

**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 **11th day of October, 2017**, in the meeting room of the City Office, 557 North 4th 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 5th day of October, 2017.

AGENDA AS FOLLOWS:

1. Roll Call;
2. Pledge of Allegiance; _____
Mayor Alan Zavodny
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; _____
Council President Gary D. Smith
4. Minutes of the September 13th, 2017 meeting of the Mayor and City Council; _____
Council member Thomas J. Kobus
5. Consideration of Claims; _____
Council member Dana E. Trowbridge
6. Committee and Officer Reports; _____
Council member Kevin N. Hotovy
7. Consideration /adoption of Ordinance No. 1277 authorizing the issuance of Bond Anticipation Notes, Series 2017B (Downtown Improvement Financing) as explained by Phil Lorenzen of D.A. Davidson & Co.; _____
Council member Patrick J. Meysenburg
8. Presentation by Chad Podolak of NPPD concerning the Public Utility Regulatory Policies Act (PURPA) and other updates; _____
Council member John P. Vandenberg
9. Consideration of an Agreement between Nebraska Public Power District and the City to transfer its PURPA obligations to purchase power and energy from PURPA qualifying facilities to NPPD; _____
City Clerk Joan E. Kovar
10. Consideration of the request by Ernie Valentine, David City Elementary Principal, for "No Parking" signs along 9th Street between "E" Street and the Railroad while construction is taking place at the School;

11. Consideration of Ordinance No. 1278 updating/replacing Chapter 9 of the David City Municipal Code Book concerning Zoning / Building Regulations;
12. Consideration of approving a Demolition Permit Application form;
13. Consideration of Resolution No. 35 – 2017 approving a \$25.00 permit fee for a demolition permit;
14. Consideration of the purchase of a Gas Chlorinator, Automatic Switchover, for the water System estimated at \$3,891.00;
15. Consideration of the Airport Hangar lease agreement;
16. Consideration of re-appointing Ted Lukassen, Jim Masek, Mary Havlovic, Kelly Danielson, and Gary Kroesing to the Board of Zoning Adjustment for 3-year terms ending on May 31, 2020;
17. Consideration of the Progress Estimate for Constructors, Inc. in the amount of \$616,646.29;
18. Adjournment;

CITY COUNCIL PROCEEDINGS

October 11, 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 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on October 5th, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

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

Also present for the meeting were: Philip Lorenzen of D.A. Davidson & Co., Chad Podolak of Nebraska Public Power District, Planning Commission Member Jim Vandenberg, Elementary Principal Ernie Valentine and Superintendent Chad Denker of David City Public Schools, Sheriff Marcus Siebken, Building Inspector Ray Sueper, Library Board member Monica Heller, Jeff Hilger, Banner Press Editor Larry Peirce, Power Plant Supervisor Eric Betzen, and Sewer Supervisor Travis Hays.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the September 13th, 2017 meeting of the Mayor and City Council were approved upon a motion by Council member Trowbridge and seconded by Council member Kobus. Voting AYE: Council members Vandenberg, Trowbridge, Kobus, Meysenburg, and Smith. Voting NAY: None. Council member Hotovy was absent. The motion carried.

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

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

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

Philip Lorenzen of D.A. Davidson & Co., distributed a printout of the "David City Financing update October 2017" and discussed the issuance of Bond Anticipation Notes, Series 2017B (Downtown Improvement Financing).

DAVID CITY DOWNTOWN IMPROVEMENT PROJECT

October 11, 2017 Update of Financing Steps

Total Contract Amount (Including change orders to date)				\$ 9,452,828.97

Total Estimated work to date				\$ 3,207,611.71
Total Retainage to date (10%)				(315,489.49)
Estimated work completed to date net of retainage				<u>\$ 2,892,122.22</u>
Less Previous Payments				(2,275,475.93)
Amount due -- Current pay period PAY ESTIMATE # 4				<u>\$ 616,646.29</u>
Leo A. Daly Estimated future billings (Guess only per Daly)				
November	\$	900,000		
December		900,000		
January		900,000		
February		300,000		
				<u>3,000,000.00</u>
				\$ 3,616,646.29
Funds on Hand form prior BANS Series 2017A				(239,944.70)
Approximate Net required over next 4 months				<u>\$ 3,376,701.59</u>
				(2,865,000.00)
Estimated shortfall				(511,701.59)
Other Available Funds				
Remaining proceeds for \$1,250,000 Water Bonds	\$	1,223,087.20		
Leo A. Daly Est 2018 billings				
March		300000		
April		500000		
				<u>-800000</u>
Projected Fund Balance April 2018				<u><u>\$ 423,087.20</u></u>
				<u><u>(88,614.39)</u></u>

Phil Lorenzen, October 11, 2017

Based on data from Leo A. Daly
 And fund balances per Joan Kovar

Total Notes issued Including 2017B Notes	\$ 5,500,000.00
Water Bonds Issued, Series 2017	1,250,000.00
	<u>\$ 6,750,000.00</u>

Cash on Hand from Sales Tax Receipts May be applied as needed
Estimated State/County Reimbursement October 2019 \$950,000.
Above figures do not include Leo A. Daly Engineering Costs

Phil stated: "This month you have pay estimate #4 to Constructors, Inc. in the amount of \$616,646.29. You are not out of money yet but you are running close, so my recommendation is; I tried to take you through the finances, as sort of a summary process, to give you the rational as where I am in terms of sizing. I am recommending that you issue notes in the

amount of three million dollars (\$3,000,000.00) as this second wave of financing for the street projects in the Downtown Improvement Project. The total contract amount (including change orders to date) \$9,452,828.97. Al Hottovy's estimate of the work to date is \$3,207,611.71. He changed the amount but didn't change the 10% retention so that math is wrong, but that's what they've got listed: \$315,489.49; I don't have a real hang up with that I don't think you probably do either. The estimated work completed to date net of retention is \$2,892,122.22. The previous payments you've made are \$2,275,475.93. The amount currently due – Pay Estimate #4: \$616,646.29. The e-mail from Al and his staff indicated that he expects that you will continue to make more rapid progress than anticipated initially in this Downtown Project. He is estimating that you will have an invoice of Pay Estimate #5 in November for \$900,000.00; these are obviously guesses using round numbers, \$900,000.00 in December, \$900,000.00 in January, and \$300,000.00 in February. He has amounts also for March and April; I did not include them there, I think we can look at the financing. I don't want to issue too much at any one time than we have to. Those additional payments, then added in, come to \$3,000,000.00, plus what you owe right now, the total is \$3,616,646.29 through Al's estimation through the end of the concurrent construction season. You've got funds on hand from prior Bond Anticipation Notes Series 2017A in the amount of \$239,944.70. That leaves me figuring that you have an approximate net required over the next four months, of \$3,376,701.59. The net proceeds from this issue of notes would be approximately \$2,865,000.00 after taking out underwriting, cost of transaction, legal opinions and those kind of things, which would leave you then, arguably, a shortfall by the time we get through the end of February of next year of about a half a million dollars (-\$500,000.00). I'm not worried about that shortfall, you do have per Joan and Tami, of the \$1,250,000 Water Bonds, there's a balance left there of approximately \$1,223,000. I have not personally been through those numbers, I asked Al to give me a listing of those but I think there are some money paid out from Downtown Improvement that really applied to the water system improvements, so you have a cushion there. If we go with billings in March & April if they turn out as Al projects; then March would be about \$300,000 and April would be about \$500,000, that's another \$800,000, net of the money you have on hand that's \$423,087.20, that would leave you, in my opinion, of a shortfall come the end of April of just about \$90,000. If you look at the bottom then, the total notes issued including the three million (\$3,000,000.00) tonight, would be \$5,500,000.00. You issued Water Bonds Series 2017 in the amount of \$1,250,000.00, so you've issued \$6,750,000.00 in financing through tonight if you go ahead and approve this ordinance. Call that seven million dollars (\$7,000,000.00), project is about \$9,500,000.00. I anticipate that you probably have cash on hand from sales tax receipts. You can apply that without running that through a debt borrower, you can make that payment directly, so I'm going to guess you've got maybe around a million dollars (\$1,000,000.00) floating around by the winter months that can go ahead and simply be applied to that next wave of project expenses. I don't know what that balance currently is but you and I need to check on that, because there is no sense issuing more debt than you need if you can go ahead and make a payment directly out of the cash received from sales tax. Then you'll have a payment in October 2018, not 2019, \$950,000 comes in from the State. So, if you take roughly seven million (\$7,000,000.00), you take a million (\$1,000,000.00) of sales tax on hand, you take about a million (\$1,000,000.00) late in the season maybe before the project is done from the State, well that gives you approximately nine million dollars (\$9,000,000.00) in change. So, there may be another small issuance of notes down the line sometime in 2018, but my view is this three million (\$3,000,000) should carry you pretty well into the Spring. I am anticipating that in today's market, the first series of notes was at a rate of 1.65%, we're probably about at that same level, the market is a little weaker right now, maybe about 1.75% that's what I'm estimating. If we can borrow the money at that kind of a rate and carry that forward and then go ahead and pay those notes down and shrink the amount that we have to put into permanent financing, that's going to save you dramatically in terms of the overall borrowing costs over the life of the project. I have

no clue as to the accuracy of Al's guesstimate but I guess if I was guessing I'd guess nice round numbers too and figure that to about where it's going to land."

Mayor Zavodny stated: "Well that was the question I just had in my head because looking at this, and who knows because my understanding was most of the winter stuff was going to be just boring and that kind of thing for water lines and that stuff."

Phil stated: "The conversation he and I had was that you're ahead of schedule and he anticipates that once all this rainy weather stops that you should be able to make some solid advances through the remainder of the year. We did have a little frost last night in Omaha, I assume you did here, so that's upon us, but my view is rates are liable to go up a bit, my view is you can't earn anything significantly on the reinvestment of that money but if we can get the money in place for somewhere around one and three-quarters (1.75%) or there about, it seems to me you are well advised to go ahead and lock it in and have your war chest in place. The ordinance calls for not to exceed, so we can cut that back, we can adopt the ordinance as it is and cut the amount back if you want to think about that a little bit, we don't have to issue that for a while."

Council member Trowbridge asked: "How long are these issues?"

Phil stated: "I am using the full, just under three years, these are October 15, 2020. The rationale is this: if we can go ahead and leave those out for that period of time without having to roll into a bond issue and simply apply cash from the sales tax receipts to pay those down, it's going to save dramatically in terms of the overall project cost when you factor in the interest component."

Mayor Zavodny stated: "So our strategy is to slow the finance charge clock from starting if we can use accessible cash first before we finance. Is there any reason to split it? Do part now, and part when we see we need it? Here's what I am getting at, are we going to be better off just saying the one and three-quarters (1.75%); Are we better off locking that so at least we know what our target is as opposed to seeing what could happen?"

Phil stated: "This would satisfy the demands, in my view, through the end of February but I have no problem if we'd cut it in half, or cut it to two million, I'd have no problem. We can adopt it with "not to exceed three million" or we can cut it back to whatever we adopt tonight. This is my methodology, and you shoot it full of holes or do whatever you like. I am here to be your helper. These would have a call feature that would be coincidental with the call of the prior notes issued which is October 2018 which coincides with that first payment that comes in from the State. But my view is when that payment comes in, potentially, rather than pay down notes if we are locked into that low rate, I would use that cash to go ahead and pay project expenses."

Mayor Zavodny stated: "I just think when we are talking these amounts I'd prefer hedging our bet on the lower rate."

Phil stated: "I would be inclined to cut it back to what you need right now which would take you, I would think through December if we would go ahead and do a couple million dollars would get you where you need to be. We can look at it again in November / December."

Mayor Zavodny stated: "Let me clarify that. At 1.65% there's not a lot of room to move."

Phil stated: "I don't have a problem with hedging; it's not going to cost any more to do it in two pieces as opposed to one."

Mayor Zavodny asked: "How do you wish to proceed? Two pieces or do the whole thing?"

Phil stated: "If you did two, I would recommend that you probably plug in two million (\$2,000,000) to do this. I'll be happy to plug in whatever numbers you would like to plug in if I hear some sort of a consensus or a suggestion."

Mayor Zavodny stated: "What about a suggestion of two million (\$2,000,000)?"

Council member Vandenberg stated: "Then we can see where the construction progress is."

Mayor Zavodny stated: "That buys us a little time; both to see what the interest rate does and the market rate, and see how far along we are."

Council Member Vandenberg introduced Ordinance No. 1277. Public Financial Advisor Philip Lorenzen of D.A. Davidson, read the proposed ordinance entitled: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2017B, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

Thereupon said Ordinance No. 1277 was then read by title and Council Member Smith moved for its final passage, which motion was seconded by Council Member Kobus. The Mayor stated the question "Shall Ordinance No. 1277 be passed and adopted?" Upon roll call, the following voted YEA: Meysenburg, Vandenberg, Trowbridge, Kobus, and Smith. The following voted NAY: None. Absent: Hotovy. The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the Council, the Mayor declared the Ordinance adopted and the Mayor, in the presence of the Council, signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

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

ORDINANCE NO. 1277

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

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

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

Section 2. For the purpose of providing interim financing for a portion of the costs set out in Section 1 pending the issuance of permanent General Obligation Various Purpose Bonds by the City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as "Bond Anticipation Notes, Series 2017B" of the aggregate principal amount of not to exceed Two Million Dollars (\$2,000,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said notes shall be dated as of date of delivery and each of said notes shall bear interest at the rate of 2.00% per annum, payable semiannually on April 15 and October 15 in each year, commencing April 15, 2018, with the principal of said notes to become due and payable as follows:

Principal
Amount
\$2,000,000

Maturity
October 15, 2020

provided, however, the Notes may be issued in a lesser principal amount and may bear interest at any lower rate of interest, and may be issued with an original issue discount of not greater than 1.00% of their par principal value, all as shall be provided for in a written designation of final principal amount, final interest rate, and original issue discount, if any, (the "Designation") as may be agreed to between the City and the original purchaser specified in Section 6 of this ordinance, and the Mayor or City Administrator are hereby authorized to enter into such Designation on behalf of the City without further action of the City Council; and further provided, the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after October 15, 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 2017B

No. R-1

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

Registered Owner: Cede & Co.

Principal Amount: Two Million DOLLARS (\$2,000,000)

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

This note is redeemable at the option of the City prior to maturity anytime on or after October 15, 2018 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 Dollars (\$2,000,000) 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 Alan Zavodny

ATTEST:

City Clerk Joan Kovar

(SEAL)

CERTIFICATE OF AUTHENTICATION

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

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

(Form of Assignment)

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

Dated: _____

Registered Owner(s)

Witness: _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed note certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of such City. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Notes to be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., as the initial purchaser thereof, upon receipt of not less than 98.20% of the principal amount of the Notes plus accrued interest thereon to date of payment for the Notes, which 98.20% amount shall include an underwriters discount of not to exceed 0.80% and in addition may include an original issue discount of not greater than 1.00% of their principal par amount all as shall be stated in the Designation. Said initial purchaser shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Mayor or Clerk of the City are each individually hereby authorized to execute a Note Purchase Agreement for the sale of the Notes to D.A. Davidson &

Co, as initial purchaser of the Notes. The officers of the City, or any one or more of them are hereby further authorized to take any and all actions and enter into any and all agreements deemed necessary or appropriate in connection with the issuance and sale of the Notes, and any such actions previously taken are hereby ratified and confirmed.

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

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

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

Section 10. The City hereby covenants to the purchasers and holders of Bond Anticipation Notes, Series 2017B, 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 2017B Notes. The City hereby designates the Series 2017B Notes as its qualified tax-exempt obligations under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt bonds or other obligations, not including private activity bonds (other than qualified 501(c)(3) bonds), in the aggregate principal amount of more than \$10,000,000 in the calendar year that the Notes are issued. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized for such treatment if available.

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

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

Section 13. The Mayor and City Council do hereby approve the Preliminary Official Statement with respect to the Bond Anticipation Notes and the information therein contained, and the Mayor and City Administrator (or either of them) are authorized to approve and deliver a final Official Statement 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 11^h day of October 2017

Mayor Alan Zavodny

City Clerk Joan Kovar

[SEAL]

NOTICE OF PUBLICATION
OF ORDINANCE NO. 1277
IN PAMPHLET FORM

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of David City, Nebraska, held at 7:00 o'clock p.m. on October 11, 2017, there was passed and adopted Ordinance No. 1277 entitled:

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

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

City Clerk

[SEAL]

Published One Time: October 19, 2017

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.

Chad Podolak, Wholesale Account Manager of Nebraska Public Power District, presented NPPD updates and information concerning the Public Utility Regulatory Policies Act (PURPA) renewable waiver.

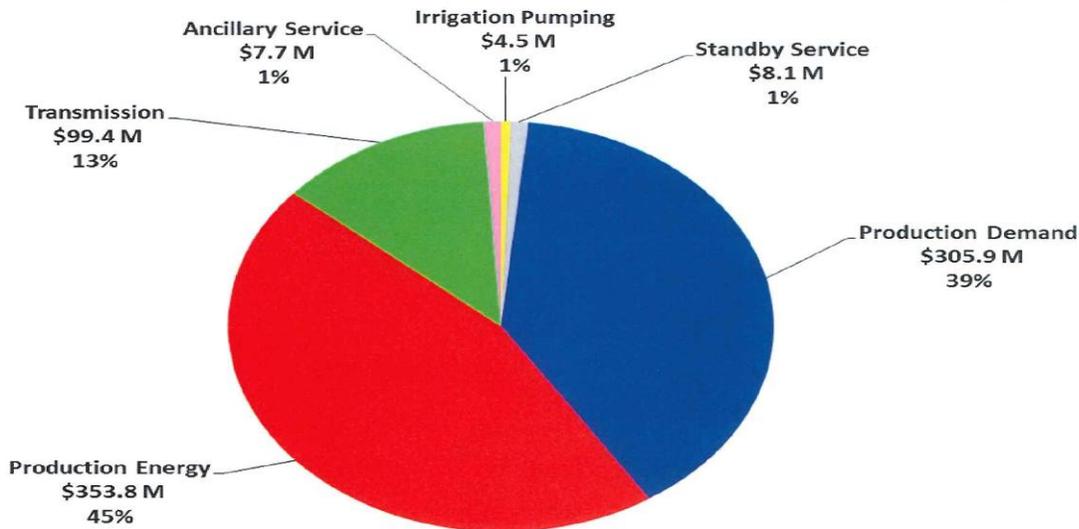
Preliminary GFPS Wholesale Rates 2018 Projected

Overall 2018 wholesale rate change of 0.0%

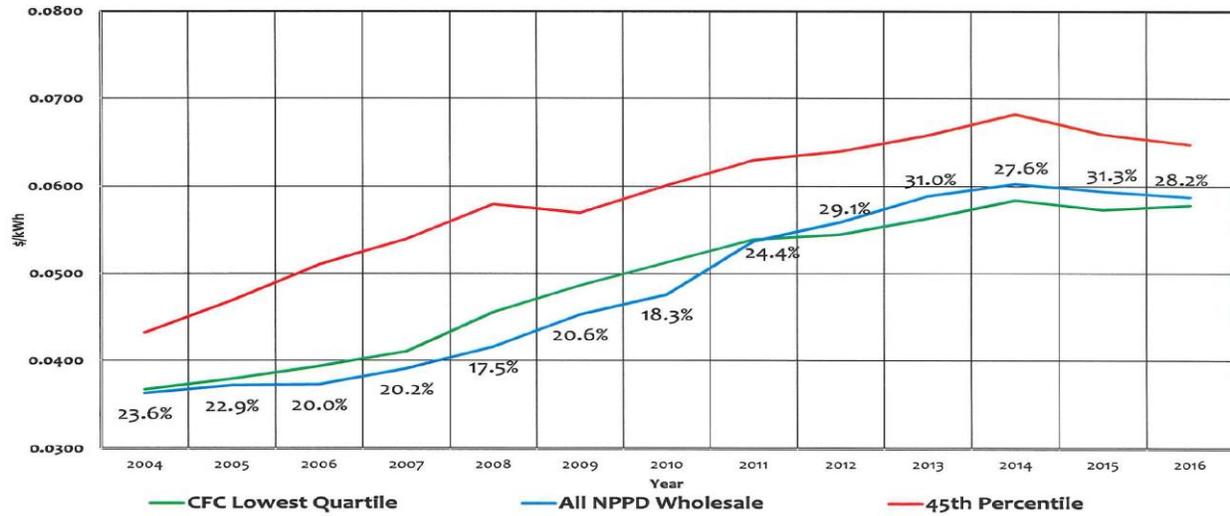
- 0.7% decrease in production rates
- 5.1% increase in transmission rates
- Individual customer percent increases will vary depending on customer usage characteristics
- Proposed effective date of February 1, 2018
 - Estimate for David City is 1.49%
 - Note – WAPA’s decrease for offset

Historical Wholesale Rate Adjustments			
Year	Production	Transmission	Overall
2018	(0.7)%	5.1%	0.0%
2017	0.0%	5.1%	0.6%
2016	0.0%	5.7%	0.6%
2015	(0.3)%	6.8%	0.5%
2014	(0.1)%	(1.0)%	(0.2)%
2013	4.2%	0.0%	3.75%

Forecast 2018 Wholesale GFPS Revenue Requirements (\$779.4M)



Purchased Power Cost per kWh, CFC Survey, Including Transmission Cost, 2004-2016



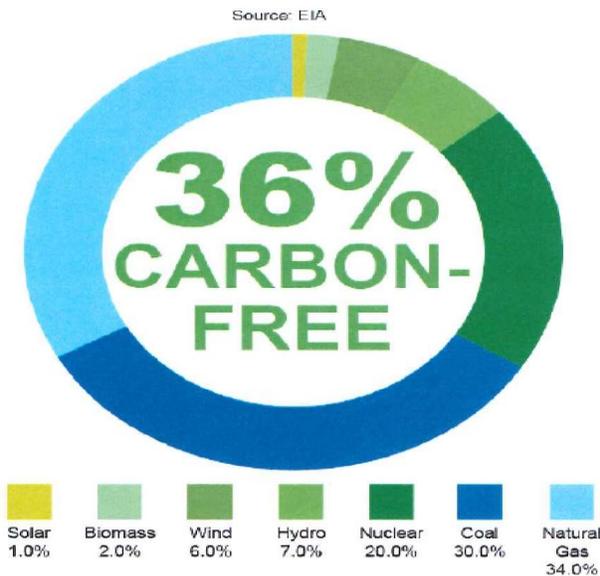
Reasons for Recent Rate Stability and Success

- **Power plants are performing well and reliably.**
- **Budget reductions – focused on efficiencies and sustainable cuts.**
- **Voluntary retirement incentive program - employee count at an all time low.**
 - **Peak was in 1999 with 2,334**
 - **Today in 2017 we have 1,868**

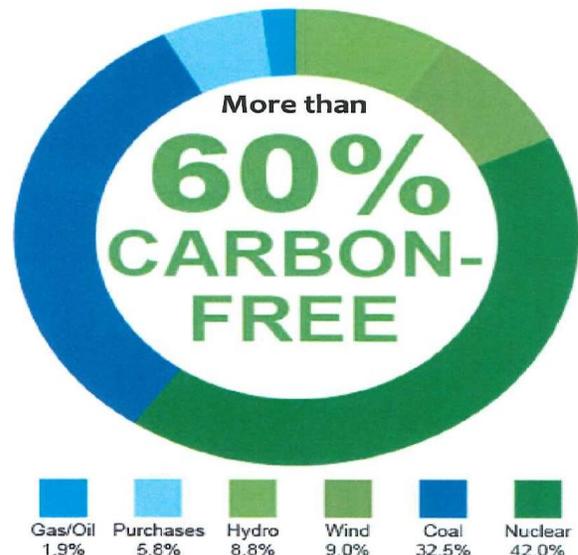
Transmission Projects

NPPD Power Line Project Status	
R-Project 345 kV Transmission Line	125 of 180 (69%) landowners have signed easements; Advertising construction contract on Sept. 1, 2017
Stegall-Scottsbluff 115 kV Transmission Line Project	Expected to energize line in mid-August; transformer place on the pad at Stegall substation
Muddy Creek-Ord 115 kV Transmission Line Project	Construction is line is 73% complete; Construction of tie lines to Muddy Creek Substation is 60% complete; In-Service Date is March 2018
Hoskins to Antelope 345kV Line Construction	Completed in 2016

2016 U.S. Energy Generation Resources



2016 NPPD Energy Generation Resources
 Nebraska Customers



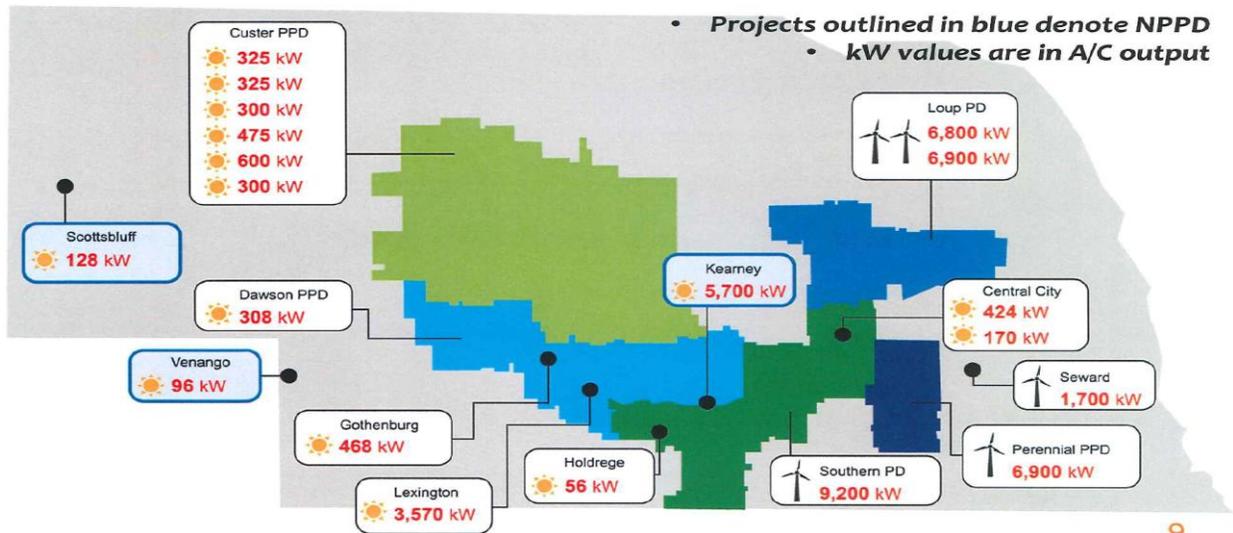
Diversity is our Strength!

Legislative Topics

- **LR 125**
 - Interim study to examine public power in Nebraska
- This and other potential Legislative items may impact the customers you serve in your town.

Qualifying Local Generation

2016 Wholesale Power Contract allows customer 10% QLG
Planned and Producing



PURPA Waiver Agreement

- **Public Utility Regulatory Policies Act (PURPA)** requires a utility to purchase the output of a renewable energy qualified facility (QF) at full avoided wholesale cost. Typical QF's include wind and solar projects.
- **NPPD and consenting customers filing to Federal Energy Regulatory Commission (FERC)** the purchase obligation transfer from wholesale customer to NPPD for QF's 26 KW – 20,000 KW. And termination of purchase obligation for QF's > 20,000 KW

Benefits to Wholesale Customer

- **Allows wholesale customer freedom to choose which generators they want to work with for their QLG allowance.**
- **Gives wholesale customer leverage in pricing negotiations.**

**APPROACH FOR FERC APPLICATION TO TERMINATE AND TRANSFER
WHOLESALE CUSTOMER PURPA QF PUCHASE OBLIGATION**

≡ Background

- Public Utility Regulatory Policies Act (PURPA)
 - Federal law that requires a utility to interconnect with and purchase from a Qualifying Facility (QF) generator at the utility's "avoided cost" or a mutually agreed upon price
 - Also requires the utility to provide retail backup service for when customer's generator is off-line or is insufficient to meet their load
 - QFs include renewable generators (wind, solar, etc.) and cogenerators (i.e., customer uses fuel to produce process steam that is then also used to generate electricity)
 - To become a QF, a generator must apply to and be certified by the Federal Energy Regulatory Commission (FERC)
 - "Avoided cost" equals the cost a utility would pay for the electricity if they did not buy it from the QF
 - Utility must determine and provide this data upon request
 - PURPA rules overrule Wholesale Power Contract provisions

≡ 2016 Wholesale Power Contract (WPC) and Wholesale GFPS Rate Schedule

- Allows for a customer to purchase a portion (10% of their peak load or 2,000 kW, whichever is greater) of their electricity from a Qualifying Local Generator (QLG)
 - Output of QLG offsets customer's purchases from NPPD
 - QLG is a renewable generator, but does not have to be certified as a PURPA QF
- If QLG allowance exceeded, then customer's wholesale bill savings due to the generator's output will be equal to NPPD's avoided costs
 - NPPD would apply a "stranded cost" charge to the customer's wholesale power bill
 - Example: QF output results in 5¢/kWh wholesale bill savings. NPPD's avoided cost is 2¢/kWh. Therefore NPPD's stranded cost charge to the wholesale customer is 3¢/kWh. Wholesale customer's net bill savings as a result of the QF output is thus 2¢/kWh.
 - This procedure addresses potential cost shifting to other customers

≡ Concerns

1. A wholesale customer's potential inability to choose which generators to negotiate with and the price they pay for generation used for their QLG allowance
 - Must buy from all certified QFs, and can be forced to pay for output at full avoided cost
2. NPPD's potential inability to recover stranded costs from wholesale customers that have exceeded their QLG allowance, resulting in possible cost shifts to other customers

≡ Recommendation

- NPPD & consenting wholesale customers make two (2) filings at FERC:
 1. Transfer the wholesale customer's PURPA QF purchase obligation to NPPD for QF generators interconnected with the wholesale customer
 - NPPD and customer enter into a Purchase Obligation Transfer Agreement
 - NPPD will purchase from QF at NPPD's avoided costs
 - Wholesale customer continues to make retail sales to their customer, if applicable
 - Transfer remains in place for the duration of the 2016 WPC
 - If NPPD exceeds the performance standard in the 2016 WPC and customer elects to reduce its purchases from NPPD, then the Purchase Obligation Transfer Agreement can be terminated
 2. Terminate the wholesale customer's obligation to purchase from a QF > 20,000 kW as allowed for by PURPA
 - NPPD already has this exemption for itself, but it does not apply to others
- This will not impact any existing contracts a customer has with a QF
- Several other utilities have utilized a similar process (including Basin and Heartland)

≡ Benefits to Wholesale Customers and NPPD

- Allows wholesale customer the freedom and flexibility to choose which generators to negotiate with and the price they pay for generation used for their QLG allowance
 - There is no obligation to purchase, nor requirement to pay avoided costs, if generator is not a certified QF
 - Eliminates need for any stranded cost charges to be billed to customers, since NPPD will directly compensate the QF at NPPD's avoided cost
 - Recognizes the QLG allowance amounts mutually agreed to between NPPD and wholesale customers and included in the 2016 WPC
 - Prevents potential of cost shifts to other customers if some exceed this allowance
 - Eliminates wholesale customer's administrative burden of negotiating with QFs and calculating and justifying their avoided costs
 - NPPD makes the purchase instead at its avoided costs
-

≡ Customer Options

- Agree to be a party to neither, one, or both filings
 - To be a part of the purchase obligation transfer filing, customer must enter into a Purchase Obligation Transfer Agreement with NPPD
 - To be a part of the Termination >20,000 kW filing, customer must notify NPPD via letter or email of their intent to participate
 - Customer also must provide a list of existing QFs and potential QFs that they are in discussions with for possible future purchases (even those <20,000 kW) for notification purposes as required by PURPA. Do not need to provide information on customers taking net metering service.
- If a wholesale customer decides not to transfer their QF purchase obligation to NPPD, the billing arrangements will be handled as described in the GFPS Rate Schedule:
 - All applicable QFs will be counted toward the customer's QLG allowance as specified in the 2016 WPC
 - If the customer exceeds their QLG allowance, NPPD will apply a stranded cost charge to the customer's bill

≡ Schedule

- June-August
 - Meet with wholesale customers to explain the proposal, share the draft documents, and answer questions
 - Finalize FERC filing documents
 - Finalize and execute Purchase Obligation Transfer Agreement between NPPD and the wholesale customer
- September
 - NPPD provides public notice of intent to file at FERC and notify potentially affected QFs as required by PURPA
 - NPPD makes the two (2) filings on behalf of both NPPD and consenting customers
 - Expect it to take at least several months before FERC will issue a ruling

FERC Filings - Customer Generation Q&A

1. How many FERC filings is NPPD proposing to make and what is the purpose of each?

Response: NPPD is proposing to make two (2) joint FERC filings with those wholesale customers who agree to do so:

- a. Filing #1 would transfer to NPPD the wholesale customer's obligation under the Public Utility Regulatory Policies Act (PURPA) to purchase from a Qualifying Facility (QF) generator directly interconnected with the wholesale customer. This filing would apply to all generators 20,000 kW and less that have applied for and received FERC certification as a QF.
- b. Filing #2 would terminate the wholesale customer's purchase obligation under PURPA for all QF generators greater than 20,000 kW.

2. Explain the generator size categories that are relevant for the proposed FERC filings.

Response: There are three (3) size categories:

- a. <25 kW: such generators qualify for net metering service, and are not impacted by either of the proposed FERC filings.
- b. 25 kW – 20,000 kW: Filing #1 transfers the wholesale customer's QF purchase obligation under PURPA to NPPD. However, the wholesale customer retains the obligation to provide retail electric service to end-use customers with such generators.
- c. >20,000 kW: Filing #2 terminates the wholesale customer's QF purchase obligation under PURPA. NPPD has already filed and received FERC approval for such termination when a QF is directly interconnected with NPPD facilities, but such termination does not extend to any of its wholesale customers.

3. Since there are 2 FERC filings proposed, what is NPPD's position on allowing a wholesale customer to participate in one of the filings but not the other?

Response: A customer may decide to participate in only one of the two filings if so desired.

4. Once a wholesale customer agrees to transfer their PURPA QF purchase obligation to NPPD, can such agreement be rescinded in the future?

Response: The written agreement between NPPD and the wholesale customer to be executed prior to making the FERC filing will specify that the transfer will remain in place for the duration of the term of the 2016 Wholesale Power Contract (WPC). However, the wholesale customer can terminate the written agreement earlier if NPPD does not meet the performance standard included in the WPC and the wholesale customer elects to reduce their purchases from NPPD. It is expected that continuation of the transfer will be considered for inclusion in the provisions of the next wholesale power contract.

5. Assume that a wholesale customer agrees to transfer their PURPA QF purchase obligation to NPPD and such transfer is approved by FERC effective on a particular date. If the wholesale customer is approached by a QF prior to such effective date but no purchase arrangement between the 2 parties has been agreed to, under what circumstances would the wholesale customer have to complete the negotiation and buy directly from that QF rather than transferring the purchase to NPPD?

Response: This is a gray area and there is no definitive answer to the question. The lack of a signed purchase agreement between the parties by the FERC-approved effective date is not sufficient grounds to conclude that the purchase obligation is effectively transferred to NPPD. The farther the wholesale customer and the QF have proceeded in the negotiation process, the more likely it is that the wholesale customer will need to complete the process and purchase directly from the QF.

- 6. If a wholesale customer agrees to transfer their PURPA QF purchase obligation to NPPD, what is the impact (if any) on existing arrangements the wholesale customer has with QF generators?**

Response: The FERC filings will have no impact on existing contractual arrangements a wholesale customer has with a generator(s). The FERC filings will only impact the obligations associated with future QF projects.

- 7. If a wholesale customer agrees to transfer their PURPA QF purchase obligation to NPPD, can they still negotiate with a generation developer and purchase directly from them?**

Response: Yes, as long as such generator has not sought and received FERC certification as a PURPA QF. A wholesale customer still has the opportunity to negotiate with developers for direct purchases to meet their Qualifying Local Generation (QLG) allowance for offset purposes as allowed for under the wholesale power contract, as long as such generation is not certified as a PURPA QF.

- 8. If a wholesale customer agrees to transfer their PURPA QF purchase obligation to NPPD, then will NPPD purchase from a QF generator even if it is a Distributed Generator interconnected behind a retail end-use customer's meter?**

Response: Yes. The purchase obligation is transferred to NPPD for all generators which are certified with FERC as PURPA QFs. PURPA does not differentiate between Local Generation (not interconnected behind an end-use customer's meter) and Distributed Generation (is interconnected behind an end-use customer's meter). Note that while NPPD would be responsible for purchasing any energy offered by such a generator, the wholesale customer will retain the obligation to provide retail service to their end-use customer with such generator, including the provision of standby service (backup, supplemental, and maintenance power and energy) if requested by such customer. In addition, if a generator is certified with FERC as a PURPA QF it is only entitled to avoided cost payments and not Net Metering arrangements.

- 9. How will NPPD handle the GFPS billing to the wholesale customer if a new generator is installed that causes the wholesale customer's total amount of QLG to exceed the amount allowed to be used for offset purposes as specified in the wholesale power contract?**

Response: NPPD will split the hourly output of such a generator into two components for billing purposes. A portion of the output will offset the customer's GFPS demand and energy billing units as allowed for by the QLG provisions of the contract, and the remaining portion will be purchased by NPPD under the provisions of the Simultaneous Buy/Sell Rate Schedule. For example, assume a new 1,000 kW generator is installed but the wholesale customer only has 400 kW until they reach their limit for QLG used for offset purposes. In every hour, 40% (= 400/1,000) of the output of such generator will offset the customer's GFPS billing units, and the remaining 60% of the output will be purchased by NPPD under the Simultaneous Buy/Sell Rate Schedule.

10. How will NPPD calculate its “stranded cost charge” as referenced in Section 10 of the GFPS Rate Schedule?

Response: See the attached numerical example. The stranded cost charge is equal to NPPD’s GFPS production revenue lost as a result of the generator’s output, minus the costs saved by NPPD (i.e., “avoided costs”). Application of the stranded cost charge results in the wholesale customer’s GFPS power bill saving due to the output of the generator being equal to NPPD’s avoided costs. This is the same result as if the customer takes service for such generator under the Simultaneous Buy/Sell (SBS) Rate Schedule. Note that the stranded cost charge is only applicable in situations where service under the SBS rate is required for a particular generator but is not entered into by the wholesale customer and/or generator (e.g., in the case where the wholesale customer has exceeded their wholesale power contract QLG allowance to be used for offset purposes).

11. Does the “stranded cost charge” include transmission?

Response: No. This charge is only based on production demand and energy charges as described in the GFPS Rate Schedule.

12. If a wholesale customer does not agree to transfer their PURPA QF purchase obligation to NPPD, do they need to have “avoided cost” rates determined and in place?

Response: PURPA specifies in 18 CFR Part 292.302 the requirements for availability of utility system cost data. In general, a utility with total annual sales greater than 500,000 MWh is required to submit to its regulatory authority and to have available for public inspection its estimated avoided cost data for a 6-year period. Smaller utilities are to provide comparable data upon request. See 18 CFR Part 292.302 for additional details and specific requirements. Such avoided cost data provides a potential QF with information to evaluate the financial feasibility of their project, but does not necessarily represent the utility’s firm rate to be used for purchases from every QF. The utility can consider other factors (e.g., the operating characteristics of the generator) as described in 18 CFR Part 292.304 when determining its avoided cost for a specific proposed QF.

13. If a wholesale customer does not agree to transfer their PURPA QF purchase obligation to NPPD, then what is the customer’s “avoided cost”, and does it change if and when the customer exceeds their QLG allowance for offset purposes as specified in the wholesale power contract?

Response: As long as the wholesale customer has not exceeded their QLG allowance for offset purposes as specified in the wholesale power contract, their avoided cost for purchase from a QF is the customer’s GFPS wholesale power bill savings realized due to the operation of the QF generator.

In the case where a customer has exceeded their QLG allowance for offset purposes, the customer will be required to take service under the Simultaneous Buy/Sell Rate Schedule. If the customer and/or the QF don’t agree to this, then NPPD will assess a “stranded cost charge” to the wholesale customer (see numerical example and discussion of this charge earlier in this document). This will have the effect of lowering the customer’s GFPS wholesale power bill savings to the level of NPPD’s avoided costs. In other words, the wholesale customer’s avoided costs will now be equal to NPPD’s avoided costs in this situation.

- 14. Other than the current Tri-State issue, do you know of any challenges, either through the courts or via FERC on the waivers conducted by Heartland, Basin, Golden Spread, or others?**

Response: No, other than the Tri-State issue, there are no pending challenges regarding waivers. There is, however, one pending appeal by a QF challenging FERC granting Entergy's termination of its purchase obligation on a service territory wide basis for QFs over 20 MW. The QF is challenging FERC's determination that the QF failed to rebut the presumption that MISO offers non-discriminatory access to wholesale markets.

- 15. What are the advantages for a developer to acquire QF status for their generator?**

Response:

- a. Right to sell energy to a utility at the utility's avoided cost.
- b. Right to purchase energy from a utility.
- c. Relief from some regulatory approvals and rate regulation.
- d. In Nebraska, Power Review Board involvement is minimal whether developer has QF status or not.
- e. We do not believe that there are any federal tax credits that are tied to a generator's QF status.

- 16. Should a wholesale customer not waive their purchase obligation to NPPD and serve a QF directly, any additional stranded costs assessed by NPPD could be legitimately deducted from the wholesale customer's avoided cost calculation for the QF, correct?**

Response: Yes.

- 17. Is NPPD still looking at only making a one-time application to FERC later this year for these waivers?**

Response: Yes, NPPD is not willing to commit to later filings at this time. Later additional filings would result in more costs and staff time needed to answer questions, and legal fees of NPPD's outside FERC counsel to prepare and shepherd each filing through the FERC filing process.

- 18. Is it correct that a QF can petition FERC to rescind its QF status? If this is correct, what happens with the FERC filing and to the transfer agreement between NPPD and the wholesale customer?**

Response: Yes. A QF can voluntarily relinquish its QF status. If that were to happen it would render the transfer of the PURPA purchase obligation as to that particular QF facility moot. In other words, if the facility is no longer a QF, neither the wholesale customer nor NPPD would have a PURPA obligation to purchase the QF's output.

- 19. If a transfer agreement is terminated in accordance with its provisions, we assume that QFs previously waived to NPPD and that signed a contract with NPPD would still be under contract to NPPD, correct?**

Response: Yes.

20. What is the current schedule for making these filings at FERC?

Response: The current plan is to make these filing at FERC in September 2017.

Example Wholesale Bill Calculation:

Stranded Costs for Customer Generation

(only applicable under situations specified in Section 10 of GFPS Rate Sch.)

Assumptions:

1. Generator output at hour of monthly billable peak = 1,000 kW
2. Generator total output for the month = 500,000 kWh
3. NPPD's avoided energy costs = \$ 0.021 /kWh
4. NPPD's avoided capacity costs assumed to be zero

A. Production bill based on customer's net load (i.e., customer's billing units reduced by behind-the-meter generator output):

Demand	19,000 kW x	\$ 12.54 =	\$ 238,260
Energy	8,500,000 kWh x	\$ 0.027 =	\$ 229,500
			\$ 467,760

B. Production bill based on customer's gross load (i.e., if generator had not operated):

Demand	20,000 kW x	\$ 12.54 =	\$ 250,800
Energy	9,000,000 kWh x	\$ 0.027 =	\$ 243,000
			\$ 493,800

Reduction in customer's bill (before stranded costs):	\$ (26,040)
Savings per kWh of generation:	\$ 0.0521 /kWh

C. Stranded Cost Charge calculation per Section 10 of GFPS Rate Schedule:

Production bill if generator did not operate	\$ 493,800
Less: Production bill as a result of generator's output	\$ (467,760)
Less: NPPD's avoided costs applied to generator output	\$ (10,500)
Stranded Cost Charge:	\$ 15,540
Charge per kWh of generation:	\$ 0.0311 /kWh

Which is equivalent to the following calculation utilizing \$/kWh customer savings and NPPD's avoided costs:

$$\begin{aligned}
 & (\$ 0.0521 - \$ 0.021) \times 500,000 \text{ kWh} \\
 & \text{Customer savings} \quad \text{NPPD A.C.} \quad = \quad \$ 15,540
 \end{aligned}$$

D. Customer's total production demand and energy bill for the month:

	\$ 467,760 +	\$ 15,540 =	\$ 483,300
Reduction in customer's bill (after stranded costs):	\$ (10,500)		
Savings per kWh of generation:	\$ 0.0210 /kWh		(equal to NPPD's avoided cost)

Chad Podolak stated: "The Public Utility Regulatory Policies Act (PURPA) Waiver Agreement was brought to us by a couple of customers. PURPA was established in 1978. Some solar, some wind developers, some renewable developers wanting to do development, they'd go to a town like David City and they would say "hey, we want to sell you our power", and David City would say "we don't need your power", and so it was an issue from a developer's stand point. So, the Federal Government got involved and created this 1978 PURPA certification and basically said if a developer PURPA certifies, that allows them three different things: 1) it insures that they can interconnect to the local utility, which usually isn't a problem, 2) it insures that the local utility would serve them when their alone, for example a wind generator, in the winter time it has heating elements and what have you, so they are alone at certain periods of time, and 3) it forces a utility to pay their full avoided cost whether they want to be involved in the project or not, and that's really the leg of the stool that had some customers, some municipalities coming to us and saying.....the developers that were coming into their area were out of state, some of them were even out of country, and they were saying "Hey, we are going to certify and you are going to buy it", and they were saying "We want to do our own thing, we don't want to have to buy it", and the developers were saying "We're PURPA certified, you're forced to buy it". So, they came to NPPD and asked "Is there a way we can get out of this? We would rather you deal with them than us dealing with them". The waiver does that, the waiver says if somebody comes in here and forces you to buy the output of their project, the only way they can do it, is if they PURPA certify, and you can certify on line and you can un-certify on line, and once they certify they are automatically getting kicked over to NPPD. One of us has to pay full avoided cost, either you or us. The waiver does two things: 1) it provides you some protection from people that you don't really want to work with, and it gives you some leverage to negotiate a price that's hopefully favorable for you. It may be the solution to a problem that never shows up, but we just don't know."

Council member Trowbridge stated: "Looking at this, I don't see that we have anything to lose and everything to gain, because it takes us out of the loop. If somebody comes in and starts ranting about "we're going to do a wind turbine as close as we can get it", we just say "go talk to NPPD because we're not buying your power. So, then NPPD has to buy it."

Chad Podolak stated: "The requirements that the Federal Energy Regulatory Commission (FERC) laid out doesn't relieve us (NPPD), either David City or NPPD has to pay for it. Once it gets kicked over to us (NPPD) our avoided cost is about half because we're really just dealing with what our fuel costs are. Yours are more because there's delivery and there's some demand costs."

Council member Trowbridge made a motion to authorize Mayor Zavodny to sign an agreement between Nebraska Public Power District and the City to transfer its PURPA obligations, to purchase power and energy from PURPA Qualifying Facilities, to NPPD. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

**Agreement
between
Nebraska Public Power District
and
City of David City, Nebraska**

This Agreement is executed as of the ____ day of _____, 2017, by and between Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska (NPPD), and the City of David City, a municipal corporation and political subdivision of the State of Nebraska (Customer).

RECITALS

WHEREAS, NPPD and Customer are parties (Parties) to a 2016 Wholesale Power Contract for demand and energy entered into effective January 1, 2016 (the Contract), and;

WHEREAS, NPPD and Customer wish to address for purposes of the Public Utility Regulatory Policies Act (PURPA) requirements and the Parties rights and obligations with respect thereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as set forth below:

Customer agrees and consents to the transfer of its PURPA obligations to purchase power and energy from PURPA qualifying facilities (QFs) to NPPD and NPPD agrees to assume the obligation to purchase power and energy from QFs as long as Customer takes electric service from NPPD under the Contract, and as long as Customer does not act to reduce its electric purchases in accordance with the Contract provisions in the case where NPPD exceeds the Performance Standard as defined in the Contract, which action shall give the Customer the right to terminate this Agreement.

It is expressly agreed, however, that Customer shall retain the obligation to provide supplementary, interruptible, backup, and maintenance power to any QF that interconnects with Customer at rates that are non-discriminatory and consistent with what Customer charges other retail customers for similar services.

This Agreement shall be effective upon the filing date of the Federal Energy Regulatory Commission joint request of NPPD and Customer for a waiver of the Customer PURPA requirements and shall continue in effect through the duration of the Contract.

Except with respect to application to and implementation of this Agreement to the Contract, all terms and conditions of the original Contract shall remain in full force and effect.

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

Council member Trowbridge made a motion to pass and adopt Ordinance No. 1278 on the third and final reading. Council member Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Smith, Kobus, Meysenburg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried and Ordinance No. 1278 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1278

AN ORDINANCE REPLACING CHAPTER 9, OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK WITH THE FOLLOWING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Chapter 9 of the David City Municipal Code Book is hereby amended to read as follows:

Chapter 9

ZONING / BUILDING REGULATIONS

Article 1. Zoning / Building Administrator

§9-101 ZONING / BUILDING ADMINISTRATOR; POWER AND AUTHORITY. The Zoning / Building Administrator will work closely with and report to the City Council and the City Clerk. He/she will receive and review applications for zoning permits; interpret and enforce the General Plan and Zoning Ordinances; approve or deny zoning permit applications in compliance with ordinances and the General Plan; issue zoning permits and certificates of zoning inspections. Conduct inspections of property in conjunction with zoning permit applications and for compliance with ordinances and the General Plan. Conduct inspections of property resulting from complaints. Conduct follow up inspections of property for compliance, during the building process and upon completion, prior to issuance of a certificate of zoning compliance. Maintain records, subject to public inspection, of all zoning permit applications, complaints, investigations, inspections and any related activities. He/she may be required to attend all Planning Commission and Board of Zoning Adjustment Meetings, and be required to attend city council meetings as directed by the council. The Zoning / Building Administrator will submit a monthly city department report to the city council listing permits issued or denied, applications to the Planning Commission or Board of Adjustment and related activities.

Article 2. Zoning / Moving Permits

§9-201 ZONING / MOVING PERMITS; LIMITATION. If the work described in any Zoning / Moving Permit has not begun within six (6) months from the date of issuance thereof,

said permit shall expire; it shall be cancelled by the Zoning / Building Administrator; and written notice thereof shall be given to the persons affected.

If the work described in any Zoning / Moving Permit has not been substantially completed within two (2) years of the issuance thereof, said Permit shall expire and be cancelled by the Zoning / Building Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled Permit shall not proceed unless, and until, a new Zoning Permit has been obtained.

§9-202 ZONING PERMITS. Any person desiring to commence or proceed to erect, construct, repair, enlarge, demolish, or relocate any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a zoning / building permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the current zoning, the nature of the use or occupancy, the principal dimensions, the estimated cost, the names of the owner, architect, and contractor, and such other information as may be requested thereon. Payment of the permit fee set by resolution of the Governing Body is due at the time the application is filed. The application, plans, and specifications so filed with the Municipal Clerk shall be checked and examined by the Zoning / Building Administrator. If the application, plans, and specifications are found to be in conformity with the requirements of this Chapter and all other ordinances applicable thereto, the Zoning / Building Administrator shall authorize the Municipal Clerk to issue the said applicant a permit. Whenever there is a discrepancy between permit application procedures contained herein and those contained in any building code adopted by reference, the provisions contained herein shall govern. (*Ref. 17-130 thru 17-132, 17-550, 17-1001 RS Neb.*)

§9-203 BUILDING MOVING; REGULATIONS. It shall be unlawful for any person, firm, or corporation to move any building or structure within the Municipality without a written permit to do so. Application may be made to the Municipal Clerk, and or the Zoning / Building Administrator and shall include the present and future location of the building to be moved, the proposed route, the equipment to be used, and such other information as the Governing Body may require. The application shall be accompanied by a certificate issued by the County Treasurer to the effect that all the provisions regulating the moving of buildings have been complied with on the part of the owner of the real estate upon which the said building is presently located. The Municipal Clerk shall refer the said application to the Zoning / Building Administrator for approval of the proposed route over which the building is to be moved. Upon approval of each municipal department head listed on the building moving permit, and upon approval of the Zoning / Building Administrator, the Municipal Clerk shall then issue the said permit; provided, that a good and sufficient corporate surety bond, check, or cash in the amount set by motion of the Governing Body and conditioned upon moving said building without doing damage to any private or Municipal property is filed with the Municipal Clerk prior to the granting of any permit. All buildings wider than ten feet (10'), or longer than twenty feet (20'), or, when in a position to move, higher than fifteen feet (15'), or of any other size which shall require displacement of any City property, shall require a building moving permit and a building moving fee in the amount set by motion of the Governing Body. All other buildings or structures shall require only a building moving permit. In the event it will be necessary for any licensed building mover to interfere with the telephone or telegraph poles and wires, or a gas line, the company or companies owning, using, or operating the said poles,

wires or line shall upon proper notice of at least twenty-four (24) hours, be present and assist by disconnecting the said poles, wires, or line relative to the building moving operation. All expense of the said disconnection, removal, or related work shall be paid in advance by the licensee unless such disconnection or work is furnished on different terms as provided in the said company's franchise. Whenever the moving of any building necessitates interference with a water main, sewer main, pipes, or wire belonging to the Municipality, notice in writing of the time and route of the said building moving operation shall be given to the various Municipal officials in charge of the Municipal utility departments who shall proceed in behalf of the Municipality and at the expense of the mover to make such disconnections and do such work as necessary. (Ref. 60-6,288 to 60-6,294, 60-6,296)

§9-204 BUILDING MOVING; DEPOSIT. At such time as the building moving has been completed, each municipal department head listed on the building moving permit shall inspect the premises and report to the Municipal Clerk as to the extent of damages, if any, resulting from the said relocation and whether any Municipal laws have been violated during the said operation. Upon a satisfactory report from each municipal department head listed on the building moving permit, the Municipal Clerk shall return the corporate surety bond, cash, or check deposited by the applicant. In the event the basement, foundation, or portion thereof is not properly filled, covered, or in a clean and sanitary condition, the Governing Body may apply the money deposited for the purpose of defraying the expense of correcting the said conditions. If the expense of correcting the hazardous condition is greater than the amount of the deposit set by motion of the Governing Body, as required herein, the Governing Body may recover such excess expense by civil suit or otherwise as prescribed by law.

§9-205 DEMOLITION PERMIT. Any person desiring to commence or proceed to demolish any building or dwelling, or cause the same to be done, shall file with the Municipal Clerk an application for a demolition permit. The application shall be in writing on a form to be furnished by the Municipal Clerk for that purpose. Every such application shall set forth the legal description of the land upon which the construction or relocation is to take place, the current zoning, the nature of the use or occupancy, the principal dimensions, height, the names of the owner, and any other information as may be requested thereon. Payment of the permit fee set by resolution of the Governing Body is due at the time the application is filed. The application, plans, and specifications so filed with the Municipal Clerk shall be checked, examined, and approved or denied by the Zoning / Building Administrator.

Article 3. Building Code

§9-301 BUILDING CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Building Code, 2012, and printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Building Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the city office during their regular business hours.

The provisions of the International Building Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.)

§9-302 INTERNATIONAL RESIDENTIAL CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Residential Code, 2012, printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Residential Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the City Office during their regular business hours.

The provisions of the International Residential Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.)

§9-303 INTERNATIONAL PROPERTY MAINTENANCE CODE; ADOPTED BY REFERENCE. To provide certain minimum standards, provisions, and requirements for safe and stable design, methods of construction, and uses of materials in buildings hereafter erected, constructed, enlarged, altered, repaired, relocated, and converted, the International Property Maintenance Code, 2015, printed in book or pamphlet form is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

The following amendments shall be incorporated into the 2015 International Property Maintenance Code:

2015 International Property Maintenance Code:

- A. Should a conflict arise between two or more areas within this Code, or between City Ordinance and this Code, the more restrictive regulation shall apply.

Property Maintenance Code: David City Amendments:

Section 112.4 Failure to Comply. Any person who shall continue to work without a required permit or after being served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$200.00 or more than \$500.

Section 201.3 Terms defined in other code: Where terms are not defined in this code and are defined in the International Building Code, International Residential Code, National Fire Codes, Uniform Plumbing Code, or the National Electric Code, such terms shall have the meanings ascribed to them as stated in those codes, as adopted by the City of David City, Nebraska.

Section 202 – GENERAL DEFINITIONS:

BLIGHT OR BLIGHTED: Any unsightly condition including the accumulation of debris, litter, rubbish or rubble; fences characterized by holes, breaks, rot, crumbling, crackling, peeling, rusting or incorrect installation; landscaping that is dead, landscaping that is characterized by uncontrolled growth or lack of maintenance, or is damaged and any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

DEBRIS: Any substance of little or no apparent economic value including, but not limited to, deteriorated lumber, old newspapers, furniture parts, stoves, sinks, cabinets, household fixtures, refrigerators, automobile parts, abandoned, broken or neglected equipment, or the scattered remains of such items.

DETERIORATION: To weaken, disintegrate, corrode, rust or decay and lose effectiveness. The lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance over a substantial or widespread area as opposed to a limited or concentrated area.

EXTERMINATION: The control or elimination of insects, vermin, or other pests by eliminating their harborage places.

GARBAGE: The animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

JURISDICTION: The City of David City, Nebraska.

LITTER: Decaying or non-decaying solid and semi-solid wastes including, but not limited to, both combustible and non-combustible wastes, such as paper, trash, cardboard, waste material, cans, yard clippings, wood, glass, bedding, debris, scrap paving material, discarded appliances, discarded furniture, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may become a fire hazard, piles of earth mixed with any of the above foreign objects, including inoperable vehicles.

Section 302.4 Weeds: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches. All noxious weeds and worthless vegetation shall be prohibited.

Upon failure of the owner or agent to cut and destroy weeds, or remove and properly dispose of any accumulation of yard waste, after service of a Notice of Violation, they shall be subject to prosecution in accordance with Municipal Ordinance.

If compliance is not affected within 7 days of service of the Notice of Violation, any duly authorized employee of the Jurisdiction, or contractor hired by the Jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Section 304.2 Protective Treatment: All exterior surfaces, including but not limited to, roofs, walls, doors, door and window frames, cornices, porches, trim, balconies, decks, driveways, walkways, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or by other protective covering or treatment. Peeling, flaking and chipped paint on more than 25% of any wall or face shall be eliminated and surfaces repainted or recovered. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust or corrosion. Oxidation stains shall

be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Section 304.14 Insect Screens: During the period from **March 1st** to **October 31st**, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens of not less than 16 mesh per inch, and screen doors, when present, and used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans are employed, in commercial or industrial applications only.

Section 304.20 Maintenance of Buildings and Premises: All buildings, or portions thereof, shall be adequately maintained so as to be free of deterioration that endangers or is likely to endanger the life, limb, health, property, or welfare of the public or occupants thereof. All exposed exterior surfaces, windows and doors of buildings, structures and premises upon which they are located shall be adequately maintained so as to not present a deteriorated or blighted appearance.

Inadequate maintenance of buildings shall include but not be limited to the following:

- 1) Any building of portion thereof which is determined to be an unsafe building by the local Fire Authority.
- 2) Buildings which for a period of six months or more are boarded up, left in a partial state of destruction, or left in a state of partial reconstruction or remodel.
- 3) Broken or missing windows constituting hazardous conditions.
- 4) Buildings in which the painted exterior surfaces or walls have begun to dry rot, mold, warp, or become infested with vectors or vermin.
- 5) Buildings which have substantial and noticeable conditions of blight or deterioration.
- 6) Buildings which have cracked, chipped, flaking, peeling, or missing paint over 25% or more of any wall or face of the building.
- 7) Buildings which have upholstered or other furniture or appliance which is designed or manufactured primarily for indoor use, with no original outdoor weatherproofing qualities including, but not limited to, upholstered chairs, couches, or bedding used or left on unenclosed exterior porches, balconies, or in an exposed open area, including, but not limited to, decks, patios, roofs, yards, driveways, or walkways.

Inadequate maintenance of the premises shall include, but not be limited to the following:

- 1) Any accumulation of debris, litter, rubbish, rubble, solid waste, yard waste, tires, and similar materials or conditions.
- 2) Any portion of an un-mowed lawn in excess of 8 inches in height.
- 3) Dead or dying trees, topped trees, stumps, or limbs or other natural growth which by reason of rotting or deteriorating condition or storm damage constitute a diseased, deteriorated, or blighted appearance.
- 4) Any accumulation of unused construction and mechanical supplies or parts stored outside of a building.
- 5) Any wheeled vehicle left outdoors in a partial state of disrepair for more than thirty days.
- 6) Sources harboring infestation of vermin or vectors.
- 7) Any accumulation of non-ornamental items in any yard or premises.

a. Exceptions:

- i. Permanently attached playground equipment in safe condition.
 - ii. Outdoor cooking equipment in good working order.
- 8) Any vehicle or trailer parked within, or blocking the public Right of Way.
- 9) Premises which have substantial and noticeable conditions of blight, abandonment, or disrepair.

Identifying any premises as available for sale or rent, shall not relieve the current property owner of the responsibility to bring the premises into compliance with any City Code or Ordinance, within the time limit set by the Zoning Administrator.

Section 305.3 Interior Surfaces: All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood or other defective surface conditions shall be corrected. Surface mold mildew shall be considered a sanitation issue and shall fall under the occupant's responsibility for maintaining a sanitary and clean interior environment for purposes of this Code.

Exception: When mold, mildew or dry rot is the direct result of a structural defect or Code violation, as determined by the Code Official, the responsibility shall lie with the property owner to correct the violations within the time limit set by the Code Official.

Section 502.5 Public Toilet Facilities: Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Uniform Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided at all times during occupancy of the premises.

Section 602.2 Residential Occupancies: Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees Fahrenheit in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.

Section 602.3 Heat Supply: Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, shall maintain, and make available a permanent system of heat to the occupants thereof from a period starting September 15th to May 15th. Said system must be capable of maintaining a temperature of not less than 65 degrees Fahrenheit in all habitable rooms, bathrooms and toilet rooms.

Section 602.4 Occupiable Work Spaces: Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to May 15th. The system must be capable of maintaining a minimum temperature of 65 degrees Fahrenheit during the period the spaces are occupied.

Section 702.1 General: A safe, continuous and unobstructed path of travel shall be provided and maintained from any point in a building or structure to the public way. Means of egress shall comply with Life Safety Codes as set forth in NFPA, as adopted by the State of Nebraska.

Appendix A: Standards for Continuously Vacant Residential Premises:

- 1) The exterior surfaces of all structures on the premises must be maintained within the constraints of this Code.
- 2) Any sources of infestation or rot shall be required to be removed immediately.

- 3) The yard, trees, and shrubbery shall be maintained within the constraints of this Code.
- 4) Installing or maintaining a legal residential privacy fence shall not be construed as permission to store any illegal material outdoors on the premises.
- 5) Items placed on, or within the premises shall not contribute to a deteriorated or blighted appearance of the property.
- 6) Any unsafe or insanitary condition shall be brought into compliance within 10 days' notice from the Zoning Administrator.

One (1) copy of the International Property Maintenance Code is on file at the office of the Zoning / Building Administrator and is available for public inspection at the City Office during their regular business hours.

The provisions of the International Property Maintenance Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.)

- §9-304 HISTORIC BUILDINGS.** The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or city as historic buildings or structures when such buildings or structures are judged by a code official to be safe and not dangerous to the public health, safety and welfare.
- §9-305 DECLARATION OF NUISANCE.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of the Property Maintenance Code and such conflict with or violation of the provisions of the Property Maintenance Code is hereby declared to be a nuisance.
- §9-306 ABATEMENT OF NUISANCE.** The imposition of the penalties prescribed in the Property Maintenance Code shall not preclude the city from instituting appropriate actions to abate such conflict with or violation of the provisions of the Property Maintenance Code as prescribed in §4-402.

Article 4. Plumbing Code

- §9-401 PLUMBING CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and stable installation, methods of connection, and uses of materials in the installation of plumbing and heating shall be as found in the International Plumbing Code 2006; in book or pamphlet form, is hereby incorporated by reference in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the Statutes of the State of Nebraska.

One (1) copy of the International Plumbing Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the International Plumbing Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.)

Article 5. Electrical Code

§9-501 **ELECTRICAL CODE; ADOPTED BY REFERENCE.** To provide certain minimum standards, provisions, and requirements for safe and fire proof installation, methods of connection, and uses of materials in the installation of electrical wiring and appliances shall be as found in the National Electrical Code 2014, as recommended and published by the National Fire Protection Association, printed in book or pamphlet form, in addition to all amended editions as though printed in full herein insofar as said code does not conflict with the statutes of the State of Nebraska. All prior ordinances in conflict herewith shall be and are hereby repealed.

One (1) copy of the Electrical Code is on file at the office of the Municipal Clerk and is available for public inspection at the city office during their regular business hours.

The provisions of the Electrical Code shall be controlling throughout the Municipality and throughout its zoning jurisdiction. (*Ref. 17-1001, 18-132, 19-902, 19-922 RS Neb.*)

Article 6. Lighting and Thermal Efficiency Standards

§9-601 **LIGHTING AND THERMAL EFFICIENCY STANDARDS; NEED.**

1. This article shall be known as the Minimum Lighting and Thermal Efficiency Standards for Buildings.
2. The City of David City, Nebraska finds that there is a present and continuing need to provide for the development and implementation of minimum lighting and thermal efficiency standards for buildings to insure coordination with federal policy under the Energy Conservation Standards for New Buildings Act of 1976, to promote the conservation of our dwindling energy resources, and to provide for the public health, safety, and welfare.

§9-602 **TERMS; DEFINED.** As used in this Article, unless the context otherwise requires, the following definitions shall apply:

PRIME CONTRACTOR shall mean the person, persons, entity or entities who has a contract with the owner and is the one responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building. Prime Contractor shall also mean a property owner who performs the work of a Prime Contractor.

ARCHITECT or ENGINEER shall mean any person registered pursuant to section 81-847, Reissue Revised Statutes of Nebraska, 1943.

BUILDING shall mean any structure which utilizes or will utilize a heating system, cooling system, or domestic hot water system, including new buildings, renovated buildings, and additions, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one (1) watt per square foot.

RESIDENTIAL BUILDING shall mean a building three (3) stories or less that is used primarily as one (1) or more dwelling units.

RENOVATION shall mean alterations on an existing building which will cost more than fifty (50%) percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

ADDITION shall mean any construction added to an existing building which will increase the floor area of that building by five (5%) percent or more.

FLOOR AREA shall mean the total area of a building, expressed in square feet, which is within the exterior face of the shell of the structure which is heated or cooled.

STANDARD shall mean The Model Energy Code, 1983 Edition, of the Council of American Building Officials.

TRADITIONAL ENERGY SOURCES shall mean electricity, petroleum based fuels, uranium, coal, and all nonrenewable forms of energy.

§9-603 **STANDARD; APPLICABILITY.** The Standard shall apply to all new buildings, or renovations of or additions to any existing buildings, on which construction is initiated on or after the effective date of this Section. (*Amended by Ord. No. 602, 9/14/83*)

§9-604 **EXEMPTIONS.** The following shall be exempt from this act:

1. Any building which has a peak design rate of energy usage for all purposes of less than one (1) watt, or three and four-tenths (3.4) British Thermal Units per hour, per square foot of floor area.
2. Any building which is neither heated nor cooled.
3. Any building or portion thereof which is owned by the United States of America.
4. Any mobile home as defined by section 71-4603, Reissue Revised Statutes of Nebraska, 1943.
5. Any manufactured housing unit as defined by subsection (1) of section 71-1557, Reissue Revised Statutes of Nebraska, 1943.
6. Any building (i) listed on the National Register of Historic Places, (ii) determined to be eligible for the National Register of Historic Places by the State Historic Preservation Officer, or (iii) designated as an individual landmark or heritage preservation site by a Municipality or located within a designated landmark or heritage preservation district.
7. Any building to be renovated that is located within an area that has been designated blighted by a Municipality.
8. All residential buildings shall be exempt from lighting efficiency standards.

§9-605 **FEES.** The fees, charges, and expenses for Zoning Permits and Certificates of Zoning Compliance shall be as established by the City Council; such fees, charges, and expenses to be set by Resolution.

The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

§9-606 WHEN ARCHITECT OR ENGINEER IS RETAINED. If an architect or engineer is retained, the architect or engineer shall place his or her state registration seal on all construction drawings which shall indicate that the design meets the standard. The Prime Contractor shall build or cause to be built in accordance with the construction documents prepared by the architect or engineer.

§9-607 VIOLATION; PENALTY; ENFORCEMENT. Any person violating any provision of this Article shall be subject to a maximum fine of five hundred (\$500.00) dollars. In addition, the City of David City may by an action in the District Court enforce the provisions of this Article through equity and injunctive processes.

§9-608 VALIDITY. If any Section in this Article or any part of any Section shall be declared invalid or unconstitutional such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Article 7. Penal Provision

§9-701 VIOLATION; PENALTY. Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be liable to a fine of not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

Section 2. 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 3. 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 11th day of October, 2017.

Mayor Alan Zavodny

City Clerk Joan Kovar

Building Inspector Ray Sueper stated: "The need for a demolition permit application form was basically put into Joan's hands at some point in time by the Council, and she did a very nice job of putting that together for the City, so we're here asking that you approve that as an added required permit item for the City for my office to track."

Council member Kobus made a motion to approve a Demolition Permit Application Form. Council member Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Vandenberg, Smith, Meysenburg, and Kobus. Voting NAY: None. Council member Hotovy was absent. The motion carried.

City of David City

Building & Zoning

557 N. 4th St., David City, NE 68632

402-367-3135 • FAX: 402-367-3126

Permit No. _____

Demolition Permit Application

City of David City

FEE \$ _____

Street Address _____

Owner _____

Lot _____ Block _____ Addition _____

Other Legal _____

Building Size _____ Basement Size _____ Height of Building _____

Number of Stories _____ Type of Construction _____

Disposal of Building Materials	
<input type="checkbox"/> Butler County Landfill	<input type="checkbox"/> Alternate Location (address) _____ Special Permit No. _____
<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential
<input type="checkbox"/> More than one building on premises (attach site plan)	<input type="checkbox"/> Single Family Residence
<input type="checkbox"/> Multiple: Number of Units _____	<input type="checkbox"/> Duplex
	<input type="checkbox"/> Garage, Shed,
Demo Contractor (Please Print)	
Name: _____ Day Phone _____ Cell _____	
Address _____	

All work will be done in accordance with the David City Municipal Code and approval by the Zoning/Building Inspector and the Water/Sewer Supervisor. I am the owner of record of the above property, or have entered a contract with the owner of record, to demolish the above building/s. I assume complete responsibility for any liability arising from the demolition of the above building/s and I understand that I, as the owner or his agent, must insure the following is completed.

- Sewer and water lines must be abandoned at the main and inspected before a Demolition permit will be issued;
- Electric and gas companies must be contacted and services must be disconnected Before commencing any demolition work;
- State and/or federal agencies must be contacted regarding any asbestos removal.

I hereby certify that I have read and examined this application and know the same to be true and correct.

Applicant Information *Please Print*

Name (print) _____

Day Phone _____

Cell _____

Applicant Address _____

Applicant
Signature _____

Date _____

Building and Zoning Approval

Date _____

Water/Sewer Supervisor Approval

Date _____

Official Use Only

	Date	Initial
Sewer Abandonment	_____	_____
Water Abandonment	_____	_____
Historic Preservation	_____	_____
Ownership Verified	_____	_____
Insurance	_____	_____
Fence	_____	_____
Excavation Inspection	_____	_____
Final Inspection	_____	_____
Asbestos	_____	_____
Street Use Permit #	_____	

Council member Trowbridge introduced Resolution No. 35 – 2017 approving a \$25.00 permit fee for a demolition permit. Council member Meysenburg seconded the motion. Voting AYE: Council members Kobus, Smith, Vandenberg, Meysenburg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried and Resolution No. 35 - 2017 was passed and adopted as follows:

RESOLUTION NO. 35 - 2017

WHEREAS, the City of David City has adopted a Demolition Permit Application, and

WHEREAS, the City has determined a need to charge a fee for the Demolition Permit Application.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following application fees are hereby approved and adopted.

Schedule of application fees:

Certificate of Zoning Compliance: No Charge
(needed for any new business going in)

Zoning Permit:

Fence, shed, deck.....\$25.00

Swimming pool, Recreational facilities\$25.00

Carport, garage, additional living space\$50.00

New residences\$150.00

Multiple Units:

(Duplex, Tri-Plex, Townhouses,)

(and apartment houses)\$150.00 per unit for the 1st two units

.....\$25.00 per unit for 3rd and each addtl. unit

Commercial / Industrial buildings\$250.00

Signs:\$25.00

Join / Divide Lots\$25.00

Demolition Permit.....\$25.00

Subdivision:

Preliminary Plat.....\$250.00 + \$10.00 per lot

Final Plat.....\$150.00

Rezoning: \$150.00 + \$75.00 if land use map amended

Conditional / Special Use\$75.00

Zoning Amendment.....\$150.00

Zoning Variance.....\$75.00

If a special council meeting is required the applicant will be charged for the cost of the special council meeting in addition to the above charges.

All fees are non-refundable.

Dated this 11th day of October, 2017.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Water / Sewer Supervisor Travis Hays stated: "It is recommended by DHHS (Department of Health & Human Services) that as part of preventative maintenance, the gas chlorinator, automatic switchover, is replaced every 3 to 4 years; ours are about 4 years old now.

Council member Trowbridge asked: "Did we have a chlorine issue last month because we had two expensive chlorine tests done at HHS at \$250.00 a pop? [Note: These were EPA 524.2 (VOC's) @ \$237.00 per test from NE Public Health Environmental Lab]. They came from locations that would cause me to ask questions, and they came on consecutive days, the 2nd & 3rd of the month. One of them was from your house, the other one was from the Water Treatment Plant. We don't do those every month."

Travis Hays stated that those are tests that we take randomly. They have their regulatory tests that they have to take every month and submit to the State but those basically just test for coliform, and if it's positive, then it goes forward and is tested for e-coli. They don't really give you the water quality tests."

Council member Trowbridge asked: "Then we had Vandenberg, the electrician, on sight to change the water heater in a chlorine dispensing area for a water heater that was never meant to be in the chlorine dispensing area, and all of these things, the puzzle starts coming together, and I start asking questions."

Travis Hays stated: "That was a different situation. That was actually at the Wastewater Plant, so that's altogether different. It is a chlorine room where we have two big tanks with chlorine at the Wastewater Plant. We very rarely use chlorine, but that's when we first took the place over and the SBR basins were overrun by bacteria."

Council member Trowbridge stated: "I just don't want to see kids with arms growing out of their ears five years from now because chlorine bromine has two really bad things that happen when you ingest too much of it; one is birth defects and the other is cancer. Can I get a copy of the results from those two tests?"

Travis stated he would get the results of the tests to Council member Trowbridge.

Council member Trowbridge approved the purchase of a gas chlorinator, automatic switchover, for the Water System estimated at \$3,891.00. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Smith, Meysenburg, Kobus, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

The Airport Hangar Lease Agreement was discussed. City Clerk Kovar stated the major change was on #11 where they deleted: *Further, Lessee(s) shall obtain an insurance policy, or bond, or irrevocable letter of credit (hereinafter "security") in, at least, the amount of \$500,000 to cover general liability which shall name the "City of David" as additionally insured on the certificate of insurance, or as holder of the bond or letter of credit. The security shall be presented to the Airport Manager upon the execution of this lease and shall remain in full force throughout the term of this lease. Any certificate of insurance provided must cover the term of the lease and be updated before the expiration date; any bond or letter of credit must, likewise, cover the term of the lease. The certificate of insurance, bond or letter of credit must list the owners or those having a leasehold interest in the aircraft as insured, as well as any other persons (pilots) who would have access to the aircraft during the term of the lease.*

Council member Trowbridge made a motion to modify the previous Airport Hangar Lease Agreement with the current set of changes immediately. Council member Meysenburg seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Smith, Meysenburg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

LEASE TO HANGAR AIRCRAFT

THIS AGREEMENT made effective as of _____, 20____, by and between THE DAVID CITY MUNICIPAL AIRPORT through the City of David City, Nebraska, a municipal corporation of the State of Nebraska, hereinafter referred to as the "City" and _____, hereinafter referred to as "Lessee(s)".

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

The City hereby grants the Lessee(s) the exclusive privilege of using the space in Hangar # _____ at the David City Municipal Airport for the sole purpose of hanging of Lessee(s) aircraft. Lessee(s) assures City that it has read and fully understands the Rules and Regulations of the David City Municipal Airport.

1. For the privilege granted by this Lease to Lessee(s), Lessee(s) shall pay to the City an annual sum of _____ Dollars (\$_____). This fee shall be paid in two semi-annual installments of _____ Dollars (\$_____), due by December 31 of the preceding year and by June 30 of the lease year.
2. Lessee(s) shall contact Butler Public Power District for electric service and shall pay for the electricity and any associated charges.
3. The term of this Lease is for a period of twelve (12) calendar months only, from January 1 through December 31. [Note: There is an exception for Hangar #1 – the northeast hangar. This hangar is handicapped accessible and according to the FAA if a handicapped person wants to rent the hangar, the City will do everything in their power to allow them to rent Hangar #1.] If such Lease begins after January 1, such lease term shall be from the beginning date of the Lease until December 31 in the first year only. After such Lease has expired during the first year, the Lease period of twelve (12) calendar months shall be from January 1 through December 31. Said

Lease may be continuously renewed for twelve months upon payment of the lease fee without further action by the parties. The lease fee is to be paid by Lessee(s) to the City on or before the due date. If the Lessee(s) fails to pay the lease fee when due, the City may serve a thirty (30) day notice to pay or vacate the hangar. Failure to pay within the thirty (30) day notice period shall, without action by the City, terminate the lease. The fee for Leases issued after the first of each year shall be prorated based on the time of execution of the lease.

4. Lessee(s) has rented the hangar space for the purpose of storing aircraft or aeronautical equipment and shall not use the space in the above-described hangar for any commercial activity whatsoever, including, but not limited to, the offering of flight services to the general public, maintaining and repairing aircraft for the public, and storage of aircraft other than aircraft owned or leased by the Lessee(s).
5. Lessee(s) shall refrain from storing any items or materials on the premises which would violate local or national fire codes and shall not store any gasoline, combustible liquids or hazardous materials in the above-described hangar. Upon notice to Lessee(s) of the violation of paragraph 5, Lessee(s) shall immediately remove such conditions that violate the local and national fire codes or any gasoline combustible liquids or hazardous material in the above-described hangar.
6. This lease is for the hangaring of the following aircraft:

#1 N _____	#2 N _____
Make _____	Make _____
Model _____	Model _____
No. of Engines _____	No. of Engines _____
Year _____	Year _____
No. of Seats _____	No. of Seats _____

Lessee(s), whether individuals, partnership or corporation, must have and maintain a majority legal ownership or majority leasehold interest in the above-described aircraft during the entire term of this lease. Appropriate legal evidence of the Lessee(s) ownership or leasehold interest must be presented upon execution of this lease and within ten (10) days following any change in Lessee(s) ownership or leasehold interest.

7. The Lessee(s) hereby specifically agrees to keep the hangar door closed at all times other than during the times the Lessee(s) is moving aircraft in and out of the hangar space to avoid damage to the hangar by wind. Lessee(s) shall not leave the hangar unattended for any period of time over sixty (60) minutes if the hangar door is open. Lessee(s) assumes and agrees to pay for any damage caused to the hangar if and when the hangar door is left open in violation of this provision. Failure to abide by this provision, whether or not damage occurs, will result in cancellation of this Agreement at the option of the City.
8. The City of David City owns the fire extinguisher(s) in the Hangars. If stolen or damaged in any way the Lessee(s) will be responsible for the replacement of such fire extinguisher. Lessee(s) shall maintain a fire extinguisher or extinguishers, in good operating condition, containing dry chemical or halon 1211-type extinguishing agents readily available within the hangar space. There shall be one such fire extinguisher for each seventy-five feet (75') of travel within the hangar space.

9. Lessee(s) shall not exercise any privileges granted by this Agreement in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.
10. The City shall not be liable for any damage to Lessee(s) aircraft while the same is stored or "hangared" or being moved to or from the hangar space, other than gross negligence or willful wrongful acts of the officers, employees or agents of the City.
11. The City shall stand indemnified by Lessee(s) as herein provided. It is expressly understood by and between the parties hereto that Lessee(s) herein is, and shall be deemed to be, responsible to all parties for its respective acts and omissions and the City shall in no way be responsible therefore. It is further agreed that in the use of the airport and hangar space and the exercise or enjoyment of the privileges herein granted, Lessee(s) agrees to indemnify and save harmless the City from any and all losses that may result from any negligence on the part of Lessee(s). Lessee(s) shall not be responsible to indemnify City in the following events: acts of God, riots, civil commotion and the public enemy.

The City shall insure all improvements owned by the City of the premises. Lessee shall bear the entire risk of damage or destruction of aircraft and other personal property stored in or about the hangar, whether owned or leased by the Lessee or a third party located in or about the hangar. Lessee, on behalf of itself and its insurer, waives any right of subrogation to the City, arising out of damage or destruction of the aircraft or personal property while in the leased premises. Lessee further, by the signing of this lease, releases the City from liability for damage or destruction of its stored aircraft or personal property from any perils common to such aircraft or personal property, unless such damage or destruction is due to the sole negligence of the City.

12. The City reserves the right to control access to the hangar space in order to regulate the orderly and efficient operation of the Airport. Lessee(s) may lock the door to the hangar space in order to protect Lessee(s) property kept in the hangar space; provided, however, Lessee(s) shall provide a key for the lock to the Airport Manager who shall have the right of access to the hangar space at all times.
The City controls access to the main gate, hangars, and storage units. The City shall provide a key for the lock to the Lessee(s) Hangar or Storage Unit. The Airport Manager shall have the right of access to all hangars and storage units at all time. No additional locks, padlocks, or keys shall be added by the Lessee(s).
13. The City reserves the right (but shall not be obligated to Lessee(s)) to maintain and keep in repair all publicly owned facilities at the David City Municipal Airport and, further, to develop or improve the landing areas and air navigation facilities of the David City Municipal Airport, at its discretion, without interference or hindrance by Lessee(s). The City's obligation for repairs or maintenance to the hangar space shall extend only to maintain the hangar space in a fit and usable condition suitable for the purpose of hanging aircraft.
14. The Lessee(s) and its employees and agents shall obey the rules and regulations as may from time to time be lawfully promulgated by the City or its authorized agents in charge of the Airport, and the Lessee(s) and its employees and agents shall observe and obey such regulations as may from time to time be promulgated by the

United States, or any department or agency thereof, and by the State of Nebraska, as the same may relate to the privileges provided to Lessee(s) under this Agreement.

15. The Lessee(s) as part of the consideration of this Agreement, do hereby covenant and agrees that:
 - (A) No person on the grounds of race, creed, color, sex, disability or national origin shall be subjected to discrimination in the use of the facilities; and
 - (B) The Lessee(s) shall use the hangar space in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Program of the Department of Transportation, and as said regulations may be amended.
16. The parties agree that this Agreement is a mere lease; that it confers upon the Lessee(s) the privilege of the use of hangar space only for the purposes herein permitted, and necessary incidental privileges. Failure to abide by any of the provisions of this lease will result in the default of this lease at the option of the City.
17. In the event that the subject hangar space shall at any time become subject to taxation by virtue of this Agreement or the use thereof by Lessee(s), Lessee(s) shall pay such taxes as shall be attributable to such use before they become delinquent.
18. In the event the Lessee(s) is in material default of any term of this lease and such default is not cured within fifteen (15) days, excluding paragraph 5, after the date or receipt of written notice of default from the City, then in any set of events, City, at City's sole option may terminate this lease by written notice to Lessee(s). If Lessee(s) violates paragraph 5 above and Lessee(s) does not immediately remove or cure such violations listed in paragraph 5 above, Lessee(s) is immediately in default of the Lease. If this condition is not cured within the allotted time, this lease shall end and the remainder of all rental payments due under the terms of this lease shall accelerate and become immediately due and payable to the City. Upon such termination of this lease by the City, Lessee(s) will surrender possession of the premises to the City and the City shall have all remedies of a secured party according to the laws of the State of Nebraska. The City may then re-enter the premises and repossess the same and remove all personal effects from the premises. Lessee(s) shall not have the right to sub-let, assign or in any manner re-lease any part of the described premises.
19. This lease shall be governed by and construed in accordance with the laws of the State of Nebraska. By signing this lease, the City and Lessee(s) hereby submit to personal and subject matter jurisdiction of the State of Nebraska in Butler County of any dispute between the City and Lessee(s).
20. If it shall be determined by a court or other governing body that any provision or wording of this lease shall be invalid or unenforceable under city, state or other applicable law, such invalidity or unenforceability shall not invalidate the entire lease. Whenever two or more interpretations of the provisions or wording of this lease shall be possible, the interpretation or construction shall lead to the enforcement and validity of any provision of this lease shall be favored and deemed to be the intended interpretation of the parties to this lease.

21. To the full extent permissible by applicable law, City and Lessee(s) waive trial by jury in any action, proceedings or counterclaim brought by a party against any other party on any conflict arising out or in any way connected with this lease or the relationship of the parties created hereunder.

Executed by:

CITY OF DAVID CITY, NEBRASKA

Mayor

City Clerk

LESSEE(S)

#1 By: _____

#2 By: _____

Printed Name(s), Address(es), Phone Number(s), and Email Address(es):

Council member Meysenburg made a motion to appoint Gary Kroesing, and re-appoint Ted Lukassen, Jim Masek, Mary Havlovic, and Kelly Danielson, to the Board of Zoning Adjustment for 3-year terms ending on May 31, 2020. Council member Vandenberg seconded the motion. Voting AYE: Council members Kobus, Smith, Meysenburg, Vandenberg, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

Council member Trowbridge made a motion to approve the progress estimate for Constructors, Inc. in the amount of \$616,646.29 to Constructors, Inc. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Kobus, Vandenberg, Smith, and Trowbridge. Voting NAY: None. Council member Hotovy was absent. The motion carried.

CONTRACTOR'S PROGRESS ESTIMATE

NO. 4

Project:	City of David City Improvements David City, Nebraska	Date:	OCTOBER 6, 2017
Owner:	City of David City David City, Nebraska	Engineer:	LEO A DALY
Contractor:	Constructors, Inc. P. O. Box 80268 Lincoln, Nebraska 68501	Contract for:	Entire Work
		Contract Date:	April 12, 2017

Original Contract Sum			\$	9,304,432.44
		ADDITIONS	DEDUCTIONS	
Change Orders Previously Approved	001, 002, 003, 004, 005, 006	\$72,990.06	\$17,952.00	\$55,038.06
Change Orders Approved This Period		\$0.00	\$0.00	\$0.00
Total Amount of Contract To-Date			\$	9,359,470.50

Current Pay Period				
Current Contractor Estimate		\$	673,951.83	
Retainage (10%)		\$	(67,395.18)	
Current Total		\$	606,556.65	
Stockpiled Materials				
Van Kirk		\$	(27,574.43)	
IES		\$	37,664.07	
Adjustments			\$0.00	
Total Amount Current Pay Period		\$	616,646.29	

Previous Pay Periods				
Estimate Amount Previously Submitted		\$	2,523,570.24	
Previous Retainage (10%)		\$	(248,094.31)	
Previous Total		\$	2,275,475.93	
Previous Stockpiled Materials				
Van Kirk		\$	247,227.14	
IES		\$	43,248.42	

Totals To-Date				
Total Estimated To-Date		\$	3,207,611.71	
Total Retainage To-Date (10%)		\$	(315,489.49)	
Estimated Work Completed To-Date		\$	2,892,122.22	
Less Previous Payments		\$	2,275,475.93	
Balance Due by Estimate 3		\$	616,646.29	

I have reviewed this estimate and it appears to be correct.

LEO A DALY

By: AL HOTTOVY

Date: October 6, 2017

Approved: _____
 Owner

Date: _____

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, Vandenberg, Kobus, and Smith. Voting NAY: None. Council member Hotovy was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:22 p.m.



CERTIFICATION OF MINUTES
October 11, 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 October 11th, 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.

Joan Kovar, City Clerk