

**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 **8th day of January, 2014**, in the meeting room of the City Office, 557 N 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 2nd day of January, 2014.

AGENDA AS FOLLOWS:

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| 1. Roll Call; | |
| 2. Pledge of Allegiance; | <hr/> Mayor Alan Zavodny |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; | |
| 4. Minutes of the December 11 th , 2013 meeting of the Mayor and City Council; | <hr/> Council President Gary L. Kroesing |
| 5. Consideration of Claims; | |
| 6. Committee and Officer Reports; | |
| 7. Discussion and review of the City's current bonds and notes; | <hr/> Council member Michael E. Rogers |
| 8. Discuss recommendations for refunding of Water Revenue Bonds, Series 2008 to effect interest cost savings; | <hr/> Council member Ruddy L. Svoboda |
| 9. Discussion/Approval of engagement letter with D.A. Davidson & Company for SEC compliance; | |
| 10. Consideration of Resolution No. 1 – 2014 calling \$1,020,000 Series 2008 Water Revenue and Refunding Bonds for early Payment / Redemption; | <hr/> Council member William Scribner |
| 11. Consideration of Ordinance No. 1202 authorizing the issuance of Water Revenue Refunding Bonds of the City of David City, Nebraska, Series 2014, in the principal amount of Eight Hundred Eighty Thousand Dollars (\$880,000), for the purpose of refunding, together with cash on hand, the \$1,020,000 Principal Balance of the City's Outstanding Water Revenue and Refunding Bonds, Series 2008; Providing for Necessary Reserve Funds and paying costs of issuance of said | <hr/> Council member Gary D. Smith
<hr/> Council member John P. Vandenberg
<hr/> City Clerk Joan E. Kovar |

Bonds; Prescribing the form, terms and details of said Bonds; Pledging and Hypothecating the Revenue and Earnings of the Water System of said City for the payment of said Bonds and Interest thereon; Providing for the Collection, Segregation and Application of the Revenue of said Water System; Entering into a contract on behalf of the City with the Holders of said Bonds; Repealing any conflicting ordinances and providing for publication of this Ordinance in pamphlet form;

12. Consideration of hiring Bill Fueling as a Certified Building Inspector for David City;
13. Consideration of accepting the KENO Audit for fiscal year ended September 30, 2013;
14. Consideration of the In Lieu of Tax payment by the David City Housing Authority;
15. Consideration of refunding the In Lieu of Tax payments paid by the David City Housing Authority for the last three (3) years;
16. Presentation concerning the Thorpe Opera House;
17. Consideration of going into Executive Session to discuss employee negotiations;
18. Adjournment;

CITY COUNCIL PROCEEDINGS

January 8, 2014

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 2nd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council members Gary Kroesing, Ruddy Svoboda, Gary Smith, John Vandenberg, and Bill Scribner. Also present were City Administrator Abbie Cornett, City Attorney Jim Egr, and City Clerk Joan Kovar. Council member Mike Rogers was absent.

Also present for the meeting were: Phil Lorenzen of D.A. Davidson, Executive Director Renee Williams and Board Member Marie Hoelt of the D.C. Housing Authority, Lori Aschoff, Bill Fueling, Beth Klosterman, Paul Perske, and Carolyn Yates.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the December 11, 2013 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member

Smith. Voting AYE: Council members Scribner, Kroesing, Vandenberg, Svoboda, and Smith. Voting NAY: None. Council member Mike Rogers 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 Vandenberg seconded the motion. Voting AYE: Council members Scribner, Smith, Kroesing, Vandenberg, and Svoboda. Voting NAY: None. The motion carried.

Mayor Zavodny called for Committee and Officer Reports.

City Administrator Abbie Cornett stated: "Today, we met with Amp Ferg of David City High School and he had all the seniors come in for a panel discussion with all the department heads, myself and the mayor, in regards to issues of the City, followed by a questions and answers session. It went very well."

Council member Vandenberg made a motion to accept the committee and officers reports as presented. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, Vandenberg, and Kroesing. Voting NAY: None. Council member Mike Rogers was absent. The motion carried.

Council member Smith made a motion to advance to agenda item #12 – Consideration of hiring Bill Fueling as a Certified Building Inspector for David City. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Scribner, Svoboda, Vandenberg, and Smith. Voting NAY: None. Council member Mike Rogers was absent. The motion carried.

City Administrator Abbie Cornett stated: "Just to give the Council a briefing of what this is about, is when the City of David City has applied for DED grants and Federal funding in the past, we have not been eligible because we do not have a building inspector of record. Very similarly right now we are contracting with Olsson Associates for a street superintendent. Mr. Fueling works full-time for the City of Lincoln and is also the building inspector of record for Milford and Malcolm. We would be utilizing him minimally as we go through the process of applying for the DED grants. Some of the things that he could also help us with is some of the duties that Mr. Hughes has done in the past in regards to zoning and bringing us up current; we adopted the International Building Code Standards but we were not informed that we needed to update those on a regular basis to keep in compliant."

Council member Kroesing stated: "You're looking for him to come on board immediately and the Mayor is telling us we're not looking at the Downtown Redevelopment until the Northwest Drainage is paid for. It's a little bit confusing here for me."

City Administrator Abbie Cornett stated: "What we are looking at is offering Mr. Fueling the position as we need him, and part of that would be, we have a grant application that we are putting in in February for the DED grant and we have to have a building inspector licensed in the State of Nebraska on record as your building inspector when you apply for the grant. Mr. Fueling has a full time job so we would be utilizing him very minimally in the beginning and then later as the process goes through then that would be where we utilize him more."

Lori Aschoff, who the City has employed as a grant writer on an as needed basis stated: "Because whether you utilize him or not, you need a licensed Building Inspector of record to even submit a grant application."

Council member Gary Kroesing asked: "Did we advertise for a Licensed Building Inspector, as such?"

Administrator Cornett stated: "No, we did not. I tried calling around looking for licensed building inspectors. Alan originally recommended that I try to enter into an inter-local agreement with another community in the area for a licensed building inspector. I was not able to find any community that had a licensed building inspector that was 1) willing to share or 2) that had anyone that had spare time. So, in the process of looking for someone to share a building inspector with, I called the City of Lincoln and spoke to the head building inspector looking to see if he knew any communities or any licensed building inspectors that I might even be able to identify and he said that Mr. Fueling was doing this work, and so I talked to Alan about an interview."

Mayor Zavodny stated: "I think one of the other issues that has come forward on this is we've had a few issues with John so we are looking for options to change that situation."

Council member Gary Kroesing stated: "I brought another name forward for that possible position, and talked to the gentleman and he lives in David City."

Mayor Zavodny stated: "I don't know that he's a licensed building inspector."

City Administrator Cornett stated: "This is simply a process to make us eligible to apply for any grants that we would like to try and utilize for the City, and to do that you have to have the licensed building inspector."

Council member Kroesing stated: "I realize all this. I just want to make sure we jump through the hoops the correct way. I mean I don't see a job application, a resume or anything sitting in front of me. I don't know what he expects for wages or anything. Similar to your position. This is what I'm going at, I don't want somebody to come out and say "Why didn't you ask us, we're closer than he is." And we say "Well we advertised and you didn't apply. OK." Somebody else can get bit on that one, I'm not."

Mayor Zavodny stated: "If the Council has a level of discomfort with that hopefully we can approach this in a manner that you would be comfortable with. I do know that we had some deadlines with the grants and that kind of thing so we were trying to move quickly. Right or wrong that was the motivation I would say."

City Administrator Cornett stated: "The other side of that is, the person that you recommended would be doing nuisance properties, correct, similar to what Mr. Hughes has been doing. That is not what Mr. Fueling does at all. I assumed, that when we started back up in the spring with the nuisance properties, that we would then engage or speak to that person that wanted it, but Mr. Fueling does not do nuisance properties."

Mr. Fueling stated: "I've been in construction my whole life. I had a remodeling business in Lincoln for about twenty-five years before I applied at the City and got hired on. September will be my 10th anniversary with the City of Lincoln and they kind of kept me in the

field and those kinds of things. Shortly after that, one of our other inspectors who then moved onto Papillion had the contract with Malcolm and Milford and they both hired me there. I'm the building inspector in Malcolm and I'm actually the building inspector and the building official in Milford I issue all of the permits, all those kinds of things as well as the inspections. I'm certified in the International Residential Code, the International Building Code, and two certifications in the energy codes."

City Administrator Cornett stated: "I believe we have been paying John Hughes approximately \$35.00 an hour. Mr. Fueling would be \$35.00 an hour but again we would be utilizing him very minimally until we actually have a project. It will be on an "as needed" basis."

Council member Smith asked: "Will he be inspecting new construction?"

Mr. Fueling stated: "In Lincoln my duties include remodels and new construction both residential and commercial. Recently I did all the inspections on the arena in Lincoln."

Mayor Zavodny asked: "With your familiarity with the building codes, one of the things that has come up is, are there any requirements for any type of tornado structure in a new construction?"

Mr. Fueling stated: "The wind speeds in this area were brought up to a higher speed which required some change in new construction types here about three years ago. Really to get into more than that it's your choice if you want a tornado shelter."

Mayor Zavodny stated: "So for non-slab, people don't have to have any reinforced room or anything?"

Mr. Fueling stated: "No, that's not a requirement, at this point it's not in the codes. It's a good idea but there are some places that actually wouldn't work like if you are building on bedrock or something."

Council member Scribner made a motion to hire Bill Fueling as a Certified Building Inspector for the City of David City, at \$35.00/hr., on an "as needed" basis. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, (*"I have reservations about how we are handling this and I hope this is an exception instead of the procedure; the way this is taking place. Two (2) people have dropped in our laps now that we haven't seen a thing on. We have no history on these people that we have been asked to accept. Now if somebody walks in this front door and wants to go to work for the street department I'm sure they are going to say, "Well we know you and you are going to be hired" after you get this stack of papers done. Now this might be the wrong attitude or something but that's the way I've done things my whole life, that's how it's been done. I went to work for a boss that I knew my entire life and he still had me fill out applications. It'd be nice to see something in black and white to see what somebody expects from us as well as what we expect from them. Normally, all that can be discussed after you have advertised the position and when you have interviews and resumes. With that said I will vote for him with reservations."*) Smith, Scribner, and Svoboda. Voting NAY: None. Council member Rogers was absent. The motion carried.

Phil Lorenzen of D.A. Davidson & Company presented an overview of the City's outstanding Bonds.

Phil Lorenzen stated: "You issued in 2008, \$1,415,000.00 of Water Revenue and Refunding Bonds. A portion of that money was new capital that went into the construction of water wells and some lines and then refunded a prior issue. Those bonds are callable any time. My recommendation is that we would be able to lower the rates dramatically by refunding that

bond issue and what I propose is that you would issue \$880,000 in Water Revenue Refunding Bonds, Series 2014, to refund a \$920,000 portion of the 2008 issue. You have a principal payment of \$100,000.00 due August 1, 2014, and a regular interest payment on these notes of \$22,045.00 due on February 1, 2014. You have in hand accumulated in the Bond Payment Account \$50,000 toward the payment of that \$100,000 due in August. You also have in the revenues funds the ability to transfer or use existing water revenues which are adequate in that fund to go ahead and pay down the balance of the \$50,000. So what I would suggest we would do is 1) call that \$100,000 concurrently with refunding the \$920,000 and get that off the books, and just refund \$920,000 in bonds. The average rate on the outstanding bonds of \$920,000 portion is 4.5%, total interest cost is \$219,000.00. I am recommending that you would issue \$880,000 in bonds, you have in hand \$141,500.00 in restricted funds which is a Debt Service Reserve Fund that's committed to that Series 2008 Bond Issue. When we get rid of the refund of that bond issue by calling them for pre-payment that frees up that \$141,000.00. You need, by covenants of the ordinances of the City, to go ahead and create a reserve fund for the new debt equal to 10% of the issue so the reserve fund drops from \$141,500 to a new requirement of \$88,000.00 that frees up \$53,500.00 that's your money, can't be used for anything else but to pay down the debt, so that allows you to reduce the debt significantly. You have in hand tracking down again that first portion of money in the bond payment account there'd be accrued interest of \$2,082.03 on the bonds we are calling on the \$920,000.00. We have \$50,000.00 to pay principal on the bond account, we'll go ahead and pre-pay the final \$50,000.00 so the total sources of funds is \$1,123,582.03, and the way they would be applied is \$920,000.00 when we refund the balance of the 2008 Bonds, \$100,000.00 would prepay the August 1, 2014 payment, transaction costs is estimated to be \$13,200.00, Bond Counsel for legal opinion estimated at \$1,380.00, we fund the Debt Service Reserve Fund of \$88,000.00, and you have \$1,000 in change that flows back to you. My calculations show that as of today that net savings would be about \$101,000. My recommendation is that we would take steps to go ahead and call the old bonds and refund the new bonds.

Phil Lorenzen stated: "As of January 13, 2014 the Securities and Exchange Commission has made effective new rules that govern our whole industry resulting from the Dodd-Frank Legislation. Essentially the new rules say that I can't talk to you about financing and so forth unless we have an engagement letter in place that is basically a letter that says we agree to try to agree on these financings and with that in place I have the ability to communicate with you about recommendations and so forth, otherwise, I would argue we have a conflict of interest in that conversation so we need to have you consider adoption of an approval of going ahead and signing the engagement letter. Basically it's an agreement to try to agree on financings and so forth and gives you access to my information, advice, and my ability to make recommendations to you. Without that we can't communicate."

City Attorney Jim Egr stated: "I have reviewed the engagement letter, and on behalf of the City, I find it satisfactory."

Council member Scribner made a motion to approve the Engagement Letter with D.A. Davidson & Co to serve as underwriters for David City. Council member Kroesing seconded the motion. Voting AYE: Council members Vandenberg, Smith, Svoboda, Kroesing, and Scribner. Voting NAY: None. Council member Rogers was absent. The motion carried.

The engagement letter with D.A. Davidson follows:



D.A. Davidson & Co.

member SIPC

January 8, 2014

Mayor and City Council
City of David City
David City, NE

Re: Underwriting Engagement Letter

Ladies and Gentlemen:

On behalf of D.A. Davidson & Co. ("we" or "Davidson"), we appreciate the opportunity to serve as underwriter for David City, Nebraska ("you" or the "Issuer") on the proposed offering and issuance of Water Revenue Refunding Bonds, Series 2014, and the expected issuance in 2014 of general obligation bonds or notes to fund the costs of street, drainage and utility system improvements (the "Securities"). This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement or agreements to be entered into by the parties (the "Purchase Agreement(s)") if and when the Securities are priced following successful completion of the offering process.

1. Services to be Provided by Davidson. The Issuer hereby engages Davidson to serve as managing underwriter of the proposed offering and issuance of the Securities, and in such capacity Davidson agrees to provide, and in compliance with and under the rules, guidelines and exceptions [effective as of January 13, 2014] as set out by the Securities and Exchange Commission ("SEC") you hereby request Davidson to provide the following services:

- Review and evaluate the proposed terms of the offering and the Securities
- Develop a marketing plan for the offering, including identification of potential investors
- Assist in the preparation of the offering circular and other offering documents
- Contact potential investors, provide them with offering-related information
- Consult with Bond Counsel and other service providers about the offering and the terms of the Securities
- Negotiate the pricing, including the interest rate, and other terms of the Securities
- Obtain CUSIP number(s) for the Securities and arrange for their DTC book-entry eligibility
- Plan and arrange for the closing and settlement of the issuance and the delivery of the Securities
- Such other usual and customary underwriting services as may be requested by the Issuer

As underwriter, Davidson will purchase the Securities pursuant and subject to the terms of the Purchase Agreement, which will not be signed until successful completion of the pre-sale offering period.

2. No Advisory or Fiduciary Role. The Issuer, in compliance with the rules and guidelines of the SEC referred to in section 1, above, acknowledges and agrees that: (i) the primary role of Davidson, as an underwriter, is to purchase securities, for resale to investors, in an arm's-length commercial transaction between the Issuer and Davidson and that Davidson has financial and other interests that may differ from those of the issuer; (ii) Davidson is not acting as a municipal advisor, financial advisor, or fiduciary to the Issuer and has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Davidson has provided other services or is currently providing other services to the Issuer on other matters); (iii) the only obligations Davidson has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) the Issuer has consulted its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate. If you as the Issuer would like a municipal advisor in this transaction that has legal fiduciary duties to the Issuer, then you are free to engage a municipal advisor to serve in that capacity.

3. Fees and Expenses. Davidson's proposed underwriting fee/spread shall be at a mutually agreeable rate of not exceed 1.50% of the principal amount of the Securities issued. The underwriting fee/spread will represent the difference between the price that Davidson pays for the Securities and the public offering price stated on the cover of the final offering circular. Davidson shall pay costs incident to the underwriting and sale of the Bonds including printing of preliminary and final official statements (or offering circulars, as applicable), CUSIP and DTC fees. The Issuer shall be responsible for paying or reimbursing Davidson for all other costs of issuance, including without limitation, bond counsel, paying agent fees (if Issuer determines to engage such agent), and all other expenses incident to the performance of the Issuer's obligations under the proposed offering.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate Davidson's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party.

5. Indemnification; Limitation of Liability. The Issuer agrees that neither Davidson nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder except to the extent it is judicially determined that Davidson engaged in gross negligence or willful misconduct. In addition, to the extent permitted by applicable law, the Issuer shall indemnify, defend and hold Davidson and its employees, officers, agents and affiliates harmless from and against any losses claims, damages and liabilities that arise from or otherwise relate to this Agreement, actions taken or omitted in connection herewith, or the transactions and other matters contemplated hereby, except to the extent such losses, claims, damages or liabilities are judicially determined to be the result of Davidson's gross negligence or willful misconduct.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Nebraska. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

Very truly yours,

D.A.DAVIDSON & CO.

Phil Lorenzen
Vice President

Accepted this ____ day of _____, 2014
DAVID CITY, IN THE STATE OF NEBRASKA

ATTEST:

By: _____
Mayor

City Clerk

(SEAL)

Phil Lorenzen stated: "My recommendation would be to adopt a Resolution calling the outstanding \$1,020,000 in bonds. My target for the call date would be February 18, 2014. The rate I am recommending is not to exceed 2.35%"

Council member Kroesing made a motion to approve Resolution No. 1 – 2014 calling \$1,020,000 Series 2008 Water Revenue and Refunding Bonds for early redemption. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Scribner, Smith, Vandenberg, and Kroesing. Voting NAY: None. Council member Rogers was absent. The motion carried and Resolution No. 1 – 2014 was passed and approved as follows:

RESOLUTION NO. 1 - 2014

RESOLUTION CALLING
WATER REVENUE AND REFUNDING BONDS, SERIES 2008
FOR REDEMPTION

BE IT RESOLVED by the Mayor and City Council of the City of David City, Nebraska, as follows:

Section 1. That the following bonds issued by the City of David City, Nebraska (the "City") are hereby called for redemption at par plus accrued interest on such date as set forth in the Designation of Call Date (as defined below):

Water Revenue and Refunding Bonds, Series 2008, dated August 15, 2008, in the principal amount of \$1,020,000, becoming due August 1, 2014 through August 1, 2022 (the "Called Bonds"), both inclusive, issued for the purpose of refunding the City's previously issued and outstanding Water Revenue Refunding Bonds, Series 2003, to pay costs of construction of certain water system improvements, all as set out in the ordinance authorizing the Called Bonds, and to pay costs of issuance of the Called Bond Bonds.

Section 2. The Called Bonds are payable at the office of the Paying Agent and Registrar, the Treasurer of the City of David City, in David City, Nebraska.

Section 3. The Mayor and City Administrator of the City (each, an "Authorized Officer") are hereby authorized at any time on or after the date of this resolution to determine the call date for said bonds on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the Mayor and Council of the City. The call date shall be set for any time on or before April 15, 2014, and after such date the Authorized Officers shall have no authority to make any such determination hereunder without further action of the Mayor and Council of the City and this resolution shall be of no further force and effect.

Section 4. A copy of this resolution shall be filed at least thirty (30) days prior to the date of call with the Treasurer of the City of David City, in David City, Nebraska, as Paying Agent and Registrar and said Paying Agent and Registrar is hereby instructed to give notice of redemption in the manner provided for in the ordinance authorizing said notes.

PASSED AND APPROVED this 8th day of January, 2014.

ATTEST:

City Clerk Joan Kovar

Mayor Alan Zavodny

[SEAL]

Council member Smith introduced Ordinance No. 1202. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Kroesing, Svoboda, and Smith. Voting NAY: None. Council member Rogers was absent. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1202 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Kroesing, Smith, and Scribner. Voting NAY: None. Council member Rogers was absent. The motion carried and Ordinance No. 1202 was passed and adopted as follows:

ORDINANCE NO. 1202

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, AUTHORIZING THE ISSUANCE OF WATER REVENUE REFUNDING BONDS, SERIES, 2014, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF EIGHT HUNDRED EIGHTY THOUSAND DOLLARS (\$880,000), FOR THE PURPOSE OF REFUNDING, TOGETHER WITH CASH ON HAND, THE \$1,020,000 PRINCIPAL BALANCE OF THE CITY'S OUTSTANDING WATER REVENUE AND REFUNDING BONDS, SERIES 2008; PROVIDING FOR NECESSARY RESERVE FUNDS AND PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE WATER SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID WATER SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and Council of the City of David City, Nebraska (the "City"), hereby find and determine that (a) the City owns and operates water works facilities and a water distribution system which constitute a revenue producing facility and undertaking within the meaning of such term as set forth in Sections 18-1803 to 18-1805 Reissue Revised Statutes of Nebraska, 2012; that said water works facilities and water distribution system, taken together with all additions and improvements thereto hereafter acquired or constructed are herein referred to as the "Water System;" and (b) that the City has previously incurred certain bonded indebtedness for which the revenues of the Water System have been pledged or hypothecated, which remaining outstanding and unpaid bonded indebtedness is comprised of valid and interest bearing bonds of the City consisting of its Water Revenue Bond, Series 2004 (the "Series 2004 Bond") and its Water Revenue and Refunding Bonds, Series 2008 (the "Series 2008 Bonds") which Series 2004 Bond and Series 2008 Bonds are more fully described as follows:

Series 2004 Bond issued as a NDEQ Promissory Note in the remaining principal amount of \$345,131.55, bearing interest at the rate of 2.51% annually plus a 1.00% annual fee payment for a total interest rate of 3.51%, payable in relatively equal semiannual installments due each June 15 and December 15, with the final payment due and payable December 15, 2021.

Series 2008 Water Revenue and Refunding Bonds of the original principal amount of \$1,415,000, of which bonds in the principal amount of \$1,020,000 remain outstanding and bear interest and mature as set out in the following schedule of payments:

<u>Principal Amount</u>	<u>Maturing August 1</u>	<u>Interest Rate</u>
\$100,000	2014	3.70%
100,000	2015	3.85
100,000	2016	4.00
100,000	2017	4.15
105,000	2018	4.30
115,000	2019	4.45
120,000	2020	4.60
125,000	2021	4.70
155,000	2022	4.75

which bonds maturing from August 1, 2014 through August 1, 2022, both inclusive, became callable anytime on or after August 15, 2013, at par and accrued interest to the date fixed for call, which bonds have been authorized to be called for redemption pursuant to a resolution of this Council (the "Call Resolution") adopted contemporaneously with this bond ordinance on such date as determined pursuant to the Call Resolution (the "Redemption Date"); and that the Outstanding 2008 Bonds are valid, interest bearing obligations of the City; that the Outstanding 2008 Bonds in the principal amount of \$1,020,000 maturing August 1, 2014 through August 1, 2022, both inclusive (the "Outstanding 2008 Bonds"), shall be paid as to principal from proceeds of the issuance of refunding bonds of the City together with funds on hand.

The Mayor and Council hereby further find and determine that since the Outstanding 2008 Bonds were issued, the rates of interest available in the market have so declined that by issuing its refunding bonds to provide funds, together with available cash of the City, for the payment and redemption of the Outstanding 2008 Bonds, all as set out above, a substantial savings in the amount of yearly running interest will be made to the City; that other than funds as described herein to pay a portion of the interest on and principal of the Outstanding 2008 Bonds the City has no bond sinking funds on hand not required for the timely payment of principal and interest on the Outstanding 2008 Bonds due on or prior to the Redemption Date; that under the terms of Ordinance No. 969 authorizing the Series 2004 Bond, the City may issue Additional Bonds of equal standing under the terms of Section 16 of such ordinance so long as the "Net Revenues" (as defined in Ordinance No. 969 and in this Ordinance) have been at least 1.25 times the "Average Annual Debt Service Requirements" of the Series 2004 Bond and the bonds herein authorized as "Additional Bonds". Such Net Revenues are hereby determined to be not less than \$415,181 and such Average Annual Debt Service Requirements are hereby determined to be not more than \$185,000; that to provide for the refunding and redemption of the Outstanding 2008 Bonds, it is necessary that the City issue its Water Revenue Refunding bonds; and, that all conditions, acts, and things required to

exist or to be done precedent to the issuance of Water Revenue Refunding Bonds of the City, in the principal amount of \$880,000 pursuant to Sections 10-142, and 18-1803 to 18-1805 Reissue Revised Statutes of Nebraska, 2012, do exist and have been done as required by law.

Section 2. To provide for the issuance of bonds as described in and for the purposes as described in Section 1 hereof, there shall be and there are hereby ordered issued Water Revenue Refunding Bonds, Series 2014, of the City, in the principal amount of Eight Hundred Eighty Thousand Dollars (\$880,000) (the "Bonds"), with said Bonds bearing interest at the rates per annum to be set as provided herein, and to become due in each year as indicated below:

<u>Principal Amount</u>	<u>Maturing August 1</u>
\$100,000	2015
100,000	2016
100,000	2017
100,000	2018
100,000	2019
125,000	2020
125,000	2021
130,000	2022

Provided that the Bonds shall bear interest at such rates per annum as shall be determined in a written designation (the "Designation") signed by the Mayor and the City Administrator (the "Authorized Officers") on behalf of the City and which may be agreed to by D.A. Davidson & Co. (the "Underwriter"), which Designation may also determine or modify the principal amount for each maturity of the Bonds, mandatory redemption provisions (if any) and pricing terms as set forth in Section 9 hereof, all within the following limitations:

- (a) the aggregate principal amount of the Bonds shall not exceed \$880,000, but may be reduced in principal amount;*
- (b) the weighted average coupon on the Bonds shall not exceed 2.35% per annum;*
- (c) the principal amount due in any year (including principal due as mandatory redemption amounts) for each maturity may be increased or decreased by any amount as shall also be set out the Designation:*
- (d) the longest maturity of the Bonds may not be later than August 1, 2022.*
- (e) two or more of the principal maturities may be combined and issued as "term bonds" and the Authorized Officers may determine the mandatory sinking fund payments and mandatory redemption amounts. Any Bonds issued as "term bonds" shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the date of redemption and may be selected for redemption by any random*

method of selection determined appropriate by the Registrar (as hereinafter designated) or by the Depository (as hereinafter designated).

- (f) *actual savings (net of transactions costs) achieved through the refunding transaction shall not be less than \$100,000.*

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

The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be date of delivery. Interest on the Bonds, at the respective rates for each maturity, shall be payable August 1, 2014 and semiannually thereafter on February 1 and August 1 of each year (each an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 4 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with any unpaid accrued interest thereon, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Bond as the absolute

owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The Treasurer of the City of David City, Nebraska is hereby designated to serve as Paying Agent and Registrar for the Bonds. Said Paying Agent and Registrar shall serve in such capacities as required by this Ordinance and under such terms and conditions as shall be established by the Mayor and City Council, but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Bonds at the City's offices in David City, Nebraska. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series,

interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

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

Section 5. In addition to any mandatory sinking fund redemptions, the Bonds maturing on or after August 1, 2019 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of their date of original issue, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Bonds to be redeemed for optional redemption in its sole discretion. The Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new Bond evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given, at the direction of the City in the case of optional redemption and without further direction in the case of mandatory redemption, by said Paying Agent and Registrar by mail not less than thirty (30) days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of

such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue, series and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Bond for which defective notice has been given. The provisions of this Section 5 shall apply generally to mandatory redemptions. All mandatory redemptions shall be at the principal amount redeemed plus accrued interest to the date set for redemption. The Paying Agent and Registrar shall select the term bonds to be redeemed in any maturity using any random method of selection deemed appropriate.

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

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

UNITED STATES OF AMERICA

STATE OF NEBRASKA
COUNTY OF BUTLER

CITY OF DAVID CITY, NEBRASKA
WATER REVENUE REFUNDING BOND
SERIES 2014

No. _____ \$ _____

Interest Rate
%

Maturity Date
August 1, 20____

Date of Original Issue
_____, 2014

CUSIP

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska (the "City"), hereby acknowledges itself to owe and for value received promises to pay, but only from the special sources hereinafter described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or the most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable August 1, 2014 and semiannually thereafter, on February 1 and August 1 of each year (each an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of and interest on this bond due at maturity or upon redemption prior to maturity are payable upon presentation and surrender of this bond at the office of the City Treasurer located in David City, Nebraska, as the Paying Agent and Registrar. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed on such Interest Payment Date by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records. 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.

The revenues and earnings of the Water System of the City, including all improvements and additions thereto hereafter constructed or acquired (the "Water System"), are pledged and hypothecated by the City for the payment of this bond and the other Series 2014 Bonds, for the payment of the City's outstanding Water Revenue Bond, Series 2004, (as issued to the Nebraska Department of Environmental Quality, the "Series 2004 Bond") and for the payment of any additional bonds of equal priority issued in accordance with the terms of the Ordinance authorizing the Series 2014 Bonds. The Series 2014 Bonds are a lien only upon said revenues and earnings and are not general obligations of the City of David City, Nebraska.

This bond is one of an issue of fully registered bonds of the total principal amount of Nine Hundred Thirst Thousand Dollars (\$880,000), of even date and like tenor herewith, except as to date of maturity and rate of interest and denomination, which were issued by the City to provide funds to refund and retire, together with other available funds of the City, \$1,020,000 Water Revenue and Refunding Bonds, Series 2008, of the City of David City, Nebraska. The issuance of this series of bonds is made in pursuance of Sections 10-142, and 18-1803 to 18-1805, R.R.S. Neb. 2012, and other applicable statutes and has been duly authorized by Ordinance legally passed, approved and published and by proceedings duly had by the Mayor and Council of said City (the "Ordinance").

Bonds of said issue maturing on or after August 1, 2019 are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of their date of original issue, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption.

[Provided, however, the bonds shall also be subject to a mandatory sinking fund payment (mandatory redemption at par plus accrued interest) prior to maturity; such sinking fund payments being as follows:

\$,000 Principal Maturing August 1, 20__
\$,000 to be called August 1, 20__
\$,000 Payable August 1, 20__

\$,000 Principal Maturing August 1, 20__
\$,000 to be called August 1, 20__
\$,000 Payable August 1, 20__]

Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed in the manner specified in the ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof. If less than all of the principal sum hereof is to be redeemed, in such case upon the surrender hereof, there shall be issued to the registered owner hereof, without charge therefor, a registered bond or registered bonds for the unpaid principal balance of like series, maturity and interest rate in any of the authorized denominations provided for in the ordinance authorizing the issuance hereof.

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

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking

institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

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

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

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of said City, including this bond and the bonds refunded hereby, does not exceed any limitation imposed by law.

The Ordinance authorizing the Series 2014 Bonds sets forth the covenants and obligations of the City with respect to the Water System and the applications of the revenues and earnings thereof, which revenues and earnings under the terms of the Ordinance are required to be deposited to the "David City Water Fund" as described in the Ordinance and disbursed to pay costs of operation and maintenance of the Water System, make payments of principal and interest on the Series 2014 Bonds, the outstanding balance of the Series 2004 Bond, and any additional bonds of equal priority with said Series 2014 Bonds and other payments as specified in the Ordinance authorizing the Series 2014 Bonds. The Ordinance authorizing the Series 2014 Bonds also designate the terms and conditions under which additional bonds of equal priority with the Series 2014 Bonds may be issued. The Ordinance also designates the terms and conditions upon which this bond shall cease to be entitled to any lien, benefit or security under the Ordinance and all covenants, agreements and obligations of the City under the Ordinance may be discharged and satisfied at or prior to the maturity or redemption of this bond if monies or certain specified securities shall have been deposited with a trustee bank. In the Ordinance authorizing the Series 2014 Bonds, the City also reserves the right to issue bonds or notes junior in lien to the Series 2014 Bonds, the Series 2004 Bond, and any additional bonds of equal priority to the Series 2014 Bonds, the principal and interest of which shall be payable from monies in the "Surplus Account" of the David City Water Fund as described in the Ordinance authorizing the Series 2014 Bonds.

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

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

CITY OF DAVID CITY, NEBRASKA

ATTEST:

(Do Not Execute)
Mayor

(Do Not Execute)
City Clerk

[SEAL]

CERTIFICATE OF AUTHENTICATION

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

TREASURER OF THE CITY OF DAVID CITY
David City, Nebraska
Paying Agent and Registrar

By _____
(Do Not Execute)
Authorized Signature

(FORM OF ASSIGNMENT)

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

Date: _____

Registered Owner

Witness: _____

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

Section 8. Each of the Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The Bonds shall be issued initially as “book-entry-only” bonds under the services of The Depository Trust Company (the “Depository”), with one typewritten bond per maturity being issued to the Depository. In such connection said officers of the City are authorized to execute and deliver a letter of representations and inducement (the “Letter of Representations”) in the form required by the Depository, (including any blanket letter previously executed and delivered by the City) for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the issuance of the Bonds as “book-entry-only” bonds, the following provisions shall apply:

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

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

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

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

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

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a

substitute depository willing and able upon reasonable and customary terms to maintain custody of the Bonds or (ii) to make available Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such Bonds shall designate.

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

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

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

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

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar's Agreement (if any).

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

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed bond 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 Bonds 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 Clerk. In case any officer whose signature or facsimile

thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. The Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co., (the "Underwriter") as initial purchaser thereof, upon receipt of 98.75% of the principal amount of the Bonds (subject to modification as provided for in Section 2 hereof) plus accrued interest thereon to date of payment for the Bonds. Such initial purchaser shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter and its agents, representatives and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Bonds, including, without limitation, authorizing the release of the Bonds by the Depository at closing. The Authorized Officers of the City are hereby authorized to execute the Bond Purchase Agreement for the sale of the Bonds to the Underwriter. 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 Bonds, and any such actions previously taken are hereby ratified and confirmed.

Section 9. The City Clerk is directed to make and certify a transcript or transcripts of the proceedings of the Mayor and City Council precedent to the issuance of said Bonds, one of which transcripts shall be delivered to the purchaser of said Bonds.

Section 10. All accrued interest, if any, received from the sale of the Bonds shall be applied to pay interest falling due on August 1, 2014. The net proceeds of the Bonds shall be deposited with the City Treasurer as paying agent and registrar for the Outstanding 2008 Bonds, and immediately applied together with other funds of the City to the payment and redemption of principal of and interest on the Outstanding 2008 Bonds. Any remaining funds shall be deposited to the bond payment account for the Bonds and applied to pay interest falling due on August 1, 2014. The City hereby agrees that the registered owners of the Bonds shall be subrogated to the rights of the registered owners of the Outstanding 2008 Bonds refunded by the Bonds, all as so paid from the proceeds of the Bonds upon such payment.

Section 11. For the payment of the Series 2014 Bonds, both principal and interest, together with the Series 2004 Bond, and any Additional Bonds, both principal and interest, the City hereby pledges and hypothecates the entire revenues and earnings of the Water System of the City as a first and prior pledge and encumbrance of such revenues, in accordance with the terms of this Ordinance. The pledge and hypothecation provided for the Series 2014 Bonds and the Series 2004 Bond in this Ordinance is intended to and shall provide for a first and prior pledge or lien upon and security interest in the revenues of the Water System superior to any pledge, lien or security interest made or given with respect to any other indebtedness of the City as to its Water System and is intended as a full exercise of the powers of the City provided for in Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as now or hereafter amended, with respect to the City's Water System and the revenues and earnings thereof.

Section 12. The City hereby agrees that it will impose and maintain and shall revise from time to time when necessary and shall collect such rentals, rates, fees and charges for the use and services of the Water System which in the aggregate shall be sufficient at all times to enable the City to pay the principal and interest on the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds as the same become due. So long as any of the Series 2014 Bonds, the Series

2004 Bond and any Additional Bonds issued pursuant to this Ordinance shall remain outstanding and unpaid, the City covenants and agrees to establish, revise, from time to time as necessary, and collect such rates and charges for the service furnished from the Water System adequate to produce revenues and earnings sufficient at all times:

- (a) To pay all proper and necessary costs of operation and maintenance of the Water System and to pay for the necessary and proper repairs, replacements, enlargements, extensions and improvements to the Water System.
- (b) To provide funds to pay, when due, the principal of and interest on the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds issued pursuant to this Ordinance.
- (c) To provide funds sufficient to make the credits into the Accounts and at the times and in the amounts required by Section 13 of this Ordinance.

Section 13. The revenues and earnings of the Water System (including any and all additions and improvements thereto hereafter acquired) are hereby pledged and hypothecated for the payment of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds as authorized by this Ordinance and interest on the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds and the City does hereby agree with the holders of said 2014 Bonds as follows:

(a) **DAVID CITY WATER FUND** - The entire gross revenues and income derived from the operation of the Water System shall be set aside as collected and deposited in a separate fund which is hereby ordered established to be designated as the "David City Water Fund" (sometimes referred to in this Ordinance as the "Water Fund"). For purposes of allocating the monies in the David City Water Fund, the City shall maintain the following accounts: (1) Operation and Maintenance Account; (2) Bond Payment Account; (3) 2014 Debt Service Reserve Account; and (4) Surplus Account.

(b) **OPERATION AND MAINTENANCE ACCOUNT** - Out of the David City Water Fund there shall be monthly credited into the Operation and Maintenance Account such amounts as the City shall from time to time determine to be necessary to pay the reasonable and necessary expenses of operating and maintaining the Water System, and the City may withdraw funds credited to the Operation and Maintenance Account as necessary from time to time to pay such expenses.

(c) **BOND PAYMENT ACCOUNT** - Out of the David City Water Fund there shall be credited monthly on or before the first day of each month to the Bond Payment Account, starting with the month of March, 2014, the following amounts:

(1) Commencing on the first day of the month following the month in which the Bonds are issued (the "Initial Deposit Date"), and continuing on the corresponding day of each month thereafter an amount which, when combined with additional equal monthly amounts to be deposited pursuant to this subparagraph prior to the next falling Interest Payment Date, will be sufficient to provide funds to pay the installment of interest due with respect to the Bonds on such Interest Payment Date; and

(2) Commencing on the Initial Deposit Date, and continuing on the corresponding day of each month thereafter an amount which, when combined with additional equal monthly amounts to be deposited pursuant to this subparagraph prior to the next principal maturity date (or mandatory sinking fund redemption date, if applicable) with respect to the Bonds will be sufficient to provide funds to pay such maturing principal amount (or make such mandatory sinking fund redemption payment, if applicable) on such date.

The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, or if the monies in such Account are insufficient, then from the 2014 Debt Service Reserve Account (but only with respect to the Series 2014 Bonds) and next from the Surplus Account, in an amount sufficient to pay, when due, the principal of and interest on the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds and to transfer such amounts due to the Paying Agent and Registrar (or other paying agent for Additional Bonds) or direct payee on or before each principal and interest payment date. Upon the issuance of any Additional Bonds pursuant to this Ordinance appropriate additional credits to the Bond Payment Account shall be provided sufficient to pay principal and interest on said Additional Bonds.

(d) 2014 DEBT SERVICE RESERVE ACCOUNT - The City agrees that it shall transfer concurrently with the issuance of the Series 2014 Bonds amounts from the debt service reserve for the Outstanding 2008 Bonds or from other funds of the City's Water System on hand, the amount of \$88,000 as the amount required to be maintained as a debt service reserve attributable to the Series 2014 Bonds (the "2014 Debt Service Reserve Requirement"). Monies credited to the 2014 Debt Service Reserve Account may be withdrawn, as needed to provide funds to pay, when due, the principal and interest on the Series 2014 Bonds issued pursuant to this Ordinance, if the Bond Payment Account contains insufficient funds for that purpose, and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed. In the event of a withdrawal from the 2014 Debt Service Reserve Account, there shall be credited to the 2014 Debt Service Reserve Account in the month following such withdrawal all monies in the David City Water Fund remaining after making the payments required to be made in such month to the Operation and Maintenance Account and Bond Payment Account and each month thereafter all such remaining monies shall be credited to the 2014 Debt Service Reserve Account until such account has been restored to the 2014 Reserve Requirement. Upon the issuance of any Additional Bonds a separate debt service reserve account shall be established and any such separate debt service reserve account shall have the right to share, in the event of drawings upon the 2014 Debt Service Reserve Account and such reserve account for Additional Bonds, in

revenues available in the David City Water Fund upon a pro rata basis in accordance with the respective outstanding principal amounts or each such issue. Anything in this Subsection 13(d) to the contrary notwithstanding, the amount required to be maintained in the 2014 Debt Service Reserve Account with respect to the Series 2014 Bonds or in any debt service reserve account for any issue of Additional Bonds shall not be required to exceed at any time the maximum amount permitted to be invested without yield restriction under Section 103(b) and 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations of the United States Treasury Department.

(e) **SURPLUS ACCOUNT** - Monies from the David City Water Fund remaining after the credits required in the foregoing Subsections 13(b), 13(c) and 13(d) shall be credited to the Surplus Account. Monies in the Surplus Account may be used to make up any deficiencies in the preceding Accounts, to retire any of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds prior to their maturity, to pay principal of and interest on any junior lien indebtedness incurred with respect to the Water System, to provide for replacements or improvements for the Water System or to provide for any other lawful purpose of the City determined upon by the Mayor and Council.

It is understood that the revenues of the Water System are to be credited to the various accounts hereinabove described and as set out in this Ordinance in the order in which said accounts have been listed in said Ordinance, and if within any period the revenues are insufficient to credit the required amounts in any of the said accounts, the deficiencies shall be made up the following period or periods after payment into all accounts enjoying a prior claim on the revenues have been made in full. The provisions of this Section shall require the City to maintain a set of books and records in accordance with such accounting methods and procedures as are generally applicable to a municipal utility enterprise, which books and records shall show credits to and expenditures from the several Accounts required by this Section. Monies credited to the David City Water Fund or any of the Accounts therein as established by this Ordinance shall be deposited or invested separate and apart from other City funds. Except as specified below for the 2014 Debt Service Reserve Account and any reserve account for Additional Bonds, the City shall not be required to establish separate bank or investment accounts for the Accounts described in Subsection 13(b), 13(c), 13(d) and 13(e). Monies credited to the 2014 Debt Service Reserve Account or any reserve account for Additional Bonds (unless otherwise directed in their authorizing ordinance) shall, if maintained in a

demand or time deposit account, be kept in a separate account and not commingled with other Water Funds or accounts. If invested, monies credited to the 2014 Debt Service Reserve Account or any reserve account established for Additional Bonds may be commingled with other Water Funds or accounts so long as the City maintains books and records clearly identifying the specific investments, or portions thereof, which belong to the 2014 Debt Service Reserve Account or reserve account for Additional Bonds.

Section 14. To provide funds for any purpose related to the Water System, the City may issue Additional Bonds, including refunding bonds, payable from the revenues of the Water System having equal priority and on a parity with the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds then outstanding, only upon compliance with the following conditions:

(a) Such Additional Bonds shall be issued only pursuant to an ordinance which shall provide for an increase in the monthly credits into the Bond Payment Account in amounts sufficient to pay, when due, the principal of and interest on the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds then outstanding and the proposed Additional Bonds and for a separate debt service reserve account for Additional Bonds, if deemed appropriate by the Mayor and Council, for which the required amount shall not exceed the amounts prescribed by the then current Internal Revenue Code.

(b) The City shall have complied with one or the other of the two following requirements:

- (1) The Net Revenues derived by the City from its Water System for the fiscal year next preceding the issuance of the Additional Bonds shall have been at least equal to 1.25 times the Average Annual Debt Service Requirements of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds; or
- (2) The City shall have received a projection made by a consulting engineer or firm of consulting engineers, recognized as having experience and expertise in municipal utility systems, projecting that the Net Revenues of the Water System in each of the three full fiscal years after the issuance of such Additional Bonds will be at least equal to 1.25 times the Average Annual Debt Service Requirements of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds. In making such projection, the consulting

engineer shall use as a basis the Net Revenues of the Water System during the last year for which an independent audit has been prepared and shall adjust such Net Revenues as follows: (A) to reflect changes in rates which have gone into effect since the beginning of the year for which the audit was made, (B) to reflect such engineer's estimate of the net increase over or net decrease under the Net Revenues of the Water System for the year which the audit was made by reason of: (i) changes of amounts payable under existing contracts for service; (ii) additional general income from sales or charges to customers under existing rate schedules for various classes of customers or as such schedules may be revised under a program of changes which has been adopted by the Mayor and Council of the City; (iii) projected revisions in costs for labor, wages, salaries, machinery, equipment, supplies and other operational items; (iv) revisions in the amount of service to be supplied and any related administrative or other costs associated with such increases due to increased supply from the acquisition of any new facility; and (v) such other factors affecting the projections or revenues and expenses as the consulting engineer deems reasonable and proper. Annual debt service on any proposed Additional Bonds to be issued may be estimated by the consulting engineer in projecting Average Annual Debt Service Requirements, but no Additional Bonds shall be issued requiring any annual debt service payment in excess of the amount so estimated by the consulting engineer.

If the City shall find it desirable, it shall also have the right when issuing Additional Bonds to combine with its Water System any other utilities of the City authorized to be combined under Sections 18-1803 through 18-1805, Reissue Revised Statutes of Nebraska, 2012, including, but not limited to, an electric system, a sanitary sewer system, a municipal gas system, a solid waste disposal system or such other system as may constitute a revenue producing undertaking, and to cause all of the revenues of such systems to be paid into the David City Water Fund, which fund may be appropriately redesignated, and to provide that all of the Series 2014 Bonds, Series 2004 Bond (with the written consent of the holder thereof) and any Additional Bonds previously issued, all as then outstanding, and the proposed issue of Additional Bonds shall be payable from the revenues of such Water System and such other utility or utilities and shall stand on a parity and in equality as to security and payment, provided, however, no such utility shall be combined with the Water System as contemplated in this paragraph unless the City is current with all the payments required to be made into the accounts set out in this Ordinance and the revenues of the Water System and such other combined utility or utilities shall satisfy one or the other of the requirements for Additional Bonds provided above in this Section 14. For purposes of meeting such requirement, the definition of "Net Revenues" shall be altered to include the gross revenues of the additional utility or utilities and there shall be deducted from such revenues the ordinary expenses of operating and maintaining the additional utility or utilities (not including any deduction for depreciation or interest) and for such purposes any engineer or accountant furnishing projections may take into consideration the factors similar to those described in this Section 14 above with respect to such additional utility or utilities. Revenues of the additional utility or utilities

shall be based upon the report or reports of independent certified public accountants in the same manner as is required above.

For purposes of this Ordinance, refunding bonds, which are issued to take up and pay off any or all of the Series 2014 Bonds, the Series 2004 Bond or Additional Bonds then outstanding may be issued and shall themselves qualify as Additional Bonds having equal lien and priority as to the revenues of the Water System with any of the Series 2014 Bonds, the Series 2004 Bond or any Additional Bonds which are to remain outstanding after the completion of such refunding provided that the following conditions are met:

(1) if the proceeds of such refunding bonds are not to be applied immediately to the taking up and paying off of the bonds to be refunded from their proceeds, then such refunding bonds must provide by their terms that they shall be junior in lien to all such Series 2014 Bonds, Series 2004 Bond or Additional Bonds, as shall be then outstanding, until the time of application of the proceeds of such refunding bonds to the taking up and paying off of the bonds to be refunded by deposit with the designated paying agent pursuant to Section 10-126, Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner;

(2) such refunding bonds shall qualify as Additional Bonds under the revenues test described above in this Section 14, provided that in computing Average Annual Debt Service Requirements, all payments of principal and interest due on such refunding bonds from the time of their issuance to the time of application of the proceeds thereof by deposit with the designated paying agent pursuant to Section 10-126, Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall be excluded from such computation to the extent that such principal or interest are payable from other sources (such as bond proceeds or investment earnings thereon) or from moneys in the Surplus Account, and all payments of principal and interest due on the bonds to be refunded, from and after the time of the deposit with the designated paying agent pursuant to Section 10-126 Reissue Revised Statutes of Nebraska, as amended (or any successor statutory provision thereto) or the time when such bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall also be excluded from such computation.

The term "Average Annual Debt Service Requirements" shall mean that number computed by adding all of the principal and interest due when computed to the absolute maturity of the bonds for which such computation is required and dividing by the number of years remaining that the longest bond of any issue for which such computation is required has to run to maturity. In making such computation, the principal of any bonds for which mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.

The City hereby covenants and agrees that so long as any of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds are outstanding, it will not issue any bonds or notes payable from the revenues of the Water System except in accordance with the provisions of this Ordinance, provided, however, the City reserves the right to issue bonds or notes which are junior in lien to the Series 2014 Bonds, the Series 2004 Bond and any such Additional Bonds with the principal and interest on such bonds or notes to be payable from monies credited to the Surplus Account as provided in Subsection 13(e).

Section 15. Moneys on deposit in the David City Water Fund shall be invested in such obligations as are permitted by law for cities of the class to which the City belongs, maturing at such times not later than ten years from the date of such investment and in such amounts as shall be determined by the City. Earnings from the investment of such moneys shall not be credited to the particular fund, account or sub-account from which the investment was made, but shall be treated as earnings of the Water System and shall be treated as any other revenues of the system. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any moneys credited to the Water Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class to which the City of David City belongs.

Section 16. The City shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Water System and the holders of any of the Series 2014 Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect the Water System and all properties comprising the same. Within ninety days following the close of each fiscal year the City shall cause an audit of such books and accounts to be commenced by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Water System, and such audit, as soon as it is complete, shall be available for inspection by the holders of any of the aforesaid bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

1. A statement in detail of the income and expenditures of each component of the Water System for such fiscal year.
2. A balance sheet as of the end of such fiscal year.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City shall furnish a copy of each such audit to D.A.

Davidson & Co., as the original purchaser of the Series 2014 Bonds and to the holder of at least twenty-five percent (25%) of any issue of bonds outstanding, upon request, after the close of each fiscal year, and said purchasers or any such holder shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as each may require.

Section 17. The City Treasurer shall be bonded, in addition to said Treasurer's official bond, by an insurance company licensed to do business in Nebraska, in an amount sufficient to cover at all times all the revenues and earnings of the Water System placed in said Treasurer's hands. Any other person employed by the City in the collection or handling of moneys derived from the operation of the Water System shall also be bonded in an amount sufficient to cover all moneys which may at any time be placed in his or her hands. The amount of such bonds shall be fixed by the Council and the cost thereof shall be paid from the earnings of said Water System, and such bonds shall secure the faithful accounting of all moneys.

Section 18. The City will carry adequate insurance on the Water System in such amounts as are normally carried by private companies engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance and any insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense.

All insurance moneys, except from public liability insurance, shall be deposited in the Surplus Account and shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said moneys shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that the proceeds, together with any other moneys available for such purposes, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of a consulting engineer stating that the

property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance moneys shall be transferred from the Surplus Account to the Water System Revenue Bond Account to make up any deficiency in said account, if any such deficiency exists.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money remaining in the Surplus Account.

The proceeds of any and all policies for public liability shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 19. The City will maintain the Water System in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holders from time to time of the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds that the City will continue to own, free from all liens and encumbrances, except the liens and pledges provided for herein and will adequately maintain and efficiently operate said Water System; provided, however, the City may sell for cash, property which is recommended to be sold by the manager or superintendent of utilities, or an independent Consulting Engineer and which is determined as a matter of record by the Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 20. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate a Water System plant or system in competition with that owned by the City.

Section 21. While any of the Series 2014 Bonds are outstanding, the City will render bills to all customers for Water System services. If bills are not paid within sixty days after due, such utility service will be discontinued, as and to the extent permitted by law. The City agrees that it will order Water System service shut off on all properties served by Water System service where there

are delinquent Water System service use charges and will make appropriate charge for use of all properties of the City connected to the Water System, all as and to the extent permitted by law.

Section 22. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes, additions or alterations of any kind shall be made by the City in the provisions of this Ordinance in any manner; provided, however, that from time to time the holders of sixty percent (60%) in principal amount of the Series 2014 Bonds outstanding hereunder (not including any of said bonds credited to any of the Accounts described in this Ordinance or any other of said bonds owned or controlled directly or indirectly by the City) by an instrument or instruments in writing signed by such holders and filed with the City Clerk shall have the power to assent to and authorize any modification of the rights and obligations of the City and of the holders of the said bonds and the provisions of this Ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holders of sixty percent (60%) in principal amount of said bonds at the time outstanding hereunder shall be binding upon the holders of said Series 2014 Bonds then outstanding and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance; provided, always, that no such modification shall be made which will (a) extend the time of payment of the principal of or interest on any of said bonds or reduce the principal amount thereof or the rate of interest thereon; or (b) give to any of said bonds secured by this Ordinance any preference over any other of said bond or bonds; or (c) authorize the creation of any lien prior to the pledge of the revenues afforded by this Ordinance, for the Series 2014 Bonds, the Series 2004 Bond and any Additional Bonds; or (d) reduce the percentage in principal amount of said Series 2014 Bonds required to assent to or authorize any such modification. Any modification of the provisions of this Ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of the City.

Section 23. So long as any of the Series 2014 Bonds, Series 2004 Bond and any Additional Bonds of equal lien are outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and every holder of said bonds, and this Ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bonds. Any holder of a Series 2014 Bond, the Series 2004 Bond or of an Additional Bond or Bonds may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this Ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required by the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Water System, the segregation of the revenues of said system, and the application thereof to the respective Fund, Accounts and sub-accounts referred to and described in this Ordinance. Any holder of a Series 2014 Bond, Series 2004 Bond or an Additional Bond shall, after any default in payment, have the right to request the appointment of a receiver for the Water System.

Section 24. The City's obligations under this Ordinance and the liens, pledges, dedications, covenants and agreements of the City herein made or provided for shall be fully discharged and satisfied as to any of the Series 2014 Bonds issued hereunder, and said bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City or, as to any of said bonds not theretofore purchased and canceled by the City, when payment of the principal of and any applicable redemption premium, if any, on such bonds plus interest thereon to the respective dates of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing with a state or national bank having trust powers or trust company in trust solely

for such payment (i) sufficient moneys to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such times as will ensure the availability of sufficient moneys to make such payment and such bonds shall cease to draw interest from the date fixed for their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance; provided that, with respect to any such bonds called or to be called for redemption, the City shall have duly given notice of redemption or made irrevocable provision for such notice. Any such moneys so deposited with the aforesaid state or national bank or trust company as provided in this section may be invested and reinvested in Government Obligations at the direction of the City and all interest and income from all such Government Obligations in the hands of the aforesaid trustee bank or trust company which are not required to pay principal and interest on the Series 2008 Bonds for which such deposit has been made shall be paid to the City as and when realized and collected.

Section 25. (a) The City hereby covenants with the purchasers and holders of the Bonds herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payment of principal and interest on said Bonds, which would cause said Bonds to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants with the registered owners from time to time of the Bonds hereby authorized that it shall comply with all applicable provisions of the Code, prior to the date of issuance and delivery of the Bonds, and with all applicable provisions of any other tax laws and any regulations, published rulings and court decisions pursuant

thereto, which relate to the exclusion from gross income of interest on the Bonds for federal income tax purposes, to the extent necessary to comply with such Code, laws, regulations, published rulings and court decisions or otherwise to preserve such exclusion, including specifically, but without limitation, all arbitrage rebate and information reporting requirements required by the Code.

(b) The City hereby represents and warrants that (i) it reasonably anticipates issuing not more than \$10,000,000 of tax-exempt obligations not including "private activity bonds" as defined in Section 141 of the Code during the 2014 calendar year, (ii) it has not designated and will not further designate more than \$10,000,000 of obligations (including the Bonds herein authorized) during the 2014 calendar year as qualified tax-exempt obligations, (iii) the Bonds herein authorized are not "private activity bonds" as such term is defined in Section 141(a) of the Code, and (iv) it hereby designates the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i) of the Code. The City agrees to take all further actions, if any, necessary to qualify the Bonds herein authorized as such "qualified tax-exempt obligations," as and to the extent permitted by law.

Section 26. The City reserves the right to issue refunding bonds and provide for the investment of the proceeds thereof for purposes of providing for the payment of principal and interest on the Bonds in such manner as may be prescribed by law from time to time but specifically including the provisions of Section 10-142, Reissue Revised Statutes of Nebraska, 2012, or any amendment thereto.

Section 27. The City's obligations under this ordinance shall be fully discharged and satisfied as to the Bonds authorized and issued hereunder, and said Bonds shall no longer be deemed outstanding hereunder when payment of the principal thereof plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to have been made in accordance with the terms thereof and hereof, or (b) shall have been provided for by depositing in escrow with a national or state bank having trust powers in trust solely for such payment, (i) sufficient

monies to make such payment or (ii) direct general obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America (herein referred to as "Government Obligations"), in such amount and with such maturities as to principal and interest as will insure the availability of sufficient monies to make such payment, and thereupon such Bonds shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payments, shall no longer be entitled to the benefits of this ordinance; provided that, with respect to any Bonds called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given or provided for. If monies shall have been deposited in accordance with the terms hereof with the escrow agent in trust for that purpose sufficient to pay the principal of such Bonds and all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, all liability of the City for such payment (except from such deposit) shall forthwith cease, determine and be completely discharged, and all such Bonds shall no longer be considered outstanding.

Section 28. The Mayor and City Council do hereby approve the Preliminary Offering Circular with respect to the Bonds and the information therein contained, and the Mayor and City Clerk, or any one of them is authorized to approve and deliver a final Offering Circular for and on behalf of the City, and said final Offering Circular shall be delivered to the Underwriter.

Section 29. In order to promote compliance with certain federal tax and securities laws relating to the Bonds herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 30. This ordinance shall be in force and take effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 8th day of January 2014.

ATTEST:

Mayor

City Clerk

[SEAL]

Council member Smith made a motion to accept the Keno Compliance Procedures Report for fiscal year ended September 30, 20113 as prepared by Moravec & Associates, CPA, PC. Council member Vandenberg seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Smith, Scribner, and Svoboda. Voting NAY: None. Council member Rogers was absent. The motion carried.

Mayor Zavodny stated the next agenda item was consideration of the In Lieu of Tax payments paid by the David City Housing Authority. Mayor Zavodny stated: "It seems like we've been doing this forever."

City Attorney Jim Egr had reviewed the Cooperation Agreement and had sent the following reply to George Achola, Attorney at Law, representing the David City Housing Authority:

"Please find enclosed a copy of the Cooperation Agreement dated July 30, 1963 entered into between the City of David City and the Housing Authority of the City of David City. I am of the opinion that the enclosed Cooperation Agreement IS STILL IN EFFECT AND STILL APPLIES. Yes, the Nebraska Statutes say the Housing Authority is not required to enter into such an Agreement, but the Housing Authority in fact DID ENTER INTO SUCH AN AGREEMENT and I am of the opinion they waived their rights. In short, the Housing Authority HAS AGREED to make payment in lieu of taxes and the Housing Authority CANNOT claim exemptions because they VOLUNTARILY entered into the Cooperation Agreement."

In the past the David City Housing Authority has paid the City the following:

- 2012 paid in 2013 - \$10,204.33
- 2011 paid in 2012 - \$10,874.19

- 2010 paid in 2011 - \$10,574.15

City Attorney Egr stated that the David City Housing Authority made the following offer to the City:

- Starting in 2015 DCHA shall pay the City PILOT in the amount of \$2,500 each year with the remaining amount to other agencies waived. Payment shall be contingent on the City maintaining DCHA's parking areas/streets/Cul-de-sac (the "Property") in the same manner and condition as other comparable city properties. The DCHA and City will communicate regarding maintenance strategies for the Property.
- Failure to maintain the Property resulting in DCHA hiring another contractor to complete the maintenance shall result in either the City reimbursing DCHA the amount or waive the PILOT payment for the coming year.
- Credit DCHA's utility bill for 2013 PILOT payment that the City received and waive the full 2014 Pilot.

Mayor Zavodny asked: "How does this affect the current agreement that is in place?"

City Attorney Egr stated: "Well the current agreement that is in place, the Cooperation Agreement that was dated July 30, 1963, Everett McCracken was the Mayor, and I am assuming that is when Sunshine Court came into existing, and basically the agreement said that the Housing Authority agrees to pay in-lieu of taxes even though the State Statute says it's not something that we could have forced at that time, the Housing Authority to do, the Housing Authority went ahead and agreed to that. I did get a side opinion from Baird Holms who does a lot of this type of work. If you were to ask me "is the agreement still good?" Mr. Achola doesn't think so, I think it is, and I think outside counsel believes it's still a good agreement. So we have to decide, and visit with the Housing Authority people, to see what we want to do to deal with this thing. I visited with the County Attorney because this does not only affect the City of David City it affects the County, the Schools, etc. Basically the County Attorney's Office has said "Whatever the City decides is fine with us." There is an agreement in place, it has been in place since 1963. That agreement did not have to be executed or done by the Housing Authority. They made the decision to do it, I assume in 1963 freely and voluntarily. I've been advised by outside counsel that they believe, and agree with me, that this particular agreement is still good. On the other side of the coin you have Sunshine Court that provides a lot of service to certain citizens of the City of David City, especially a lot of the elderly. The Council has to make this decision, I can't. If you ask me, "Do I think this is a good agreement?"....."Yes". I don't know what will happen if we can't reach a compromise, nobody has said anything about a lawsuit. I think this is still a good agreement, so does outside counsel. If it goes to court I can't guarantee you what a judge is going to say. All I can do is give you an opinion and get an outside counsel to give you an opinion, but nobody can guarantee that it's 100%."

Mayor Zavodny stated: "I'm really uncomfortable with the second one because who judges if it doesn't happen fast enough, you go hire someone and then we have all these bills all the time. I hate that part."

Council member Kroesing stated: "The worst part of it is, if we have a disaster snow storm and we have to clean our downtown area, we may not get there until 6:00 that night and you're going to be really upset by that time because nobody's gotten out or anything, but that isn't our fault."

Executive Director Renee Williams stated: "My only thing is, and they've done better now that we've gotten ahold of who's really responsible, is if any other cul-de-sac in the City is cleaned out, then we request the same at our place. That's all I'm asking for. We talked about waiving the complete Pilot but we want to pay a part of it because we still would like the City's assistance with the snow removal. That's our only thing is, don't clean all the other cul-de-sacs, all the other streets, and then go downtown and haul out snow. We understand if we have a huge snow storm, it's going to take forever to get through all the streets, we understand that."

Mayor Zavodny stated: "What I am unwilling to do is to give you a blank check and say you go ahead and hire someone to do that."

Executive Director Renee Williams stated: "I feel we have a pretty good understanding with the street department now, who's responsible for what, if it doesn't get done we know they are busy. If it's a big snow storm I may call and say "Hey, can you come do it?" If two days go by, or a day goes by and I see they are hauling snow out in the middle of the street, I might then, but I'm not just going to go out and do it, and I'm not asking for reimbursement. If it continues to happen we just wouldn't pay that year's Pilot. But our biggest thing is just so we are treated like any other cul-de-sac in the town. Third Street is another option, our parking on Third Street and "K" or "L" whatever is on the north side; those are completely different because that is where my tenants have to park. My biggest thing is getting that cul-de-sac cleaned out or at least a path through it like any of the others in town."

Mayor Zavodny stated: "Ok, but that's not what it says." It says "Shall result in either the City reimbursing DCHA the amount or waive the PILOT payment for the coming year" so that could be \$2,500 if you don't like how the snow was removed. I hate to give you that much power or give that away. Starting at the first part, if we are willing to consider this at some point, starting in 2015 I am okay if we decide to do that, you pay that and we move forward with that. I'm reticent to say we should go back and do something after it's already happened."

Executive Director Renee Williams stated: "I'm willing to take out the reimbursing for snow removal as long as if it doesn't get done, I call, and somebody does do it and people respond to me. I've sent numerous e-mails to the City within the past year and I don't get responses. So, I guess my thought is, as long as I make sure I contact somebody, they respond, I guess is the only thing."

Mayor Zavodny stated: "The City's email probably isn't the best way."

Executive Director Renee Williams stated: "Well I manage two housings, I don't always have time to call, I might be on the road, I email, and that way I have it in writing if I don't have time always."

City Administrator Abbie Cornett stated: "I would be willing to be the contact, however, my reservation here is, we are talking at this point a semi-verbal agreement between the City and you saying that "Well, you'll call us and if somebody doesn't come out in a day or two

then....”, what happens if you’re not there in a year or two, now we’re in an agreement that doesn’t specify exactly when we are billed or.....”

Executive Director Renee Williams stated: “I guess I don’t see a problem with it because I feel after everything that’s happened we won’t have the issue because I am going to call, and you guys maybe forgot.”

Mayor Zavodny stated: “What I would recommend, because really what you are asking and what we are considering is, are we willing to modify the 1963 agreement? We could all sit here and agree and be nice today, but I think we are going to have to agree to something in writing because we are modifying the 1963 agreement.”

City Administrator Abbie Cornett stated: “I am very hesitant on trying to decide something this evening without legal counsel and without having something researched and drafted that is binding on both parties rather than just sit here and try, verbally back and forth, this is what we decide to do. That just makes me uncomfortable.”

Executive Director Renee Williams stated: “The only problem with that is that’s why I hired an attorney back in October, so this could all be taken care of before now.”

After additional discussion it was decided that Executive Director Renee Williams is to call City Administrator Abbie Cornett tomorrow, January 9th to schedule a meeting with City Attorney Jim Egr, and Mayor Zavodny to come up with some ideas and get something down, a couple of options, on paper that they could bring back to the Council at the next Council meeting.

Council member Scribner made a motion to table consideration of refunding the in-lieu of tax payments paid by the David City Housing Authority for the last three (3) years until the next city council meeting. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Kroesing, Vandenberg, Scribner, and Svoboda. Voting NAY: None. Council member Rogers was absent. The motion carried.

Beth Klosterman and Paul Perske, President of the Thorpe Opera House Board, were present to discuss the Future of the Thorpe Opera House. Beth distributed three (3) pamphlets to the Mayor and Council and read “The Future of the Thorpe Opera House” to them as follows:

THE FUTURE OF THE THORPE OPERA HOUSE

The future of the Opera House depends on the maintenance of the building. It has serious deterioration of the brick wall on the east side. This was a common wall with the old Perkins Hotel which was built at the same time. When the hotel was demolished in 19__ this wall of interior brick was exposed to the elements. Interior brick can never be adequately weather proofed, so, even though the effort was made in 198_ (when the hotel was demolished) to seal the brick, it has deteriorated over the years. The outer layer of this wall needs to be replaced with exterior bricks.

There is no elevator in the building and the 25 steps to get to the performance area are an obstacle for some people. There is no air conditioning in the upper areas and the heating is inadequate and expensive. A complete renovation of the electrical system needs to be redone to efficiently operate the entire building.

The windows were installed in 1889 and need to be upgraded to an energy efficient grade window. More restrooms need to be built and a second and third stairway to the upper performing area are required for safety and to meet required codes.

This building is the largest, most obvious building on the downtown business square in David City. The community works very hard to keep all the business fronts on the square occupied and to keep the retail and service businesses thriving in a town of 2,500 people and a service area of about 10,000. This building can be a beautiful, useable asset to the economic development of the town or it can become a derelict building which will eventually have to be destroyed. At this point in time there really is no solution in between.

The plans for the future of the building are exciting and very possible. It will take the cooperation and involvement of the community, individuals who care about the community and the foundations and historic entities who are interested in historic preservation, economic development and energy efficiency.

Beth Klosterman stated: "Don't make any mistake about thinking that we are doing this just to preserve a historic building. It's a beautiful old building and we would love to restore it, we'd love to do it just as accurately as we can. That's really expensive, and we're probably going to have to cut some corners and maybe not do everything just the way we'd like to see it done historically, but that's not our prime objective. Our prime objective is the economics of David City and the hole that would be in that side of the square if that building came down, is not a pretty thing to think about. Neither is that building going derelict and sitting there until somebody finally decided they had to tear it down. Tearing it down is going to be an expensive project so we think it would make much more sense to put the money into building it up. The plans provided are from the architect that show what we are trying to accomplish. We would like to see the part that is currently "Winfields" as a nice sit down restaurant, not ultra-fancy but not a truck stop, a nice place to go. The Horacek building was given to us a few years ago and that building itself would come down, it's not a historic building, there have been about three to four buildings there over history as we look at the pictures. It's a wood frame building that is not in good shape. That's where the elevator and the extra stairway would go." Beth continued to describe the "future" designs of the Thorpe Opera House. "We don't want money from you. There is a chance that there could be grants available that would be passed through the City but there would be no financial responsibility on your part. We are looking at a lot of grants; we need to find a sugar daddy, somebody who wants their name on an opera house and will start us off with a million dollars. The cost of this project is somewhere around two and a half million at this point."

Paul Perske stated: "I don't care if you give me one dollar or ten thousand dollars, when you are making your donations at the end of the year, think about us. One lady said she likes to vacuum, I said great, come on down and vacuum. We are looking for community involvement because a lot of the grants that we are looking at, if the community isn't behind it, they aren't really interested either. We are going to have a few more community involvement nights and I would like to see some council members there. I like the historic preservation side of it, preserving a building."

Beth Klosterman stated: "We would just like you to get excited about it and enthusiastic about what the downtown David City square could look like if that building was absolutely beautiful and having art activities in it. We believe that once we get the upstairs done and the elevators and everything in we would probably ourselves be booking 3 to 4 things a month that would bring people from other towns in. Those people from other towns, they eat here, especially if we had a restaurant, they buy gas, they're involved in the community. I think we all

have to be very realistic that David City is not going to return to being a major retail place no matter how much we wish it were. We are so lucky that we have two grocery stores, two drug stores, two hardware stores, a lumber yard, two school systems, the hospital, the nursing homes, we have so much here, but what we would like to turn into, and think is possible, is that we become a destination place, a place where people come. Now people have said to me a number of times "David City will never support a nice restaurant". Maybe David City alone won't but there's Columbus, York, Lincoln, and Omaha, and as much as we like to get out of town and go to Omaha or Lincoln for something special, the people from the City like to come out to the country. We've had a restaurant in the past that was always packed on Saturday, people traveling after a football game that came and stopped there. We can do that, we can bring in busloads of people to go to the Bone Creek Museum and go to something at the Opera House and leave their money here. It's not going to just happen to us, we're going to have to make it happen and we need everybody's enthusiasm and help. If you have any ideas, pro or con, we honestly want to hear them. We don't know what we are doing, we just know where we want to get, but it's going to take a lot of people to help us get there. We wanted you to be aware of it and enlist your help."

Paul Perske stated: "Let's not wait until we lose the building. Your parents, grandparents, great grandparents struggled to build what we have. You want to save it for your children, grandchildren. At minimum, at least maintain what you have before it's gone. I don't want people driving through my town saying "There're just a bunch of hicks, there's no culture here." What you have in the town says a lot about the community; they have a nice museum, they have an opera house, a nice restaurant, they must be cultured. You're never going to replace that building if it would burn down, you're not going to build a new one, it would cost a lot more than the renovation is."

Beth Klosterman stated: "An interesting bit of trivia: The cost of the Opera House when it was built, furnishings and everything, was \$18,000. We won't replace it for that."

Mayor Zavodny thanked Beth and Paul for the presentation and instructed Beth to visit with the school students also.

WELCOME TO THE THORPE OPERA HOUSE

William Brownsfield Thorpe, David City banker, civic leader, patron of the arts and father of a musically gifted daughter combined diverse interests through the construction of the opera house. Thorpe intended that the facility serve as both a cultural center for the community of David City and a hometown stage for his only daughter, Estelle.

When W.B. Thorpe opened his three-story brick opera house to the south side of the courthouse square in 1889, the community boasted one of the most beautifully designed and best equipped opera houses in Nebraska. The opening night audience sat on walnut stained hoop-back chairs and faced double-tiered, velvet draped boxes on each side leading back to a third floor multitiered gallery in the rear of the auditorium. The interior of the opera house reflected Estelle's penchant for pastel blue.

Much of the theatrical entertainment which appeared at the opera house both before and after the turn of the century arrived in David City via one of the three railroads which served it. A potpourri of early American entertainment, theatrical touring companies, solo dramatic performers, minstrel shows, hypnotists and political orators passed through the small town opera house.

We have made many repairs to this facility in bringing it back to life, for the use of people in the community. As we progress we have redone the floors, walls and ceiling. The entry way and hallway were repapered. Front teasers and back curtains have been hung. Part of the curtain from the old Stuart Theatre in Lincoln, which was gifted to us, frames the stage. We have built temporary dressing rooms back stage left. The curtain on the north back wall was hanging on the stage and is a hand painted watercolor on canvas curtain, dated 1922. The curtain on the stage was done in 1991 by Heartland Stage Company of Omaha, with merchants of that time buying advertising on it, just as in 1889 or 1922. Nebraska Educational Television has filmed two special broadcasts in the opera house. One was the life of George Norris and the other a cabaret performance of Ruth Etting songs by Andrea Marcaveche. A musical performance for Public Radio was presented from the auditorium and a weekly television show was performed here in the 1980's.

In 2000 the Thorpe Opera House was given to a 501c3 foundation and plans began to return this wonderful old building to its former elegance. The structure is sound and it has great potential to become a major asset for the economic development of Butler County. The building to the west of the opera house has been donated to The Thorpe Foundation by the Horacek family and is included in the renovation plan.

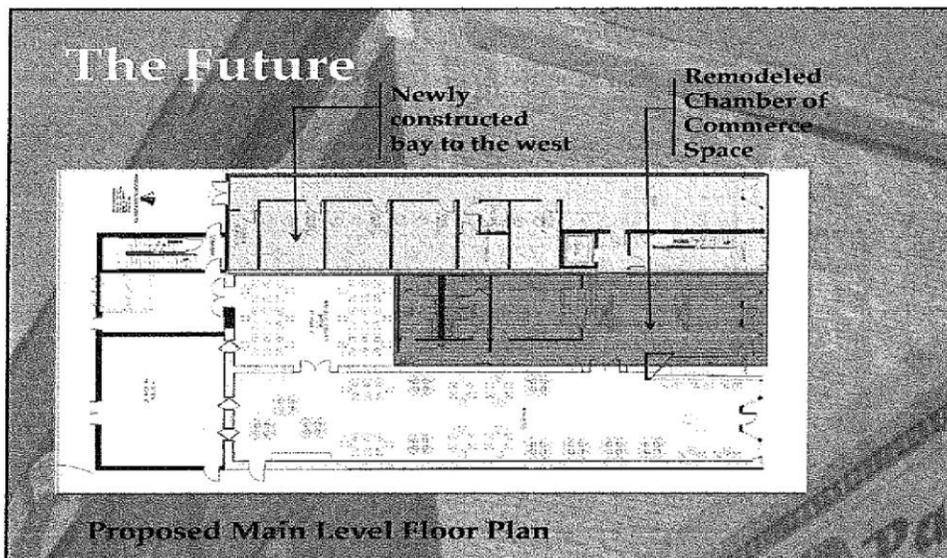
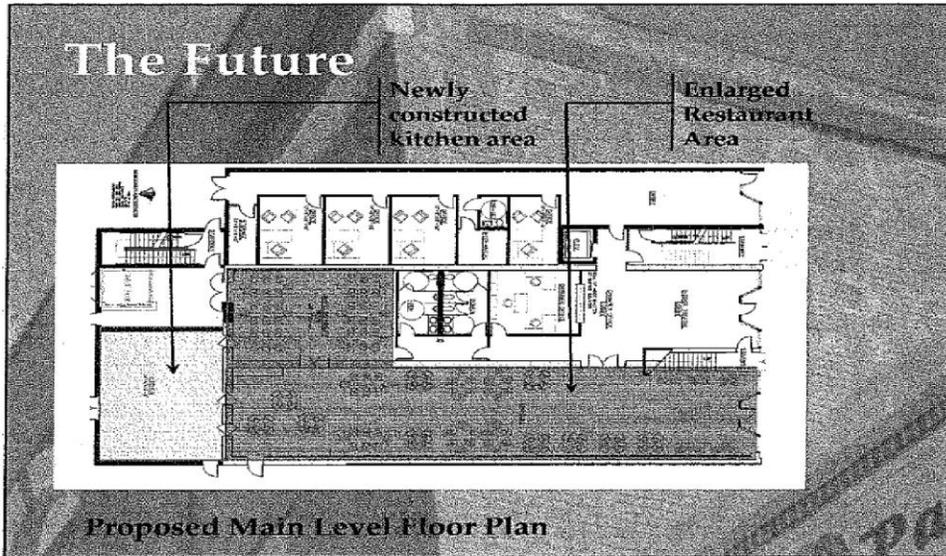
The finished building will house the upstairs performing arts area, the ground floor offices of the Chamber of Commerce and the Butler County Development organization, an elevator, adequate handicap restrooms and either an upgrade of the rental facility, which is presently on the ground floor, or a restaurant. It will appear, as closely as possible, just as it did in 1889. A portion of the third floor will be developed in an area specifically for the Boston Studio Collection and the Thorpe Corp offices.

Many of the things, such as the side balconies, may not be replaced due to expense, but the acoustics, which are excellent now, will be improved even more and the four rooms in the front of the upstairs will be opened up to create a large reception area which can also be rented out for small events.

The performance area is used by the Butler County Arts Council and for events sponsored by The Thorpe. It is available for rent by groups or individuals and is often the scene of a reception, dinner or meeting and, on a few occasions, even a wedding. Future plans for this area include a variety of regular presentations sponsored by The Thorpe. The potential for the renovated building is exciting to imagine.

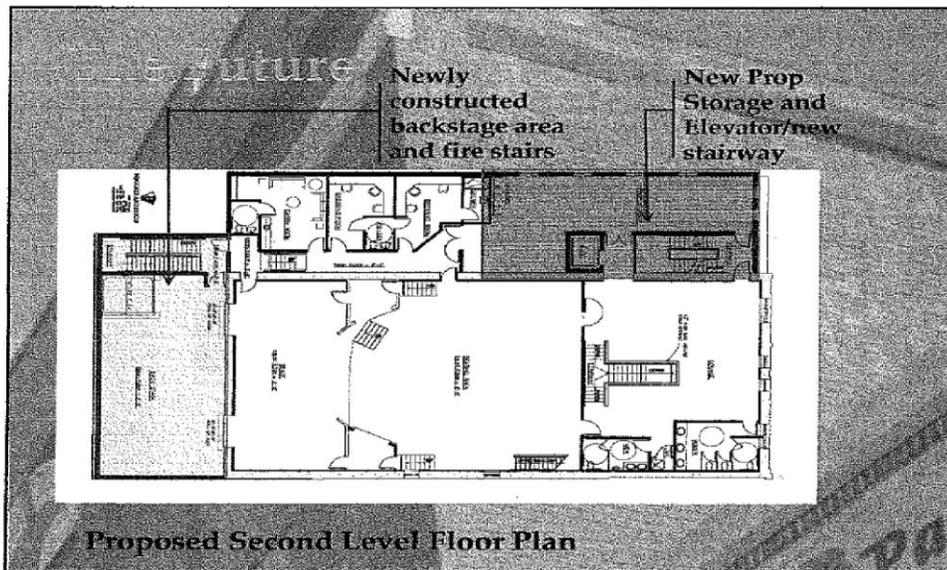
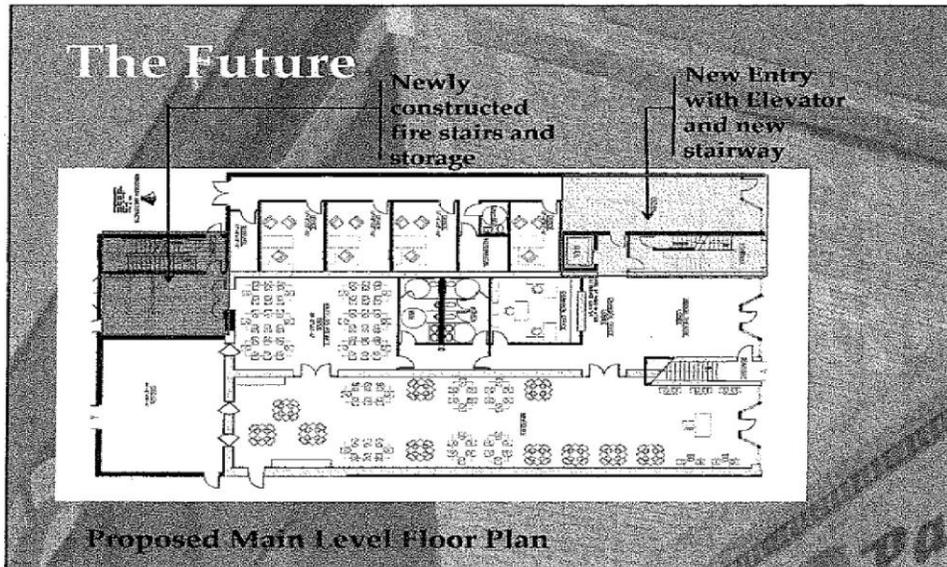
Thank you for coming to see the Opera House and please return many times in the future.

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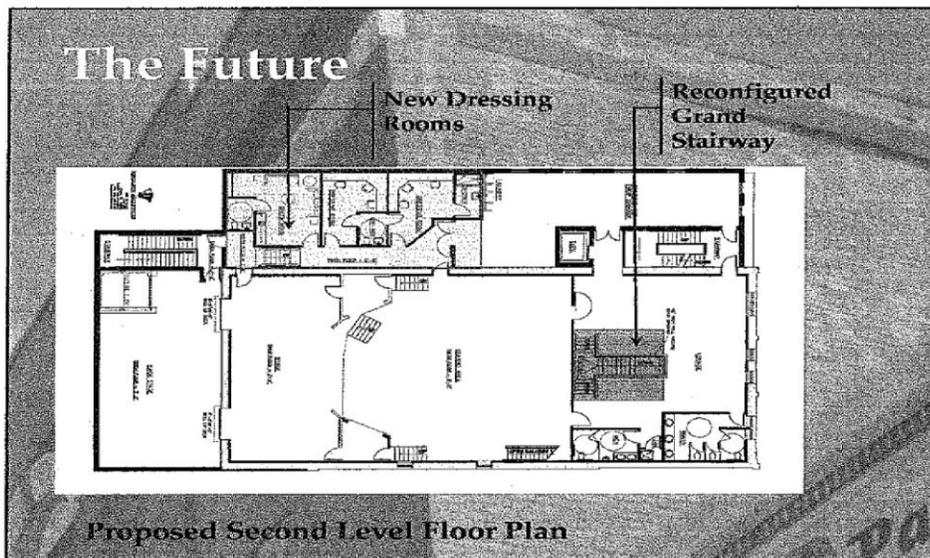
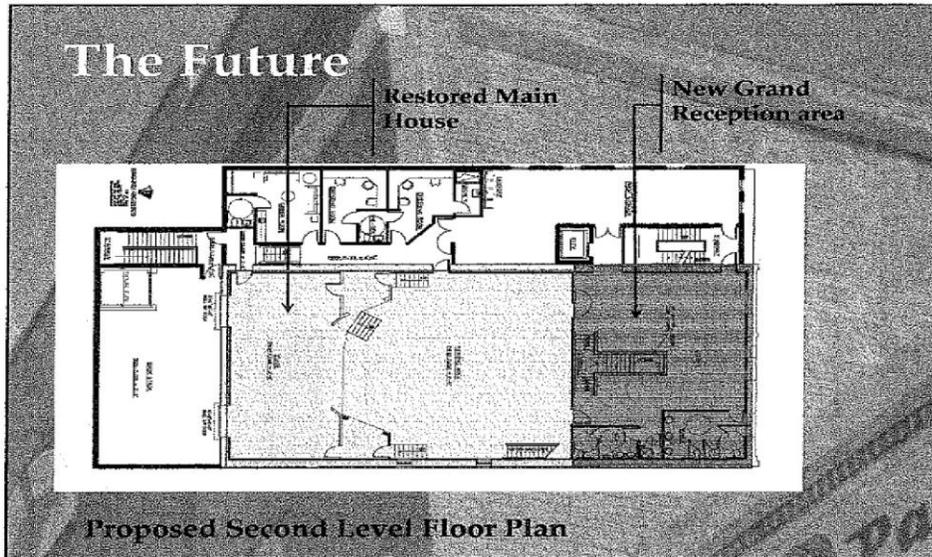


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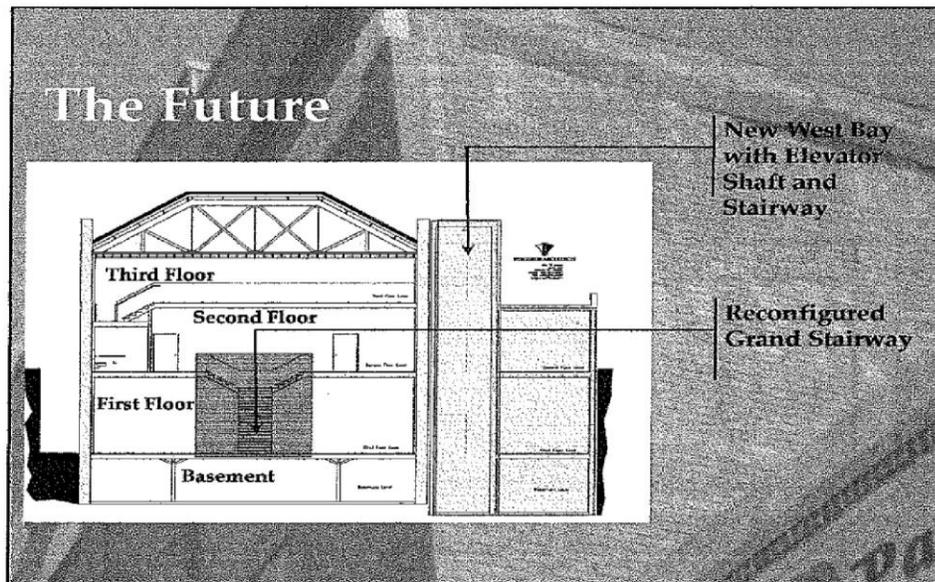
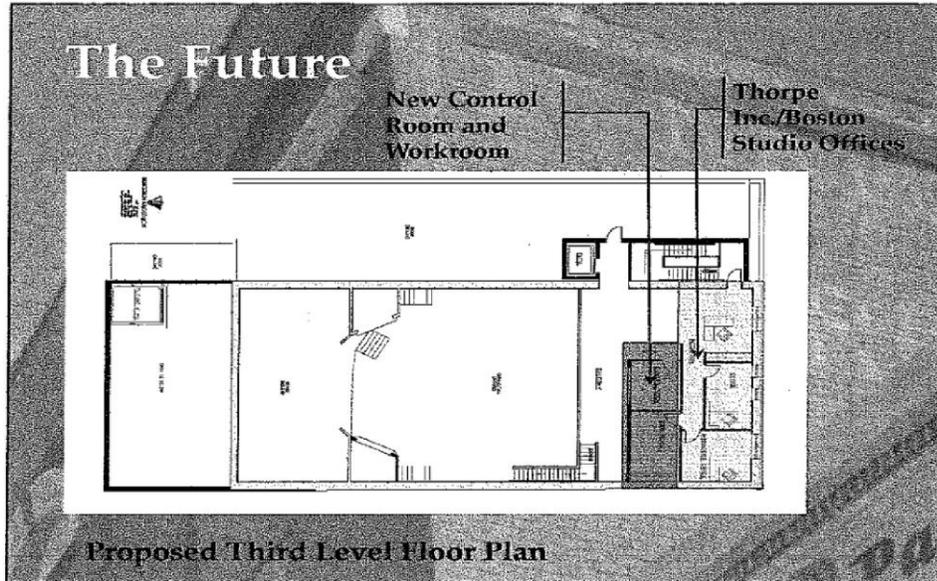
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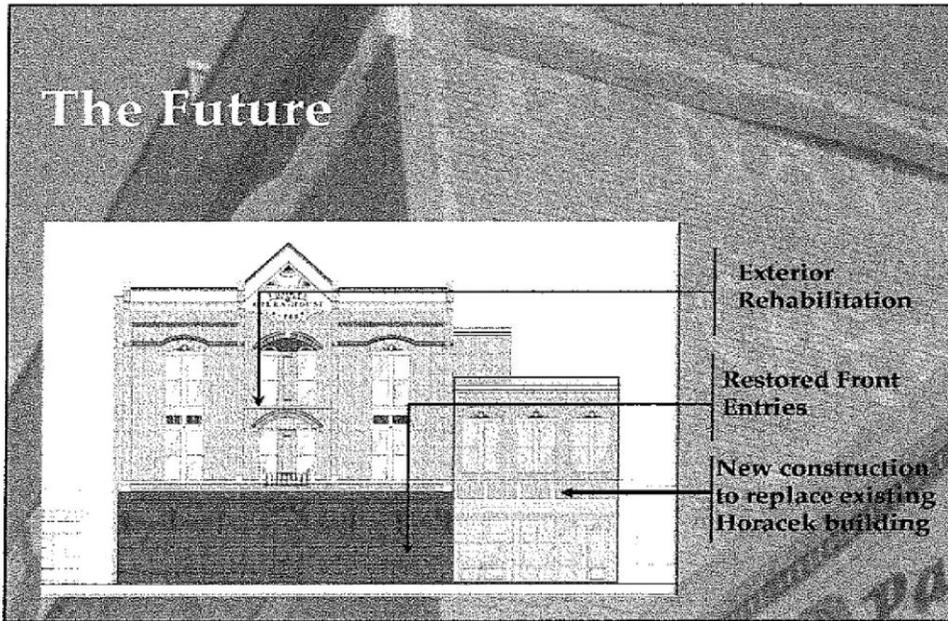
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Council member Smith made a motion to go into executive session to discuss employee negotiations. Council member Svoboda seconded the motion. Voting AYE: Council members Svoboda, Smith, Kroesing, Vandenberg, and Scribner. Voting NAY: None. Council member Rogers was absent. The motion carried.

Mayor Zavodny stated, "Now at 8:57 p.m. we are going into executive session to discuss employee negotiations." Mayor Zavodny, all of the Council members present, City Attorney Egr, City Administrator Cornett, and City Clerk Kovar went into executive session at 8:57 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:21 p.m.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Kroesing, Scribner, Svoboda, and Smith. Voting NAY: None. Council member Rogers was absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:22 p.m.



CERTIFICATION OF MINUTES
January 8, 2014

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of January 8, 2014; 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 E. Kovar, City Clerk