by official governing body action, acknowledge that it accepts the duties set out in this subsection and, if a claim is made against the state, shall indemnify, defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.
- (3) If a city has met the requirements of subsection (2) of this section for holding a special event and has provided thirty days' advance written notice of the special event to the

department, the city may proceed with its temporary use of the state highway system. The notice shall specify the date and time the city will assume control of the state highway property and relinquish control of such state highway property to the state.

- (4) The Political Subdivisions Tort Claims Act shall apply to any claim arising during the time specified in a notice provided by a political subdivision pursuant to subsection (3) of this section.

WHEREAS, the City of David City wishes to support this annual event, and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City Clerk is hereby authorized to forward this resolution to the State of Nebraska Department of Roads for the closing of Highway 15 and "L" Street, and the Highway 15 detour route on either "A" Street or "G" Street from 2:00 p.m. to 7:00 p.m. for the parade to be held on Sunday, July 23, 2017 in David City, Nebraska.

Passed and adopted this 14<sup>th</sup> day of June, 2017.

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Council President Gary Smith

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City Clerk Joan E. Kovar

Council member Hotovy made a motion to advance to agenda item #19 – Consideration of the request by David City Public School to move a two stall garage to the Auditorium parking lot, to replace the existing old pool house, to be used for storage of track equipment, etc. Council member Vandenberg seconded the motion. Voting YEA: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Chad Denker of David City High School and Ron Mimick of Aquinas High School were present as this is a joint effort. Chad stated: "We used to store our track equipment in the old pool house but it is so dilapidated that now we can't use it for anything. Ron finds a place for the pole vault pits, whichever farmer or Aquinas patron is willing to store it for the winter, and then we do the same with the high jump pit, the hurdles, starting blocks, and stuff as well. The D.C. High School recently purchased properties by the school and would like to move a garage from one of the properties down to the Auditorium parking lot to replace the old pool house. It is a two stall garage about 28' x 25'. So, if the City would demolish and remove the old pool house, we would set that two stall garage there and the two schools could use that to store the track equipment. As a school district, we are willing to, in terms of liability, if it makes more sense for us to sell it to the City for a dollar or whatever and then it becomes your property once it's moved down there; we are willing to do that. If you want us to maintain it, but it sits on your property, which I think is a little bit convoluted, we're willing to do that. We don't want "that" to get in the way of our ability to be able to do that. I think it is a win for the City, it's a win for us,

and it's a win for Aquinas. Aquinas is willing to pay to put some concrete footings to set it on, I've already talked to Scribs (Scribner House Moving) and got a price on having Scribs move it down there for us and we're willing to pay that cost but we also need some help from the City in terms of getting rid of the old pool house so we can set it there on that property."

Council member Trowbridge stated: "We probably need to decide on some elevations in case we ever redo that parking lot so that you're in the general vicinity of heights. I will certainly look forward to getting rid of that eyesore."

Park Supervisor Bill Buntgen stated: "Before we tear it down though we have to get it tested for asbestos. They were out today to take samples so I should know the results of that within a week. The cost to haul it away should be between \$3,800 and \$4,200."

Council member Trowbridge stated: "The disposal of it, is that cost? We aren't going to hire somebody to come in with a backhoe and dump trucks, are we? We happen to own backhoes and dump trucks, and I think we have people who know how to use them."

Park Supervisor Buntgen stated: "I talked to Sod (Street Supervisor Rodney Rech) and he said he was too busy."

Council member Trowbridge stated: "Well let's talk to him again."

Council member Meysenburg agreed saying: "I think the City crew can do it."

Council member Hotovy stated: "I can tell you they are running ragged right now. Picking up tree limbs and trees following the two wind storms, and detour route due to the Downtown Renovation, and potholes, and Airport, and mowing, etc. I guarantee you, that department in my opinion, probably does as much or more work than any other department."

Council member Kobus agreed adding: "and they only have three employees."

Council member Trowbridge stated: "I don't think anyone mentioned the Street Department taking it down, did we? We said the "City". All the cross-training we have done. I can't imagine that two truck drivers and one backhoe guy or a front end loader guy couldn't load that thing in trucks in a half a day because it's going to fall apart. Well anyway, let's get rid of it one way or the other. We have an opportunity; thank you gentleman for bringing it to us. Let's do it."

Council member Kobus stated: "The Street Department is too busy and the other departments aren't experienced with backhoes and loaders." It was decided that the "who" and "how" of the removal of the old pool house will be figured out at a later time.

Council member Trowbridge made a motion to approve the request of the David City Public School to move a two stall garage from 8<sup>th</sup> Street between "D" & "E" to the City Auditorium parking lot to replace the existing old pool house, to be used for storage of track equipment for D.C. High School and Aquinas High School. Council member Meysenburg seconded the motion. Voting YEA: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Kobus made a motion to advance to agenda item #20 – Consideration of the bids received for the Park Picnic Shelter and Restroom Project. Council member

Vandenberg seconded the motion. Voting YEA: Council members Meysenburg, Trowbridge, Hotovy, Kobus, Vandenberg, and Smith. Voting NAY: None. The motion carried.

The following bids were received for architectural fees for the design of a Park Picnic Shelter and Restroom/Shower facility:



**Fee Estimate**

<u>Architectural Fees</u>	\$4,800
Design of new restroom and shower facility, plans for new picnic shelter located at the previous location, review plans with owner and Game and Parks, provide final construction documents for final review, assist the city with notifications for the bidding process as well as selecting a contractor, provide pay application reviews, site observation during construction and a final walk through of the project.	
<u>Structural Fees</u>	\$2,800
Provide footing details for picnic shelter as well as structural design of the restroom and shower facility.	
<u>Mechanical &amp; Electrical Engineering Fees</u>	\$5,000
Provide plumbing drawings above and below ground, select fixtures for plumbing; provide electrical design for power to the shelter and restroom/shower unit, select electrical fixtures and any heating or ventilation system for the facility.	
<b>Total Design Fee</b>	<b>\$12,600</b>
<u>Estimated Reimbursable expenses (not included in the fee above)</u>	
Fire Marshal Review Fee	\$50.00 or less
Building Permit Fee	Paid by Contractor
Publication in Local Paper	Paid by City
Travel Expenses \$0.54/mile one way	\$127.00/Trip
Estimate Trips, Minimum of 4 Maximum of 7	
Trip fee will be reduced if my trip coincides with my projects in Friend and Gretna.	
Large Format Copies and Specification Books	\$45/set
We encourage electronic plans and specs to contractors If they request a paper set, we provide a set but request The plans be returned if the contractor is not award the project. Plans will then be re-distributed to the contractor award the project. (Estimate a minimum of 20 sets for a total of \$900.00	



Our Architectural Dept. has prepared the following proposed Fee schedule, which includes Architectural, Structural, Mechanical Electrical Design and reimbursable expenses for the new restroom and shower facility, and new picnic shelter for your park facilities would be as follows:

Phase 1 Schematic Design	\$2,250
Phase 2 Design Development	\$3,000
Phase 3 Construction Documents	\$5,250
Phase 4 Bidding & Negotiation	\$750
Phase 5 Construction Administration	\$3,750
<b>TOTAL</b>	<b>\$15,000</b>

Please note these proposed fees are based on your stated project cost of \$175,455 and our assumption of a competitively bid project. These figures could increase or decrease dependent on the final negotiated project scope, schedule and budget. We look forward to working with you and the City to more accurately define variables that will have an impact on design fees as we move forward with you on this project.

Thank you for your interest in Miller & Associates and our architectural services. We look forward to hearing from you!

Council member Kobus made a motion to accept the design bid of \$15,000 as submitted by Miller & Associates. Council member Trowbridge seconded the motion. Voting YEA: Council members Vandenberg, Trowbridge, Meysenburg, Smith, Hotovy, and Kobus. Voting NAY: None. The motion carried.

Council member Kobus made a motion to advance to agenda items 21 and 22 – Consideration of providing Legal Shield as an option for City employees at their own cost, and Consideration of VR Nebraska concerning laborers for the Park department. Council member Hotovy seconded the motion. Voting YEA: Council members Vandenberg, Kobus, Smith, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Legal Shield, for identity theft, etc., as an option for City employees at their own cost was discussed. Council member Trowbridge stated: “If our employees would like this, they can do this. We don’t have to do the accounting, the collecting, etc. I’ll make a motion that we do this and we’ll hope nobody seconds it.”

Council member Trowbridge made a motion to approve providing Legal Shield as an option for City employees at their own cost. Council member Kobus seconded the motion. Voting YEA: None. Voting NAY: Council members Hotovy, Smith, Meysenburg, Vandenberg, Trowbridge, and Kobus. The motion failed.

At the April 26<sup>th</sup> Committee of the Whole Meeting, Lynn Hall of the Nebraska VR Vocational Rehabilitation, NE Department of Education presented the VR Nebraska program concerning laborers for the Park Department at no cost to the City. Lynn stated: “Nebraska VR offers many innovative ways to introduce you to potential workers. Training programs can be designed to meet your specific needs and are “customized” according to the skill level of the trainee.”

Council member Trowbridge stated: "I don't believe this type of employment opportunity does the employer much good. It slows down the process for the most part. It really isn't a training ground."

Council member Trowbridge made a motion to partake in the VR Nebraska Program. Council member Kobus seconded the motion. Voting YEA: Council members Vandenberg, and Hotovy. Voting NAY: Council members Trowbridge, Meysenburg, Smith, and Kobus. The motion failed.

Council member Hotovy called for a temporary recess as the City Council. Council member Kobus seconded the motion. Voting YEA: Council members Vandenberg, Kobus, Smith, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried and at 8:22 p.m. the City Council took a short recess.

At 8:22 p.m. Council President Smith called the David City Community Development Agency to order.

The David City Community Development Agency met in open public session in the meeting room of the City Office, 557 North 4<sup>th</sup> Street, David City, Nebraska. 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: Council President Gary Smith, and Council members John Vandenberg, Thomas Kobus, Kevin Hotovy, Dana Trowbridge, and Patrick Meysenburg, City Attorney Jim Egr, and City Clerk Joan Kovar. Mayor Alan Zavodny was absent.

Council President Gary Smith informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The David City Community Development Agency reviewed the amended Redevelopment Plan for Dana Point Development Corporation Housing Project 2017 legally described as Lots 1 through 12, inclusive, Block A, and Lots 1 through 12, inclusive, Block B, Larry J. Sabata Third Addition to the City of David City, Cutler County, Nebraska, together with streets abutting thereon.

The previous Redevelopment Plan stated:

**A. General Project Description:**

*THE REDEVELOPMENT IN PHASES OF UNDEVELOPED GROUND;*

*PHASE ONE WILL CONSIST OF REPLATTING AND INSTALLING INFRASTRUCTURE FOR BADLY NEEDED RESIDENTIAL LOTS AND THE CONSTRUCTION OF SIX DUPLEX (12 UNITS) RESIDENTIAL RENTAL UNITS FOR LOW INCOME ELDERLY. THIS PHASE WILL CREATE UP TO 48 HOUSING LOTS INTENDED FOR SINGLE FAMILY AND DUPLEX STRUCTURES. THE SECOND AND SUBSEQUENT PHASES WILL RESULT IN THE CONSTRUCTION OF AFFORDABLE SINGLE FAMILY HOMES. THE PROJECT WILL BE IMPLEMENTED OVER AN ESTIMATED SEVEN YEAR PERIOD.*

*The redeveloper will acquire the Project Site and install the infrastructure, only upon receipt of a grant from the David City Community Development Agency in the maximum amount determined to be amortized by the pledge of an annual increment of ad valorem taxes for the years 2015, 2016, 2017, 2018, 2019, 2020 and 2021 and continuing for each such year for 15 years and assuming the construction of six duplexes in 2015 and single family residences pursuant to the redevelopers estimated construction schedule and pricing.*

**Description of Redevelopment Project**

*The Redeveloper intends to develop a residential subdivision and construct six duplex (12 living units) and an estimated 42 single family homes in phases over a period of up to 6 years. Phase one will result in the subdivision of Project site into single and two family residential lots and the construction of the six low income elderly residential rental duplexes. Phase two and subsequent phases will result in the actual construction of single family residences annually. The complete project is expected to take 7 years to fill with structures.*

*Site preparation for the initial phase(s) would begin upon redevelopment contract approval. Construction of infrastructure is expected to begin in the spring of 2015.*

*Duplex construction and additional residential development may begin in 2015 depending on market conditions.*

*The Redeveloper seeks assistance from the Community Development Agency of the City of David City (the "Agency") to overcome the site acquisition, site development, infrastructure and other expense. The level of assistance requested is a grant in the total amount of \$1,405,500.00 from the sale of a Tax Increment Revenue Bond (the "Tax Increment Revenue Bond") to be purchased by the Redeveloper in accordance with a redevelopment contract to be entered into between the Redeveloper and the Agency.*

**Plan of Finance**

*The Redeveloper is expected to request grant assistance from the Agency in the estimated amount of \$1,405,500.00 with such grant to be provided for from the issuance of the Tax Increment Revenue Bond to be issued by the Agency in the estimated amount of \$1,405,500.00. This amount may increase, depending on the cost of infrastructure installation.*

Discussion followed. Council member Trowbridge stated: "My question to the Planning Commission or to the Council is: "Who do we have as an oversight engineering firm and who pays for them?" City Attorney Jim Egr stated that Dana Point Development should be asked: "who is going to pay for the engineer to check your work to see if it is done right; the thickness of the street, water and sewer lines put in correctly, etc., so we don't have any problems down the line?" More information was requested as far as "Is he going to put in the whole street, is he going to put in all the infrastructure on the west side of that street, or what exactly is he going to do? Also explain, in the short fall of the money, does it fall to the bond holders if things don't work? The Planning Commission will be asked to get the answers to the questions raised.

Council member Hotovy introduced Resolution No. 22 – 2017 CDA, forwarding an amended Redevelopment Plan for Dana Point Development Corporation Housing Project 2017 to the Planning Commission for purposes of its review and recommendation regarding said plan's conformity with the Comprehensive Plan of the City of David City, and moved for its passage and adoption. Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Trowbridge, Smith, Hotovy, and Meysenburg. Voting NAY: None. The motion carried and Resolution No. 22 – 2017 CDA was passed and adopted as follows:

**RESOLUTION NO. 22 – 2017 CDA**

**RESOLUTION FORWARDING A REDEVELOPMENT PLAN OF THE CITY OF DAVID CITY, NEBRASKA TO THE PLANNING COMMISSION OF THE CITY OF DAVID CITY FOR PURPOSES OF ITS REVIEW AND RECOMMENDATION REGARDING SAID PLAN'S CONFORMITY WITH THE COMPREHENSIVE PLAN OF THE CITY OF DAVID CITY**

**BE IT RESOLVED BY THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF David City, NEBRASKA:**

**Recitals:**

a. The Mayor and Council of the City of David City, Nebraska (the "**City**"), upon the recommendation of the Planning Commission of the City of David City, Nebraska (the "**Planning Commission**"), and in compliance with all public notice requirements imposed by the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "**Act**"), duly declared the redevelopment area legally described on **Exhibit A** attached hereto (the "**Redevelopment Project Area**") to be blighted and substandard and in need of redevelopment; and

b. Pursuant to and in furtherance of the Act, a Redevelopment Plan (the

“**Redevelopment Plan**”) has been prepared and submitted to the Agency by Dana Point Development Corporation (the “**Redeveloper**”), in the form attached hereto as **Exhibit B**, for the purpose of redeveloping the Redevelopment Project Area; and

c. Pursuant to §18-2112 of the Act, the Agency, prior to recommending the Redevelopment Plan to the City, must refer the Redevelopment Plan to the Planning Commission of the City for its review and recommendations as to its conformity to the general plan for the development of the City as a whole:

**Resolved that:**

1. The Agency hereby refers the Redevelopment Plan, attached hereto as **Exhibit B** to the Planning Commission of the City for its review and recommendations as to the Redevelopment Plan’s conformity to the general plan for the development of the City as a whole.

2. All prior resolutions of the Agency in conflict with the terms and provisions of this resolution are hereby expressly repealed to the extent of such conflicts.

**PASSED AND APPROVED** on June 14, 2017.

COMMUNITY DEVELOPMENT  
AGENCY OF THE CITY OF  
DAVID CITY, NEBRASKA.

BY \_\_\_\_\_  
Acting Chairman Gary Smith

ATTESTED:

\_\_\_\_\_  
Secretary Joan Kovar

**Exhibit A**  
**Legal Description of Redevelopment Project Area**

Lots 1 through 12, inclusive, Block A and Lots 1 through 12, inclusive, Block B, Larry J. Sabata Third Addition to the City of David city, Butler County, Nebraska, together with streets abutting thereon,

**Exhibit B**  
**Redevelopment Plan**

**Amended Redevelopment Plan**  
**Dana Point Development Corporation Housing Project**  
**2017**

**Dana Point Development Corporation, (the “Redeveloper”) intends to redevelop and improve the area, described in this Plan, pursuant to the Nebraska Community Development Law (Sections 18-2101 to 18-2144 and 18-2147 to 18-2153, R.S.S. Neb. 2012, as amended, the “Act”) by the development in phases of a residential subdivision.**

**This Amended Redevelopment Plan is intended to amend the Redevelopment Plan Dana Point Development Corporation Housing Project 2015.**

**A. General Project Description:**

THE REDEVELOPMENT IN PHASES OF UNDEVELOPED GROUND;

The Redeveloper will install infrastructure, paving, water, sewer and storm water mains in addition to electrical infrastructure for development of Block A and a portion of Block B in the Larry J. Sabata 3<sup>rd</sup> Addition in David City.

After infrastructure installation, housing units will be constructed in annual phases in the years 2018, 2019, 2020, 2021, 2022 and 2023. An extension of the build out for an additional 3 years may be required due to market conditions. Exhibit A attached hereto shows the proposed schedule of construction for the project. It should be noted that funding has been obtained only for the construction in 2018. The balance of the construction schedule is based on market demand. Funding for the 2018 builds is contingent on receiving a grant from Tax Increment Financing in the amount of \$900,000. Twelfth Street and a portion of Larry J Sabata Drive will be paved with potable water, sanitary and storm water sewers installed. Electrical infrastructure will be installed on 12<sup>th</sup> Street.

Exhibit B shows the subdivision impacted by this Plan. Lots one through twelve in Block A and Lots one through twelve Block B of the Larry J. Sabata 3<sup>rd</sup> Addition in David City, Butler County, Nebraska, together with adjoining 12<sup>th</sup> Street and the adjacent portion of Larry J. Sabata Drives, will be developed and constitutes the redevelopment area.

The redevelopment of the Project Area is not economically feasible to implement without assistance from tax increment financing because of high site acquisition, site preparation and infrastructure costs. This project is intended to provide high quality, low cost single family housing. The Redeveloper believes that the redevelopment of the Project Area will provide the City and its surrounding area with significant new housing.

**B. Boundaries of Project Area and Existing Conditions and Uses**

As indicated above, Exhibit B shows the outer boundaries of the Project Area. The condition and existing use of the property within the Project Area is unimproved vacant land but zoned for single and two family residential.

The Project Area will require water, sewer and paving.

No water or sanitary or storm sewer facilities are currently located within the Project Area. No street improvements have been installed. It will be necessary for the Redeveloper to provide for installation of all infrastructure required by the City.

**C. Land Use Plan Showing Proposed Uses**

Exhibit B shows the ultimate use for the Project Area as well as the proposed configuration for the development of the lots.

**D. Information Concerning Population Densities, Land Coverage and Building Intensities**

The Project Area currently has no residents. Under this Plan, all of the Project Area is intended at full development to provide a minimum of 24 single family residences with the resultant increase in residential population for the Project Area. No families will be displaced in connection with redevelopment of the Project Area. Building densities will not exceed such densities as are permitted under David City zoning and subdivision regulations.

**E. Statement as to Proposed Changes in Zoning, Street Layout, Street Levels or Grades**

The Project Area is currently zoned as R-2 allowing for single and two family residential lots. No change in zoning is required. All construction will be subject to applicable building codes and ordinances. The street layout and street levels will depend upon the finalized construction development plans. Streets interior to the project are intended to be public streets.

**F. Site Plan for the Project Area**

Exhibit B shows the proposed site plan for the area.

**G. Statement as to Kind and Number of Additional Public Facilities**

Paving, water, sanitary and storm sewer main extensions throughout the Project Area will be provided in accordance with specifications and requirements of the City. The Redeveloper will be responsible for all on site utility infrastructure installation, with the exception of natural gas.

**Implementation of Plan**

No project redevelopment contract or agreement between the Agency and the Redeveloper will be entered into until the Redeveloper has provided evidence of a financing commitment from a recognized financial institution acceptable to the Agency for financing of the Redeveloper's costs.

The redeveloper will acquire the Project Site and install the infrastructure, only upon receipt of a grant from the David City Community Development Agency in the amount of \$900,000 to be repaid by a pledge of an annual increment of ad valorem taxes for 15 years for each phase of construction beginning with the years 2019, 2020, 2021, 2022, (and years 2023, 2024, and 2025 if required by market conditions) each such years constituting a phase.

### **Description of Redevelopment Project**

The Redeveloper intends to develop a portion of the residential subdivision and construct six single family homes for low income tenants based on low income housing tax credits; 4 single family homes for low income tenants based on Nebraska Affordable Housing Trust Funds; and 13 spec homes for market rate sales or rentals, in phases over a period of up to 5 years

Site preparation for the initial phase(s) would begin upon redevelopment contract approval. Construction of infrastructure is expected to begin in the spring of 2017.

The Redeveloper seeks assistance from the Community Development Agency of the City of David City (the "Agency") to overcome the site acquisition, site development, infrastructure and other expense shown on Exhibit C. The level of assistance requested is a grant in the total amount not to exceed \$900,000.00 from the sale of a Tax Increment Revenue Bond (the "Tax Increment Revenue Bond") to be purchased by the Redeveloper in accordance with a redevelopment contract to be entered into between the Redeveloper and the Agency.

### **Plan of Finance**

The Redeveloper is expected to request grant assistance from the Agency in the estimated amount of \$900,000.00 with such grant to be provided for from the issuance of the Tax Increment Revenue Bond to be issued by the Agency in the estimated amount of \$900,000.00. The incremental ad valorem tax revenue (the increase in real property taxes based upon the resulting increase in taxable valuation) for a period of up to fifteen years after a designated effective date of each phase would be pledged to pay debt service on the Tax Increment Revenue Bond. Such grant funding and application of incremental ad valorem tax revenues is expected to occur in phases as provided in the redevelopment contract. The Redeveloper is to have full responsibility for the purchasing of the Tax Increment Revenue Bond from the Agency. Any issuance of the Tax Increment Revenue Bond is to be upon the basis of a private placement with the purchaser signing and delivering an investment letter satisfactory in form to the Agency. The grant will be equal to the costs incurred by the Redeveloper for site acquisition and preparation and public infrastructure installation.

### **Description of Project Area**

The Project Area is described on attached Exhibit B.

The property is subdivided into separate lots, and each development phase will occur on one or more lots, the incremental tax revenues from which will be dedicated to payment of the Tax Increment Revenue Bond. The tax increment revenues are to be allocated under the terms of Section 18-2147(1) (b) of the Act for those tax years for which the payments become delinquent within fifteen (15) years from the effective date as set forth in the redevelopment contract and annual amendments thereto. The effective date shall be, as to each phase the January 1, of the year following the issuance of a building permit as to an individual lot and, if taxes are received by the Butler County Treasurer on or before December 31, of the 14<sup>th</sup> year after such effective date those such taxes as falling due on said December 31, shall also be allocated to the Agency

and applied to payment of principal and interest on the Tax Increment Revenue Bond. The effective date for such allocations for each phase shall be set forth in or determined pursuant to the project redevelopment contract and annual amendments thereto and/or the bond resolution authorizing the issuance of the Tax Increment Revenue Bond and noticed to the County Assessor of Butler County in accordance with the terms of Section 18-2147 of the Act as amended. Each phase may include not contiguous lots.

The real property ad valorem taxes on the current taxable valuation of the lot or lots associated with each phase of the Project for the year prior to redevelopment of such phase in accordance with this Plan and the Act will continue to be paid to the applicable taxing bodies in accordance with the terms of Section 18-2147 of the Act.

### **Statutory Pledge of Taxes.**

Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon real property in the lots within the Project Area for each phase shall be divided, for the period not to exceed 15 years after the effective date of the provision for each such phase as determined pursuant to the redevelopment contract. ***Such effective date under this Plan shall be the January 1 of the year following the issuance of a building permit on a lot or lots designated for such phase. Such effective date may be confirmed and restated in the resolution authorizing the Tax Increment Revenue Bond and/or in the project redevelopment contract amendment to be entered into between the Agency and the Redeveloper.***

Pursuant to Section 18-2150 of the Act, the ad valorem tax so divided is to be pledged to the repayment of loans or advances of money, or the incurring of any indebtedness, whether funded, refunded, assumed or otherwise, by the Agency to finance or refinance, in whole or in part, the redevelopment project, including the payment of the principal of, premium, if any, and interest on such bonds, loans, notes, advances or indebtedness.

**The Tax Increment Revenue Bond shall be payable solely from the tax increment revenues available under Section 18-2147 and shall not otherwise constitute indebtedness of the Agency or the City.**

### **Redevelopment Plan Complies with the Act:**

The Community Development Law requires that a redevelopment plan and project consider and comply with a number of requirements. This Plan meets the statutory qualifications as set forth below.

#### **1. The project must be in an area declared blighted and substandard. [Section 18-2109]**

The Project Area has been declared blighted and substandard by action of the Mayor and Council of the City prior to the adoption and approval of this Plan. [Section 18-2109] Such declaration is required to be made after a public hearing with full compliance with the public notice requirements of Section 18-2115 of the Act. Approval occurred at a meeting of the Mayor and City Council of the City held on December 29, 2014.

#### **2. Conformance to the general plan for the municipality as a whole. [Section 18-2103(13)(a) and Section 18-2110]**

The City of David City has adopted a Comprehensive Plan Amendment on December 29, 2014, (the "Comprehensive Plan"). This Plan and the project are consistent with the Comprehensive Plan, in that no changes in the Comprehensive Plan elements are intended or required.

**3. The Redevelopment Plan must be sufficiently complete to address the following items: [Section 18-2103(13)(b) and Section 18-2111]**

**a. Land Acquisition:** The Project Area will be acquired by the Redeveloper, by private purchase.

**b. Demolition and Removal of Structures:** The project to be implemented under this Plan does not require removal of any structures. Elevations and street, water main and sewer plans will be provided to the City Planning Department for approval prior to commencement of construction.

**c. Future Land Use Plan:** See attached Exhibit B for the proposed development land use. [Section 18-2103(b) and Section 18-2111 of the Act] The attached Exhibit B also shows an accurate site plan of the area after redevelopment, showing the proposed uses projected for the Redevelopment Project. [Section 18-2111(3) and (5) of the Act].

**d. Changes to zoning, street layouts and grades or building codes or ordinances or other Planning changes.** The area is zoned R-2. The proposed street layouts are shown on Exhibit B. Streets within the project boundaries will be dedicated to the City. No changes are anticipated in building codes or ordinances. Re-platting is contemplated. [Section 18-2103(b) and Section 18-2111 of the Act].

**e. Site Coverage and Intensity of Use.** The project as fully developed will provide a 24 residences. [Section 18-2103(b) and §18-2111 of the Act]. Each single family residence is planned to exceed 1,000 square feet.

**f. Additional Public Facilities or Utilities.** Water, storm and sanitary sewer connections to the city mains will be required. The Redeveloper intends to use the grant from the sale of the Tax Increment Revenue Bond to pay for such infrastructure [Section 18-2103(b) and Section 18-2111 of the Act].

**4. The Act requires that a Redevelopment Plan provide for relocation of individuals and families displaced as a result of plan implementation.** There are no residents or operating businesses currently located in the Project Area and no relocation requirements apply or are contemplated. [Section 18-2103.02 of the Act].

**5. Conflicts of interest by an Agency member must be disclosed.** No member of the governing body of the Agency nor any employee of the City or the Agency holds any interest in any property located in the Project Area. [Section 18-2106 of the Act].

**6. The Act requires that the Agency consider:**

**a. Method and cost of acquisition and preparation for redevelopment and estimated proceeds from disposal to redevelopers.** The Redeveloper will acquire the property located in the Project Area using grant funds from the Tax Increment Revenue Bond. The Agency may enter into a project redevelopment

contract with the Redeveloper having such undertakings as the Agency determines appropriate [Section 18-2119(2) of the Act]. Because all of the real property within the Project Area will be privately owned the requirements of Section 18-2118 of the Act relating to transfers of property by the Agency do not apply. The Redeveloper intends, but is not contractually bound, to redevelop the Project Area with an investment of up to \$4,125,000 of funds from grant proceeds and private resources as described in this Plan including bank or other financing.

**b. Statement of proposed method of financing the redevelopment project.**

This plan contemplates that the Agency may issue its Tax Increment Revenue Bond in the amount not to exceed \$900,000 to provide a grant from the Agency to the Redeveloper to bear interest at a rate to be determined by the Redeveloper. The Tax Increment Revenue Bond shall be privately placed with the Redeveloper or its assignee, to obtain the proceeds needed to make the grant. Application of the proceeds of the Tax Increment Revenue Bond will be supervised by or on behalf of the Agency. The Tax Increment Revenue Bond shall be repaid from the tax increment revenues generated from the Project Area from and after January 1, 2018 through that December 31 which represents the day immediately preceding the fifteenth anniversary of the effective date as to each phase of development as set forth in the project redevelopment contract and amendments thereto.

**c. Statement of feasible method of relocating displaced families.**

No families will be displaced as a result of this plan [Section 18-2114 of the Act].

**7. Statutory considerations prior to recommending a redevelopment plan.** Section 18-2113 of the Act requires that the governing body of an Agency observe certain considerations prior to recommending a Plan: In connection with the adoption of this Plan and prior to recommending it to the Mayor and City Council, the governing body of the Agency shall consider whether the proposed land uses and building requirements in the redevelopment project area (as to this Plan, the Project Area) are designed with the general purpose of accomplishing, in conformance with the general plan (the City's Comprehensive Plan), a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight. The Agency shall undertake to make such considerations and findings prior to its recommending of this Plan by a resolution separate from this Plan.

**8. Cost Benefit Analysis.** This Plan when presented for recommendation and approval shall be accompanied by a cost benefit analysis. Such analysis is as follows:

**a.** Tax shifts resulting from the approval of the use of funds pursuant to section 18-2147:

Possible increase student load for the school system could result from the project development. However, implementation of the full project will take a number of years. Phase 1 of the project will not result in an influx of students. Any increase will be spread over the entire class range provided by the David City School District.

**b. Public infrastructure and public service needs:**

The plan requires the redeveloper to pay for and install all infrastructure related to the project.

**c. Impacts on employers and employees within the project area:**

None exist. Therefore no impact is expected.

**d. Impacts on employers and employees in the city, but not in the project area:**

The construction of the homes will increase temporarily employment through the construction process. The additional housing resulting from the project may have the effect of providing an additional employee pool for employers.

**e. Other impacts:**

No significant negative additional impacts are anticipated. However the project will invite population growth with its attendant spending and investment in the community.

[Section 18-2113 (2) of the Act]. Materials incorporated into the structures to be built is subject to local sales tax.

**9. Time Frame for Development.** Development of the Project Area is anticipated begin during the spring of 2017 with initial occupancy of the earliest properties developed in the second quarter of 2018. The base tax year for Phase one is expected to be calculated on the value of the property as of January 1, 2017.

Exhibit A

**Sabata Estates – David City  
 4/5/2017**

Legal Description:

Lots 1-12, Block A; and Lots 1-12, Block B, Larry J. Sabata 3<sup>rd</sup> Addition to the City of David City, Butler County, Nebraska.

Projected Valuations & Completion Dates: (NOTE: All buildings are Single-Family unless otherwise noted):

**Block A:**

Lot #:	Est. Comp Date:	Est Valuation:	Notes:	Bldg Sqft:
Lot 1	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 2	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 3	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 4	2/2018	\$200,000	NAHTF	1533
Lot 5	2/2018	\$195,000	NAHTF	1515
Lot 6	2/2018	\$205,000	Spec	
Lot 7	2/2018	\$190,000	NAHTF	1418
Lot 8	8/2019	\$210,000	Spec	
Lot 9	8/2019	\$212,000	Spec	
Lot 10	5/2020	\$209,000	Spec	
Lot 11	3/2021	\$217,000	Spec	
Lot 12	3/2021	\$224,000	Spec	

**Block B:**

<b>Lot #:</b>	<b>Est. Comp Date:</b>	<b>Est Valuation:</b>	<b>Notes:</b>	<b>Bldg Sqft:</b>
Lot 1	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 2	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 3	2/2018	\$60,000	LIHTC/Duplex	2726
Lot 4	2/2018	\$195,000	NAHTF	1492
Lot 5	2/2018	\$210,000	Spec	
Lot 6	2/2018	\$188,000	NAHTF	1351
Lot 7	2/2018	\$210,000	Spec	
Lot 8	8/2019	\$219,000	Spec	
Lot 9	5/2020	\$225,000	Spec	
Lot 10	5/2020	\$203,000	Spec	
Lot 11	3/2021	\$228,000	Spec	
Lot 12	3/2021	\$225,000	Spec	

Exhibit A

Site Plan showing Block A and a portion of Block B



Exhibit C

Eligible Costs to be reimbursed from bond

1. Site Acquisition	\$254,000
2. Paving, earth work & storm sewer	\$298,000
3. Sanitary sewer	\$ 72,000
4. Water mains	\$106,000
5. Electrical infrastructure street lights	\$ 70,000
6. Engineering, planning & legal	<u>\$100,000</u>
Total	\$900,000

Costs may vary between categories. A shift of costs per category is contemplated and approved not to exceed the total.

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Council member Hotovy made a motion to adjourn as the David City Community Development Agency and Council member Trowbridge seconded the motion. Voting YEA: Council members Vandenberg, Kobus, Meysenburg, Trowbridge, Smith, and Hotovy. Voting NAY: None. The motion carried. Council President Smith declared the David City Community Development meeting adjourned at 8:36 p.m.

At 8:39 p.m. Council President Smith declared the City Council meeting back in session following their recess.

Council President Smith opened the Public Hearing at 8:40 p.m. to consider amending Zoning Ordinance Article 2: Definitions, to add the definitions of Storage Container, Storage Trailer and Construction Dumpster and to amend Article 8: Supplemental Regulations to add Section 8.14 Permanent Cargo Containers and to add Section 8.15 Temporary Cargo Containers and Dumpsters.

Council member Trowbridge stated that a "permanent cargo container" was not defined anywhere. Planning Commission Keith Marvin stated that the Council could change that to "permanent storage container" if they preferred. Keith stated: "What this does is still limits them to one per property, but it requires them to be on concrete, anchored to concrete, they have to be painted, they have to be screened, and they have to come to the Planning Commission to get permission."

Council member Trowbridge said: "Well what about the guy who says "my lots almost an acre, you've got to cut him a little slack." Is an acre an acre or is it something else? Just say 44,000 sq. ft. and if it isn't 44,000 sq. ft., guess what, it doesn't make it."

City Attorney Egr stated: "Why don't you pass it on first reading, make your amendments and then take it up next month for second reading or whatever." Discussion followed.

There being no further comments, Council President Smith closed the Public Hearing at 8:50 p.m.

Council member Trowbridge introduced Ordinance No. 1266. Council President Smith read Ordinance No. 1266 by title. Council member Hotovy made a motion to pass and adopt Ordinance No. 1266 on the first reading only. Council member Vandenberg seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Smith, Kobus, Hotovy, and Vandenberg. Voting NAY: None. The motion carried and Ordinance No. 1266 was passed on 1<sup>st</sup> reading only as follows:

### **ORDINANCE NO. 1266**

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 2: DEFINITIONS TO ADD THE DEFINITIONS OF STORAGE CONTAINER, STORAGE TRAILER AND CONSTRUCTION DUMPSTER AND TO AMEND ARTICLE 8: SUPPLEMENTAL REGULATIONS TO ADD SECTION 8.14 PERMANENT CARGO CONTAINERS AND TO ADD SECTION 8.15 TEMPORARY CARGO CONTAINERS AND DUMPSTERS; 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 2: DEFINITIONS**

**Storage Container** shall mean a standardized, reusable shipping vessel used in the transportation of freight and capable of being mounted and moved on a chassis or bogie for movement by truck trailer or loaded on a ship.

**Storage Trailer** shall mean a standardized, reusable semi-trailer used in the transportation of freight used for storage on-site and has the chassis and wheels intact.

**Construction Dumpster** shall mean a moveable, reusable container that is transported to a site on a specially designed truck to collect construction waste on site. Said dumpster is anticipated to be picked up and emptied as needed.

#### **ARTICLE 8: SUPPLEMENTAL REGULATIONS**

##### **Section 8.14 Permanent Cargo Containers**

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

1. No Cargo Container shall be allowed unless a Conditional Use Permit has been issued by the City.
2. Lots shall be larger than one acre.
3. No more than one cargo container may be used.
4. The cargo containers must be located within an outdoor storage area that is properly screened according to the regulations herein.
5. No cargo container may be located within 15 feet of any property line.
6. All signage on the cargo container shall be removed and the cargo container shall be painted an earth tone color, including greens, tans, terra cottas. Color is subject to approval as part of the Condition Use Permit.
7. Cargo containers shall be anchored to a concrete slab and the ground, and must be maintained such that they are safe, structurally sound, stable, and in good repair. Any

- cargo container that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
8. No cargo containers shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Cargo containers are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.

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

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

1. One temporary cargo container/dumpster is allowed per dwelling unit for up to three weeks; provided, that:
  - a. The temporary cargo container/dumpster may only be used for purposes of storage in conjunction with moving or relocating residents' household belongings.
  - b. Each dwelling unit is entitled to no more than two temporary cargo containers/dumpsters per year (any 12-month consecutive period).
  - c. The temporary cargo container/dumpster must be located on a hard surface.
  - d. The temporary cargo container/dumpster may not be located on any public or private street. Additionally, the temporary cargo container/dumpster may not be placed in any sight triangle or in any location that would interfere with traffic safety.
  - e. A resident may apply for a permit for an extension to allow a cargo container/dumpster to remain for an additional two weeks. There shall be no fee for the permit.
2. Cargo containers/dumpster may be used as temporary construction site storage for nonresidential construction projects and for residential construction, subject to the following:
  - a. No cargo containers/dumpster shall be modified for habitation, including windows and cooling, plumbing or multiple entrances. Cargo containers/dumpsters are allowed to have electric and ventilation systems installed that would be necessary to meet the minimum codes and standards for lighting and air circulation for storage purposes.
  - b. Cargo containers/dumpsters must be located on a platted lot that has an active building permit.
  - c. Cargo containers/dumpsters on lots shall not remain on the lot longer than 12 months, even if a building permit is still active.
  - d. Items stored in cargo containers must be used on the same platted lot where the cargo containers are located.
    - (1) The cargo containers shall not be used to store items for use on other construction sites.
    - (2) Dumpsters shall be used strictly for waste materials generated on the project site.
    - (3) Dumpsters shall be emptied occasionally and shall not be allowed to extend above the upper edge of the container.
  - e. Cargo containers/dumpsters shall be located at least 10 feet from all property lines.
  - f. At the time of placement, cargo containers/dumpsters shall not be located within 100 feet of any occupied dwelling unit.
  - g. Cargo containers/dumpsters shall be kept safe, structurally sound, stable, and in good repair. Any cargo container/dumpster that becomes unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property to a location that can legally accept it.
  - h. The property surrounding the cargo containers/dumpsters (within 10 feet) shall be maintained and kept free of weeds.
  - i. The maximum number of cargo containers/dumpster allowed for temporary construction site storage per lot per year (any 12-month consecutive period) shall be as follows:
    - (1) A maximum of one cargo container.
    - (2) A maximum of one dumpster shall be allowed to be in place at any given time.

- j. No cargo container/dumpster shall be allowed for temporary construction site storage until a temporary permit has been obtained.
  - (1) There shall not be any additional fees to obtain such permit for this use.
  - (2) The permit application shall include a site plan or plot plan showing where the container will be located on the site.
  - (3) Permitted cargo containers/dumpster shall not be relocated on the site without updating the permit.
  - (4) Dumpster shall be allowed to be switched out when full without updating the permit.

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

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Passed on first reading only  
Council President Gary Smith

Passed on first reading only  
City Clerk Joan Kovar

Council member Hotovy made a motion to authorize Council President Smith to execute the grant offer for Airport Improvement Program (AIP) Project No. 3-31-0025-011-2017 at the David City Municipal Airport to Rehabilitate Runway 14/32 (Seal Coat [3,675' x 60']); Rehabilitate Taxiway (Seal Coat [720'x25']); Rehabilitate Apron (Seal Coat [5,000 Square Yards]). Council member Vandenberg seconded the motion. Voting YEA: Council members Meysenburg, Trowbridge, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

SPONSOR



U.S. Department of Transportation Federal Aviation Administration

RECEIVED

JUN - 8 2017

GRANT AGREEMENT

DEPT. OF AERONAUTICS

PART I - OFFER

Date of Offer	JUN 07 2017
Airport/Planning Area	David City Municipal
AIP Grant Number	3-31-0025-011-2017
DUNS Number	144 829 392

TO: City of David City, Nebraska  
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA a Project Application dated **March 08, 2017**, for a grant of Federal funds for a project at or associated with the **David City Municipal Airport**, which is included as part of this Grant Agreement; and

**WHEREAS**, the FAA has approved a project for the **David City Municipal Airport** (herein called the "Project") consisting of the following:

**Rehabilitate Runway 14/32 (Seal Coat [3,675 Feet X 60 Feet]); Rehabilitate Taxiway (Seal Coat [720 Feet X 25 Feet]); Rehabilitate Apron (Seal Coat [5,000 Square Yards])**

which is more fully described in the Project Application.

**NOW THEREFORE**, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided.

**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay Ninety (90%) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.**

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

### CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **\$265,500.00.**

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$265,500.00 for airport development or noise program implementation; and,

\$0 for land acquisition.

2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.  
  
The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR §200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR §200.343).  
  
The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies, and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies, and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before **7/14/2017**, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor

must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

**10. United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

**11. System for Award Management (SAM) Registration And Universal Identifier.**

A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

B. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).

**12. Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

**13. Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of condition No. 1.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

**14. Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this agreement.

**15. Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

**16. Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the

United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

- 17. Maximum Obligation Increase For Nonprimary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
- A. May not be increased for a planning project;
  - B. May be increased by not more than 15 percent for development projects;
  - C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.
- 18. Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program specific audit in accordance with 2 CFR part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Provide one copy of the completed audit to the FAA if requested.
- 19. Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR §180.200, the Sponsor must:
- A. Verify the non-federal entity is eligible to participate in this Federal program by:
    1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or
    2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
    3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
  - B. Require prime contractors to comply with 2 CFR §180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
  - C. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.
- 20. Ban on Texting While Driving.**
- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
    1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
    2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
      - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
      - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
  - B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

**21. AIP Funded Work Included in a PFC Application.**

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

**22. Exhibit "A" Property Map.** The Exhibit "A" Property Map dated **July 01, 2006**, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.**23. Employee Protection from Reprisal.****A. Prohibition of Reprisals –**

1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
  - i. Gross mismanagement of a Federal grant;
  - ii. Gross waste of Federal funds;
  - iii. An abuse of authority relating to implementation or use of Federal funds;
  - iv. A substantial and specific danger to public health or safety; or
  - v. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Federal office or employee responsible for oversight of a grant program;
  - v. A court or grand jury;
  - vi. A management office of the grantee or subgrantee; or
  - vii. A Federal or State regulatory enforcement agency.
3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
5. Required Actions of the Inspector General – Actions, limitations and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b)
6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

**24. Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Grant Assurance Pavement Preventive Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. The Sponsor further agrees that the program will:

- A. Follow FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
  - B. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
  - C. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
    - 1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
      - a. Location of all runways, taxiways, and aprons;
      - b. Dimensions;
      - c. Type of pavement; and,
      - d. Year of construction or most recent major rehabilitation.
    - 2. Inspection Schedule.
      - a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
      - b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
    - 3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
      - a. Inspection date;
      - b. Location;
      - c. Distress types; and
      - d. Maintenance scheduled or performed.
    - 4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.
25. **Maintenance Project Life.** The Sponsor agrees that pavement maintenance is limited to those aircraft pavements that are in sufficiently sound condition that they do not warrant more extensive work, such as reconstruction or overlays in the immediate or near future. The Sponsor further agrees that AIP funding for the pavements maintained under this project will not be requested for more substantial type rehabilitation (more substantial than periodic maintenance) for a 5-year period following the completion of this project unless the FAA determines that the rehabilitation or reconstruction is required for safety reasons.
26. **Protection of Runway Protection Zone - Airport Property.** The Sponsor agrees to prevent the erection or creation of any structure, place of public assembly, or other use in the runway protection zone, as depicted on the Exhibit "A": Property Map, except for NAVAIDS that are fixed by their functional purposes or any other structure permitted by the FAA. The Sponsor further agrees that any existing structures or

uses within the Runway Protection Zone will be cleared or discontinued by the Sponsor unless approved by the FAA.

- 27. Protection of Runway Protection Zone - Easement.** The Sponsor agrees to take any and all steps necessary to ensure that the owner of the land within the designated Runway Protection Zone will not build any structure in the Runway Protection Zone that is an airport hazard or which might create glare or misleading lights or lead to the construction of residences, fuel handling and storage facilities, smoke generating activities, or places of public assembly, such as churches, schools, office buildings, shopping centers, and stadiums.
- 28. Plans and Specifications Approval Based Upon Certification.** The FAA and the Sponsor agree that the FAA approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:
- A. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
  - B. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and,
  - C. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.
- 29. Agency Agreement:** The FAA in tendering this offer on behalf of the United States recognizes the existence of an agency relationship between the **City of David City**, as principal, and the Nebraska Department of Aeronautics, as agent, created by the Agency Agreement entered into on **03/08/2017**. The Sponsor agrees that it will not amend, modify or terminate said Agency Agreement without prior approval in writing of the FAA.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

  
\_\_\_\_\_  
*(Signature)*

**Jim A. Johnson**  
\_\_\_\_\_  
*(Typed Name)*

**Manager, Central Region Airports Division**  
\_\_\_\_\_  
*(Title of FAA Official)*

**PART II - ACCEPTANCE**

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

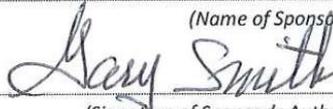
I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

Executed this 14th day of June, 2017.

**City of David City**

*(Name of Sponsor)*

By:



*(Signature of Sponsor's Authorized Official)*

**Council President Gary Smith**

*(Typed Name of Sponsor's Authorized Official)*

**Council President**

*(Title of Sponsor's Authorized Official)*

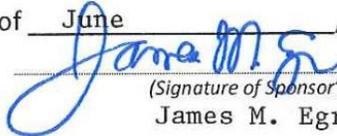
**CERTIFICATE OF SPONSOR'S ATTORNEY**

I, JAMES M. EGR, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Nebraska. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at David City (location) this 14th day of June, 2017.

By:



*(Signature of Sponsor's Attorney)*  
James M. Egr

<sup>1</sup>Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

The property at 278 South 7<sup>th</sup> Street was discussed and the following pictures were viewed. Council member Hotovy made a motion to declare the property at 278 South 7<sup>th</sup> Street in violation of City Codes and they have 15 days to address the issues. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Kobus, Trowbridge, Meysenburg, Hotovy, and Vandenberg. Voting NAY: None. The motion carried.



The property at 909 North 9<sup>th</sup> Street was discussed and the following pictures were viewed. Council member Hotovy made a motion to declare the property at 909 North 9<sup>th</sup> Street in violation of City Codes and they have 15 days to address the issues. Council member Vandenberg seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Kobus, Smith, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.



Council member Trowbridge stated: “As we need to do change orders on our project on the highway, Hottovy runs into: we don’t have, nor did the specs call for, nor did anybody talk about a licensed arborist working for the City to trim trees, but anyway they got that done, and then we needed more “no parking” signs for another \$3,000 and somebody has to approve those change orders. Hottovy asked me if I could ask the Council if he, as one person behind the Daly Company, could have the authority to do a change order up to \$10,000 with the later approval of the council.

Council member Hotovy made a motion to authorize Al Hottovy of Leo A. Daly to approve change orders up to \$10,000. Council member Vandenberg seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Smith, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Trowbridge stated: “The next agenda item is by my request and it goes back to the City Administrator which we have discussed in the past, and the question this evening, can we get approval to move forward with this search and make it as real as we can?”

Council member Kobus made a motion to move forward with a search for a City Administrator. Council member Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Trowbridge, Meysenburg, Kobus, and Smith. Voting NAY: None. The motion carried.

The property at 226 North 3<sup>rd</sup> Street was discussed and the following pictures were viewed. Council member Trowbridge made a motion to declare the property at 226 North 3<sup>rd</sup> Street in violation of City Codes and they have 15 days to address the issues. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.



The property at 240 North 3<sup>rd</sup> Street was discussed and the following pictures were viewed. Council member Meysenburg made a motion to declare the property at 240 North 3<sup>rd</sup> Street in violation of City Codes and they have 15 days to address the issues. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Meysenburg, Trowbridge, Kobus, and Smith. Voting NAY: None. The motion carried.



There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Trowbridge, Hotovy, Smith, Vandenberg, and Kobus. Voting NAY: None. The motion carried and Council President Smith declared the meeting adjourned at 9:24 p.m.



CERTIFICATION OF MINUTES  
June 14, 2017

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 June 14<sup>th</sup>, 2017; 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