

**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 **13th day of November, 2013**, 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 1st day of November, 2013.

AGENDA AS FOLLOWS:

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| 1. Roll Call; | Mayor Alan Zavodny |
| 2. Pledge of Allegiance; | |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; | Council President Gary L. Kroesing |
| 4. Minutes of the October 9 th and 23 rd , 2013 meetings of the Mayor and City Council; | |
| 5. Consideration of Claims; | |
| 6. Committee and Officer Reports; | Council member Michael E. Rogers |
| 7. Public Hearing on the proposal of the City to issue its Development Revenue and Refunding Bonds (St. Joseph's Villa Project), Series 2013, in the maximum principal amount of \$3,000,000; | Council member Ruddy L. Svoboda |
| 8. Consideration of Resolution No. 18 - 2013 that determines a public hearing was published, conducted, and the City Council approves issuance of Development Revenue and Refunding Bonds (St. Joseph's Villa Project), Series 2013, in the maximum principal amount of \$3,000,000; | Council member William Scribner |
| 9. Consideration of Ordinance 1201 entitled:
AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF DEVELOPMENT REVENUE AND REFUNDING BONDS (ST. JOSEPH'S VILLA PROJECT), SERIES 2013, OF THE CITY OF DAVIDCITY, NEBRASKA (THE "BONDS") FOR THE PURPOSE OF LOANING THE PROCEEDS THEREOF TO ST. JOSEPH'S VILLA, INC. (THE "BORROWER" IN ORDER TO (i) REDEEM THE CITY'S OUTSTANDING INDUSTRIAL DEVELOPMENT REFUNDING REVENUE | Council member Gary D. Smith |
| | Council member John P. Vandenberg |
| | City Clerk Joan E. Kovar |

BONDS (ST. JOSEPH'S VILLA, INC., PROJECT) SERIES 2004 (THE "SERIES 2004 BONDS") WHICH 2004 BONDS WERE ISSUED UNDER A TRUST INDENTURE DATED DECEMBER 15, 2004 (AS AMENDED, THE "INDENTURE") BETWEEN THE CITY AND CORNERSTONE BANK (FORMERLY CORNERSTONE BANK, N.A.), AS TRUSTEE (THE "TRUSTEE"), AND (ii) PAY THE COSTS OF CERTAIN ADDITIONS, IMPROVEMENTS AND EQUIPMENT FOR THE ASSISTED LIVING AND SKILLED NURSING FACILITIES OF THE BORROWER (THE "2013 PROJECT"; AND, TOGETHER WITH THE PROJECTS FINANCED AND REFINANCED BY THE 2004 BONDS, THE "PROJECT"), WHICH BONDS AND THE INTEREST THEREON SHALL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE LOAN AGREEMENT DATED AS OF DECEMBER 15, 2004, BETWEEN THE CITY AND THE BORROWER, AS AMENDED (THE "LOAN AGREEMENT") AND THE PROMISSORY NOTE ISSUED BY THE BORROWER TO THE CITY THEREUNDER (THE "2013 NOTE"), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENT TO THE LOAN AGREEMENT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENT TO THE INDENTURE; APPROVING A MODIFICATION TO THE DEED OF TRUST SECURING THE OBLIGATIONS OF THE BORROWER UNDER THE LOAN AGREEMENT (THE "DEED OF TRUST"); APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT BETWEEN THE CITY, THE BORROWER AND D.A. DAVIDSON & CO.; PROVIDING FOR THE APPROVAL OF AN OFFICIAL STATEMENT; PROVIDING AUTHORIZATION FOR QUALIFICATION AND REGISTRATION FOR SALE OF THE BONDS IN VARIOUS STATES; PROVIDING RATIFYING PRIOR ACTIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF ADDITIONAL DOCUMENTS AND THE TAKING OF ADDITIONAL ACTIONS; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT AND THE BONDS; DETERMINING THAT SAID BONDS SHALL NOT BE A LIABILITY OF THE CITY NOR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS; DETERMINING THAT SAID BONDS ARE QUALIFIED TAX EXEMPT OBLIGATIONS; PROVIDING THAT THE INVALIDITY OF ANY PART OF THIS ORDINANCE SHALL NOT AFFECT THE REMAINDER; PROVIDING THAT THIS ORDINANCE CONSTITUTES A CONTRACT BETWEEN THE CITY AND THE HOLDERS OF THE BOND; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; REPEALING ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE PUBLICATION AND DATE OF EFFECT OF THIS ORDINANCE.";

10. Consideration of authorizing the Mayor to sign a Consent and Waiver that the City consents to Baird Holm representing D.A. Davidson & Co. as underwriter's counsel in connection with the Bond Issue;
11. Consideration of Resolution #19 – 2013 as per the request by Jill (Krande) Hain to subdivide her property legally described as Lots 8, 9, and 12 of Block 10, David City Land & Lot Company Addition to David City (150' x 140') to form two lots (88' x 140') and (62' x 140");
12. Consideration of Resolution No. 20 – 2013 appointing members to the Community Redevelopment Authority of the City of David City;
13. Consideration of the In Lieu of Tax payment by the David City Housing Authority;
14. Consideration of refunding the In Lieu of Tax payments paid by the David City Housing Authority for the last three (3) years;
15. Consideration of Ordinance No. 1197 setting the monthly rates to be charged for water usage, customer charges, and the effective dates; (Passed 2nd Reading 10/09/13)
16. Consideration of Ordinance No. 1198 setting the monthly rates to be charged for Sewer usage, customer charges, and the effective dates; (Passed 2nd Reading 10/09/13)
17. Consideration of the bids received for the demolition of the properties located at 465 1st Street and 446 So. 6th Street;
18. Consideration of opening the City Auditorium for walkers, etc.;
19. Consideration of purchasing a new truck;

20. Consideration of providing Flu Shots for the employees;
21. Consideration of charging a service charge for the 911 repeater on the old water tower;
22. Consideration of the request by the Department of the Air Force asking the City to develop a restoration plan for the F-84 Aircraft;
23. Adjournment;

CITY COUNCIL PROCEEDINGS

November 13, 2013

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 November 7th, 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 Ruddy Svoboda, Gary Smith, John Vandenberg, and Mike Rogers. Also present were City Administrator Abbie Cornett, City Attorney Jim Egr, and City Clerk Joan Kovar. Council members Gary Kroesing and Bill Scribner were absent.

Also present for the meeting were: Phil Lorenzen, Vice President of D.A. Davidson, Paul Grieger, of D.A. Davidson, T. Parker Schenken, of Baird Holm, Mike Jones of Jones Insurance, Executive Director Renee Williams and Board Member Marie Hoeft of the D.C. Housing Authority, Darrell & Judie Foust, Mr. & Mrs. Bob Kobza, Russell Heller, Janis Cameron, Carolyn Yates, and Banner Press Editor Larry Peirce.

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 October 9th and October 23rd, 2013 meetings of the Mayor and City Council were approved upon a motion by Council member Smith and seconded by Council member Vandenberg. Voting AYE: Council members Vandenberg, Svoboda, Rogers, and Smith. Voting NAY: None. Council members Kroesing and Scribner were 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 Rogers seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Smith, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Mayor Zavodny called for Committee and Officer Reports.

Mayor Zavodny stated: "One thing that did come up previously was our sirens and I believe what we had decided as a council still holds true. We did some checking into what it would cost to repair some of our older ones; it's really cost prohibitive I think. The key is, the one we have on top of the fire hall is supposed to have coverage for fire calls for the whole city. There might be somebody sitting in their house on the outskirts who possibly won't hear that. The fire department members have pagers and that is our primary notification anyway. The other thing is, we have a few sirens that are used just in case of a tornado warning which has a bigger coverage area and are located in different locations throughout the City. So that's where we stand on that. I don't think anything has changed since that presentation was made to us. We do have the maps that show our coverage areas and there is adequate coverage area to the city limits.

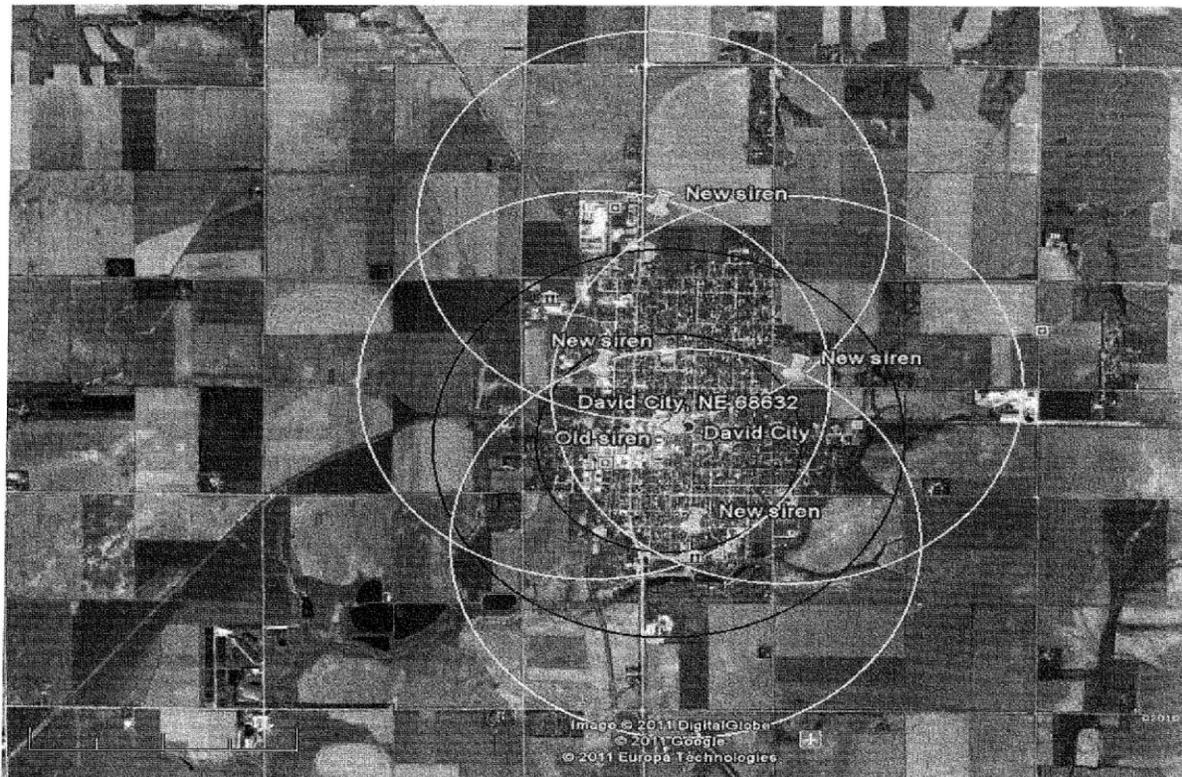
Electric Superintendent Pat Hoefft stated: "I do have the contractor, who was supposed to take them down four years ago, is going to come take them down."

Mayor Zavodny stated: "I think that's an important thing too because there's a false sense. I was concerned if you'll remember a couple of years ago; if you're sitting right under one you have that false sense of security that you're going to have that thing blowing when there's something you need to be made aware of, and if it's not operational I think that's something that we have a responsibility to make sure people know that if it's not there they're not counting on that to alarm them of something. You only want ones up that work and people can count on them to function when they're supposed to function, tornado and/or fire, and all of them don't blow on fire calls, just so the public is aware of that, and that's how we're set up currently."

Janis Cameron stated: "Fund raising for the Christmas Street Lighting is continuing. We have submitted a grant to the Butler County Area Foundation which we might hear from in December. In the meantime we are still trying to raise funds; we've not stopped. We invite all of you to attend a "Flip the Switch" ceremony to be held on Thursday, November 21, 2013 at 6:00 p.m. outside of Winfields, 467 D Street."

Temple Display, Ltd. 36 Decorations	10,436.08
Donations to date:	5,115.00
Request amount to B.C. Area Foundation	3,500.00

Council member Rogers made a motion to accept the committee and officers reports as presented. Council member Smith seconded the motion. Voting AYE: Council members



Vandenberg, Svoboda, Smith, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Council member Vandenberg made a motion to advance to agenda item #10 – Consideration of authorizing the Mayor to sign a consent and waiver that the City consents to Baird Holm representing D.A. Davidson & Co. as underwriter’s counsel in connection with the bond issue. Council member Smith seconded the motion. Voting AYE: Rogers, Vandenberg, Svoboda, and Smith. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Council member Rogers made a motion to authorize Mayor Zavodny to sign a Consent and Waiver that the City consents to Baird Holm representing D.A. Davidson & Co. as underwriter’s counsel in connection with the bond issue. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Rogers, and Smith. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

CONSENT AND WAIVER

The undersigned hereby acknowledge that they have had an opportunity, if they wished to do so, to consult with legal counsel other than Baird Holm LLP with respect to this Consent and Waiver, and agree to the terms of the foregoing letter and: (1) consent to the representation of D.A. Davidson & Co. by Baird Holm LLP in the Bond Issue; (2) waive all objections to such representation; (3) consent to Baird Holm’s continued representation of D.A. Davidson & Co. and the City of David City in connection with matters other than the Bond Issue; and (4) waive objections to and potential conflicts of interest that may exist with respect to such continued representation.

D.A. Davidson & Co.

By: _____
Title: _____

The City of David City

By: _____
Title: Mayor Alan Zavodny

Phil Lorenzen, Vice President of D. A. Davidson & Co., had previously e-mailed the following to Mayor Zavodny, City Clerk Kovar, and City Attorney Egr:

Greetings,

My associate Paul Grieger is working on a project to refund and underwrite a financing for St. Joseph’s Villa.

The bonds are issued as a “pass-through” financing utilizing the City as the pass-through issuer in order to enable issuance of tax-exempt bonds. This is the same process as used for previous financings of St. Joseph’s in David City.

The City simply lends its name as the issuing entity to facilitate the financing. There is no risk, obligation or expense associated with the process.

There are only a few steps the City needs to assist with at one or two Council meetings. The first Council action is that of conducting a TEFRA (Tax Equity & Fiscal Responsibility Act)

Hearing to allow public input as to the issuance of the new money borrowing. It will also be necessary at that meeting or a subsequent meeting to adopt the ordinance authorizing St. Joseph's debt issuance. Again no liability of any kind on the City's part.

All documents, notices to be published and related details and steps will be arranged by Paul Grieger and/or Parker Schenken, Bond Counsel, Baird Holm Law Firm.

At 7:09 p.m., Mayor Zavodny declared the Public Hearing open on the proposal of the City to issue its Development Revenue and Refunding Bonds (St. Joseph's Villa Project), Series 2013, in the maximum principal amount of \$3,000,000.

Philip Lorenzen, Vice President, of D.A. Davidson & Co. introduced his associate and partner, Paul Grieger, who is managing the transaction for the financing of the St. Joseph Villa project, and T. Parker Schenken, Attorney for Baird Holm LLP.

T. Parker Schenken, Attorney for Baird Holm stated: "The City of David City is simply serving as the conduit insurer. It is a stand-alone revenue transaction that will be secured by the revenues of St. Joseph's Villa entirely. There is absolutely no commitment to any of your revenues or any of your taxing authority to the project whatsoever."

City Attorney Jim Egr stated: "Mr. Mayor, I have reviewed all of the documents in relation to that and there are specific paragraphs that say we are basically acting as a conduit and we have no liability on that."

Mayor Zavodny stated: "Are there any other questions of the gentlemen that are present? Any comments or questions from the public?"

There being no further comments or questions, Mayor Zavodny closed the Public Hearing at 7:11 p.m.

Council member Rogers introduced Resolution No. 18 – 2013 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Resolution No. 18 – 2013 was passed and adopted as follows:

RESOLUTION NO. 18- 2013

BE IT RESOLVED by the City Council of the City of David City, in the State of Nebraska (the "City"), as follows:

Section 1. The City Council hereby finds and determines that notice of public hearing was published in The Banner Press on October 3, 2013, and that a public hearing pursuant to said notice has been conducted by the City Council, and pursuant to such public hearing the City Council hereby approves issuance of Development Revenue and Refunding Bonds (St. Joseph's Villa Project), Series 2013 (the "Bonds") in accordance with the following:

A. The Bonds are to be issued by the City pursuant to the provisions of the Nebraska Industrial Development Act (Sections 13-1101 to 13-1110, R.R.S. Neb. 2012, as amended), for the purpose of lending the proceeds of such bond to St. Joseph's Villa, Inc., a Nebraska nonprofit corporation (the "Borrower") to provide for (1) paying the costs

of additions and improvements to the Borrower's existing 58-bed nursing home and 22-bed assisted living facilities (together, the "Facilities"), including replacing HVAC systems, installation of a geothermal energy transfer system, remodeling resident rooms, and other improvements, equipment and furnishings for such facilities, and (2) refunding the City's outstanding Industrial Development Revenue Refunding Bonds, Series 2004 (St. Joseph's Vila, Inc. Project), presently outstanding in the principal amount of \$1,275,000, which were issued to refund prior outstanding bonds which were issued to pay the costs of acquiring, purchasing, constructing, equipping and furnishing the Facilities.

- B. The maximum aggregate face amount of Bonds to be issued is \$3,000,000;
- C. The initial and present owner and operator of the Facilities is the Borrower;
- D. The street address of the Facilities and project is 927 7th Street, David City, Nebraska.

Section 2. As hereby approved, the Bonds shall be issued upon such terms and conditions as shall be determined by the City and the Borrower.

Section 3. The approval provided for in this resolution is for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended.

Section 4. The Mayor and City Clerk (or either one of them) acting for and on behalf of the City are hereby authorized to execute and deliver any further documents deemed by them necessary or appropriate for or on behalf of the City to reflect the approval of the issuance of the Bonds for and on behalf of the City.

Passed and approved this 13th day of November, 2013.

CITY OF DAVID CITY, NEBRASKA

By: _____
Mayor Alan Zavodny

ATTEST: _____
City Clerk Joan Kovar

Council member Vandenberg introduced Ordinance No. 1201. Council member Rogers 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 Rogers, Svoboda, Smith, and Vandenberg. Mayor Zavodny was allowed to vote pursuant to Nebraska State Statute §17-110 & §17-614 which went into effect on September 6, 2013, and he voted AYE. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1201 on the third and final reading. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Vandenberg, Rogers, and Smith. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Ordinance No. 1201 was passed and adopted as follows:

ORDINANCE NO. 1201

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF DEVELOPMENT REVENUE AND REFUNDING BONDS (ST. JOSEPH'S VILLA PROJECT), SERIES 2013, OF THE CITY OF DAVID CITY, NEBRASKA (THE "BONDS") FOR THE PURPOSE OF LOANING THE PROCEEDS THEREOF TO ST. JOSEPH'S VILLA, INC. (THE "BORROWER") IN ORDER TO (i) REDEEM THE CITY'S OUTSTANDING INDUSTRIAL DEVELOPMENT REFUNDING REVENUE BONDS (ST. JOSEPH'S VILLA, INC., PROJECT) SERIES 2004 (THE "SERIES 2004 BONDS") WHICH 2004 BONDS WERE ISSUED UNDER A TRUST INDENTURE DATED DECEMBER 15, 2004 (AS AMENDED, THE "INDENTURE") BETWEEN THE CITY AND CORNERSTONE BANK (FORMERLY CORNERSTONE BANK, N.A.), AS TRUSTEE (THE "TRUSTEE"), AND (ii) PAY THE COSTS OF CERTAIN ADDITIONS, IMPROVEMENTS AND EQUIPMENT FOR THE ASSISTED LIVING AND SKILLED NURSING FACILITIES OF THE BORROWER (THE "2013 PROJECT"; AND, TOGETHER WITH THE PROJECTS FINANCED AND REFINANCED BY THE 2004 BONDS, THE "PROJECT"), WHICH BONDS AND THE INTEREST THEREON SHALL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE LOAN AGREEMENT DATED AS OF DECEMBER 15, 2004, BETWEEN THE CITY AND THE BORROWER, AS AMENDED (THE "LOAN AGREEMENT") AND THE PROMISSORY NOTE ISSUED BY THE BORROWER TO THE CITY THEREUNDER (THE "2013 NOTE"), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENT TO THE LOAN AGREEMENT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENT TO THE INDENTURE; APPROVING A MODIFICATION TO THE DEED OF TRUST SECURING THE OBLIGATIONS OF THE BORROWER UNDER THE LOAN AGREEMENT (THE "DEED OF TRUST"); APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT BETWEEN THE CITY, THE BORROWER AND D.A. DAVIDSON & CO.; PROVIDING FOR THE APPROVAL OF AN OFFICIAL STATEMENT; PROVIDING AUTHORIZATION FOR QUALIFICATION AND REGISTRATION FOR SALE OF THE BONDS IN VARIOUS STATES; PROVIDING RATIFYING PRIOR ACTIONS; AUTHORIZING THE EXECUTION AND DELIVERY OF ADDITIONAL DOCUMENTS AND THE TAKING OF ADDITIONAL ACTIONS; MAKING FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT AND THE BONDS; DETERMINING THAT SAID BONDS SHALL NOT BE A LIABILITY OF THE CITY NOR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS; DETERMINING THAT SAID BONDS ARE QUALIFIED TAX EXEMPT OBLIGATIONS; PROVIDING THAT THE INVALIDITY OF ANY PART OF THIS ORDINANCE SHALL NOT AFFECT THE REMAINDER; PROVIDING THAT THIS ORDINANCE CONSTITUTES A CONTRACT BETWEEN THE CITY AND THE HOLDERS OF THE BOND; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS HEREOF; REPEALING ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE PUBLICATION AND DATE OF EFFECT OF THIS ORDINANCE.

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

Section 1. The Mayor and Council of the City of David City, Nebraska, finds and determines:

(a) That the City is authorized by Section 2 of Article XIII of the Constitution of the State of Nebraska and by Neb. Rev. Stat. § 13-1101 through 13-1110, R.R.S. Neb., as amended (hereinafter referred to as the "Act") to finance and refinance the acquisition, construction, rehabilitation or purchase of one or more projects for use as a "nonprofit

enterprise” (as defined in the Act), regardless of whether such project or projects are located within a blighted area, including the power to enter into any type of agreement, including a loan agreement, of and to issue revenue bonds thereby provide financing and refinancing for such project; which bonds shall be payable solely out of the revenue derived from the payments made under the said loan agreement.

(b) That the Mayor and Council have investigated and determined that St. Joseph’s Villa, Inc., a Nebraska nonprofit corporation (the “Borrower”), is a nonprofit corporation qualified under Section 501 (c)(3) of the Internal Revenue Code of 1986, as amended, operating a nursing and assisted living facility within the City as a nonprofit enterprise as defined in the Act, and that the Borrower desires that the City issue not to exceed \$3,000,000 in aggregate principal amount of Development Revenue and Refunding Bonds (St. Joseph’s Villa Project) Series 2013 (the “Bonds”) pursuant to the Trust Indenture dated as of December 15, 2004, as amended, including as amended by the Supplemental Indenture described below (the “Indenture”), and loan the proceeds thereof to the Borrower pursuant to the Loan Agreement dated as of December 15, 2004, as amended, including as amended by the Amendment described below (the “Loan Agreement”) in order to pay costs of the 2013 Project and redeem and refinance the Outstanding Indebtedness and thereby provide for the financing and refinancing for the Project, all to induce the Borrower to continue its operations in the City, and that, accordingly, a public benefit will result from said Project through the financing and refinancing of the Project by the City, which public benefit shall include, but not be limited to, maintaining the employment of residents of the City, the providing of nursing and assisted living facilities within the City which benefits the health and welfare of the residents of the City, with an intended increase in the general economic activity within the City.

Section 2. An amendment to the Loan Agreement (the “Amendment”) in substantially the form and content presented to the meeting, and the form of the 2013 Note be, and the same hereby are, in all respects, authorized, approved and confirmed, and the Mayor and the City Clerk be, and they hereby are, authorized to execute and deliver said Amendment and related documents, including necessary counterparts, in substantially the form and content as presented to the meeting for and on behalf of the City with such changes, alterations, amendments, revisions and modifications thereto as the Mayor, in the exercise of his or her independent judgment and discretion, may deem necessary or appropriate, such determinations to be evidenced by his or her execution thereof.

Section 3. A supplement to the Trust Indenture (the “Supplemental Indenture”) between the City and Cornerstone Bank (formerly Cornerstone Bank, N.A.), as trustee (the “Trustee”) in substantially the form and content presented to the meeting, be and the same hereby is, in all respects authorized, approved and confirmed, and the Mayor and City Clerk be, and they hereby are, authorized to execute and deliver said Supplemental Indenture, including necessary counterparts, in substantially the same form and content presented to the meeting for and on behalf of the City with such changes, alterations, amendments, revisions and modifications thereto as the Mayor, in the exercise of his or her independent judgment and discretion, may deem necessary or appropriate, such determinations to be evidenced by his or her execution thereof.

Section 4. A modification or supplement (the “Supplemental Deed of Trust”) to the Restated and Amended Deed of Trust and Security Agreement dated as of December 15, 2004, given by the Borrower, as trustor, for the benefit of the City, as beneficiary (the “Existing Deed of Trust”), in substantially the form and content presented to the meeting be and the same hereby

is, in all respects authorized, approved and confirmed, in substantially the same form and content presented to the meeting, with such modifications thereto as the Mayor, in the exercise of his or her independent judgment and discretion, may deem necessary or appropriate such determinations to be evidenced by his or her execution thereof.

Section 5. A Bond Purchase Agreement between the City, the Borrower and D.A. Davidson & Co. ("Underwriter") be and the same hereby is in all respects authorized, approved and confirmed, and the Mayor and City Clerk or Deputy City Clerk be, and they hereby are, authorized to execute and deliver said Bond Purchase Agreement, including necessary counterparts, in such form and content as the Mayor, in the exercise of his or her independent judgment and discretion, may deem necessary or appropriate, such determination to be evidenced by his or her execution thereof. The sale of the Bonds pursuant to the Bond Purchase Agreement at the purchase price to be stated therein (as determined in accordance with the Bond Purchase Agreement) is hereby authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 6. The issuance the Bonds in the form set forth in the Supplemental Indenture be, and the same hereby is, in all respects, authorized, approved and confirmed, and the Mayor and City Clerk be, and they hereby are, authorized to execute (either by manual or facsimile signatures), seal with the official seal of the City, register said Bonds with the Paying Agent and Registrar; file a record of information with the Auditor of Public Accounts of the State of Nebraska, and deliver said Bonds in registered book entry form or otherwise in accordance with the Bond Purchase Agreement, and all other provisions of the Indenture with respect to said Bonds be, and they hereby are, incorporated herein by reference. The Mayor is hereby authorized, for and on behalf of the City, to establish for the Bonds (a) the principal and interest payment dates thereof and the principal amount thereof maturing on such dates, with a final maturity not later than December 31, 2025; (b) the interest rate or rates to be borne by the Bonds, which in the aggregate shall result in a true interest cost not in excess of 6.50%, (c) the date on which the Bonds are subject to the optional redemption under provisions of the Indenture and the redemption prices thereof, (d) the date or dates (if any) upon which the holder or holders of Bonds may tender the Bonds for payment in advance of their final maturity, and (e) such other terms and provisions as the Mayor deems necessary and appropriate in connection with the contemplated transactions. All of such final terms shall be set forth in the Amendment, Supplemental Indenture, Bonds and other authorized documents as executed and delivered.

Section 7. The Preliminary Official Statement with respect to the Bonds is hereby approved and deemed final as of its date (as to information concerning the City) and the Mayor and/or City Clerk or Deputy City Clerk are each hereby authorized to execute or approve a final Official Statement containing information substantially similar to that provided in said Preliminary Official Statement but with any required changes to reflect the final terms specified in the documents approved in this Ordinance and any additional necessary information. The use of such final Official Statement in connection with the issuance, sale and delivery of the Bonds be, and the same hereby is, authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 8. It is hereby found and determined that it may be desirable and in the best interest of the City that the Bonds be qualified or registered for sale in various states; that the City Clerk or Deputy City Clerk is hereby authorized to determine, in consultation with the Underwriter, the states, if any, in which the appropriate action shall be taken to qualify or register for sale all or any part of the Bonds as said City Clerk or Deputy City clerk, in consultation with the Underwriter,

may deem advisable; that the Mayor and/or City Clerk or Deputy City Clerk each are hereby authorized to perform on behalf of the City any and all acts as he or she may deem necessary or advisable in order to comply with the applicable law of such states, and in accordance therewith, to execute, deliver and file all requisite papers and documents, including, but not limited to, applications, reports, surety bonds, irrevocable consents and appointments of attorneys for service of process; and that the execution by the Mayor and/or City Clerk or Deputy City Clerk of any such paper or document or the doing by him or her of any act in connection with the foregoing matters, shall conclusively establish his or her authority therefor from the City and the approval and ratification by the City of the papers and documents so executed and the action so taken.

Section 9. All actions taken prior to the effective date of this Ordinance by the Mayor and City Clerk or Deputy City Clerk in connection with the issuance, sale and delivery of the Bonds, including, without limitation, (a) the expenditure of funds, (b) the selection, appointment and employment of bond counsel, financial advisors, and underwriters, and (c) the preparation, approval and circulation of the Preliminary Official Statement in connection with the issuance and sale of the Bonds, together with all other actions taken in connection with any of the foregoing, be, and the same hereby is in all respects, authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 10. The principal, premium (if any) and interest upon the Bonds shall not be construed, constitute, nor give rise to any pecuniary liability of the City nor a charge against its general credit or taxing powers, but shall be payable solely from the revenues of the Project.

Section 11. The City does not reasonably expect that it will issue tax-exempt obligations in excess of \$10,000,000 during the calendar year ending December 31, 2013. The City, in accordance with Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, does hereby designate the Bonds as qualified tax-exempt obligations.

Section 12. That the Mayor, City Clerk or Deputy City clerk and other appropriate officers and officials of the City be, and they hereby are, authorized to take such additional action and to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and to perform all other acts (including without limitation the filing of any financing statements, continuation statements or other documents to create or maintain security interests pledged as security for the bonds) as they may deem necessary or appropriate in order to carry out the intent and purposes of this Ordinance.

Section 13. If any section, paragraph, clause or provision of the Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 14. The provisions of this Ordinance shall constitute a contract between the City and the holders of the Bonds herein authorized and the said Trustee and/or the holder of any one or more of the Bonds (subject to the provisions of the aforesaid Loan Agreement and Trust Indenture) may sue in any action in mandamus, injunction or other proceedings, either at law or in equity, to enforce or compel performance of all duties and obligations required by this Ordinance to be done or performed by the said City. Nothing contained in this Ordinance shall, however, be construed to impose upon the said City and duty or obligation to levy any taxes in order to meet any obligations contained herein or to pay the principal of, interest or premium, if any, on the Bonds of the City herein authorized.

Section 15. 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 16. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action, and to approve and execute such other documents, certificates and instruments, including, without limitation, any security documents, financing statements, note endorsements, arbitrage certificates, closing certificates or tax forms as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the City with respect to the Amendment, the Supplemental Indenture, the Bonds and the other authorized documents.

Section 17. All ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of any such conflict, hereby repealed.

Section 18. The City Clerk shall cause this Ordinance to be published in pamphlet form once in a legal newspaper as required by law.

Section 19. This Ordinance shall be in full force and effect from and after its passage as provided by law.

Passed and approved this 13th day of November, 2013.

CITY OF DAVID CITY, NEBRASKA

By: _____
Mayor Alan Zavodny

ATTEST:

City Clerk Joan Kovar

Council member Rogers introduced Resolution No. 19 – 2013 and moved for its passage and adoption. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Svoboda, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Resolution No. 19 – 2013 was passed and adopted as follows:

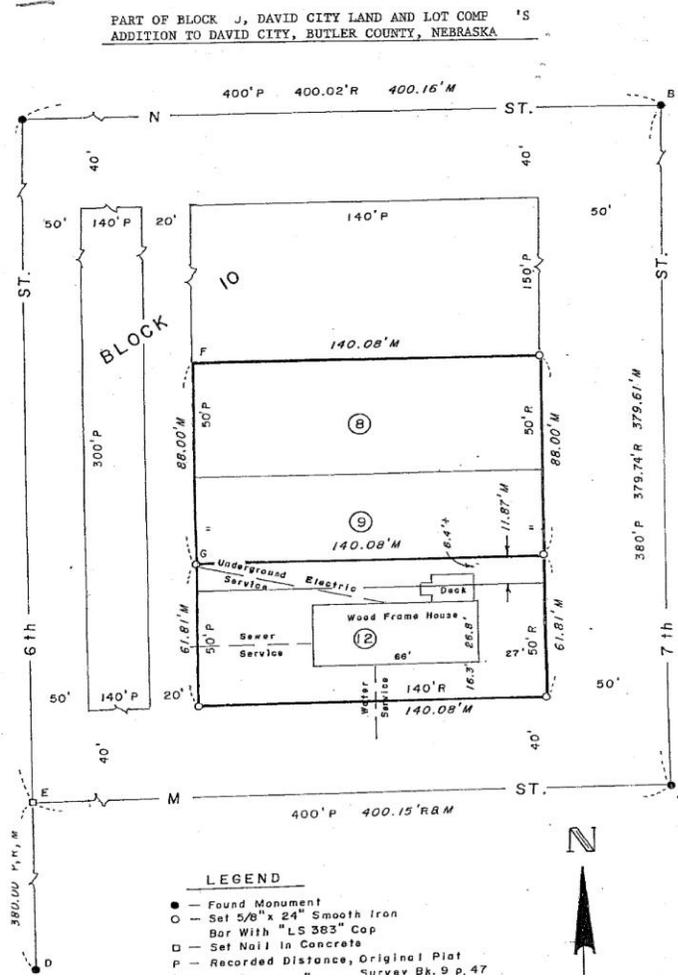
RESOLUTION NO. 19 - 2013

WHEREAS, Jill (Kranda) Hain, as the owner of Lots 8, 9, and 12 of Block 10, David City Land & Lot Company Addition to David City (150' x 140') of David City, Butler County, Nebraska, has submitted a request to divide her property into two Lots, one being 140' x 88', and one being 140' x 62'.

WHEREAS, there were no objections expressed concerning the request of Jill (Kranda) Hain.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the request of Jill (Kranda) Hain to subdivide Lots 8, 9, and 12, (140' x 150') of Block 10, David City Land and Lot Company's Addition to David City, Butler County, Nebraska, into two lots 140' x 88' and 140' x 62' is hereby approved.

Passed and adopted this 13th day of November, 2013.



Mayor Alan Zavodny

City Clerk Joan Kovar

Council member Vandenberg introduced Resolution No. 20 – 2013 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Resolution No. 19 – 2013 was passed and adopted as follows:

RESOLUTION NO. 20 - 2013

RESOLUTIONS OF THE CITY OF DAVID CITY, NEBRASKA TO APPOINT MEMBERS TO THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF DAVID CITY

WHEREAS, by Ordinance No. 1200, the City of David City, Nebraska created the Community Redevelopment Authority of the City of David City, Nebraska ("Authority") pursuant to the Nebraska Community Development Law, Nebraska Revised Statutes sections 18-2101 through 18-2154, as amended ("Development Law"); and

WHEREAS, pursuant to Nebraska Revised Statutes section 18-2102.01(2) and Ordinance 1200, the Mayor, with approval of the City Council, shall select and appoint seven members to the Authority; and

WHEREAS, the Mayor desires to appoint the seven members of the Authority and to designate the terms for said members in accordance with the appointment procedures provided by Ordinance No. 1200 and the Development Law.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AS FOLLOWS:

Section 1. The Mayor is hereby authorized to appoint, and does so appoint, Ruddy Svoboda, to serve on the Authority for a term of one (1) year.

Section 2. The Mayor is hereby authorized to appoint, and does so appoint, Bill Scribner, to serve on the Authority for a term of two (2) consecutive years.

Section 3. The Mayor is hereby authorized to appoint, and does so appoint, John Vandenberg and Alan Zavodny to serve on the Authority each for a term of three (3) consecutive years.

Section 4. The Mayor is hereby authorized to appoint, and does so appoint, Gary Smith and Michael Rogers to serve on the Authority each for a term of four (4) consecutive years.

Section 5. The Mayor is hereby authorized to appoint, and does so appoint, Gary Kroesing to serve on the Authority for a term of five (5) consecutive years.

Section 6. All resolutions, orders and parts thereof in conflict herewith are hereby repealed to the extent of such conflict. These resolutions shall take effect as provided by law. The provisions of these resolutions are separable, and invalidity of any phrase, clause or part of these resolutions, shall not affect the validity of effectiveness of the remainder of these resolutions.

PASSED AND APPROVED this 13th day of November, 2013.

Mayor Alan Zavodny

City Clerk Joan Kovar

Executive Director Renee Williams of the David City Housing Authority stated: "We have been talking with an attorney out of Omaha on all of this who has been in contact with Mr. Egr. I did talk to our attorney this morning and he has asked me to give three little phrases /statements to pass on to you guys. I think it kind of takes care of both this agenda item (*Consideration of the In Lieu of Tax Payment by the David City Housing Authority*) and also agenda item #14 (*Consideration of refunding the In Lieu of Tax payments paid by the David City Housing Authority for the last three (3) years*) as it pertains to us. He said to advise you guys that:

- 1) The David City Housing Authority is looking to work this out amicably with the City and other entities involved.
- 2) We're working with an agreement that was completely over nearly fifty (50) years ago. Since then the law has changed and the agreement needs to be looked at given consideration to the changes in the law, and,
- 3) The attorney also requested: "We would hope that the Council give consideration to seeking a solution that is in the best interest of both David City Housing Authority and the State". Our attorney has advised that there is room for compromise if the City is willing to provide direction to its council to seek amicable resolution.

I don't know what else, since we have now an attorney".

City Attorney Egr stated: "I did visit with Mr. Achola a couple times already, I did send a letter with a copy of the agreement that goes back to July 30, 1963, which should be in your packet. He did e-mail me and request some information on what figures were paid in 2010, 2011, and 2012 and Joan, when she gets some time in her busy schedule will get that information to me. It did sound like they wanted to try to work something out. I also talked to

the League of Municipalities about this situation, and I also talked to T. Parker Schenken and Parker is doing a little extra checking for me also to make sure.....cause the Statutes were changed in 1999, but I didn't see any change in those Statutes yet that would effect, and I didn't find any litigation dealing with an existing agreement that was done in 1963 and how that agreement is effected by the 1999 changes in Statutes. I would suggest that both agenda items #13 and #14 be tabled until I can get some more research done with that, as well as visit with Mr. Achola about any friendly arrangement on this situation. I let the County Assessor know, as well as Ms. Julie Reiter the County Attorney, of the findings of the 1963 agreement and they have not gotten back to me yet."

Mayor Zavodny stated: "Now, Renee, I'm going to compliment you but it's not going to make you feel great. You used that same agreement to get us to take care of the snow issues, and I thought that was a very smart move on your part that time. This agreement has been a blessing and a curse to you over the time, but we will keep working on this."

Council member Smith made a motion to table consideration of the In Lieu of Tax payment by the David City Housing Authority. Council member Rogers seconded the motion. Voting AYE: Svoboda, Vandenberg, Rogers, and Smith. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

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

Ordinance No. 1197 was introduced and passed on first reading on September 11, 2013, and on second reading October 9, 2013. Council member Rogers made a motion to pass and adopt Ordinance No. 1197 on the third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Ordinance No. 1197 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1197

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR WATER USAGE; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-101 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

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

Section 1. That the following monthly rates and customer charges shall become effective **January 1, 2014**. (Water used in January, billed in February, and due March 1 - 10th.)

For 5/8" by 3/4" meters:

Customer charge of \$22.75 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$28.60 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$28.60 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 1 1/2" meters:

Customer charge of \$57.00 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$170.00 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$240.00 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$240.00 per month (no water usage included)
and \$2.73 per 1,000 gallons for First 10,000
and \$3.10 per 1,000 gallons Over 10,000

Section 2. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on as needed basis;

Section 3. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

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

PASSED AND APPROVED this 13th day of November, 2013.

(ATTEST)

Mayor Alan Zavodny

City Clerk Joan Kovar

Ordinance No. 1198 was introduced and passed on first reading on September 11, 2013, and on second reading October 9, 2013. Council member Rogers made a motion to pass and adopt Ordinance No. 1198 on the third and final reading. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Svoboda, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Ordinance No. 1198 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1198

AN ORDINANCE SETTING THE MONTHS THAT WILL BE USED TO CALCULATE SEWER RATES; EFFECTIVE DATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-213 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

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

Section 1. For residential customers, the monthly sewer rate fee shall be based on the average quantity of water **used during the time period of December 20th thru February 19th, preceding April of the current year.** Customers who move within the City shall pay the same Sewer Use Fee at their new location as they paid for at their former location until which time the sewer rate fees are recalculated. For new residential customers in the City, an appropriate Sewer Use Fee will be determined by the Water/Sewer Supervisor.

Section 2. For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated monthly based on the current month's water usage. Commercial customers who

do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

Section 3. The following monthly Sewer Rates and customer charges became effective March 1, 2014, billed in April, and due May 1 - 10th.

Customer charge of \$8.15 per month
Plus @ \$3.00 per 1,000 gallons of water used

Section 4. The monthly rates to be charged for sewer usage and customer charges will be reviewed by the City Council on an as needed basis;

Section 5. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 6. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this ____ day of _____, 2013.

Mayor Alan Zavodny

City Clerk Joan Kovar

Mayor Zavodny asked for consideration of the bids received for the demolition of the properties located at 465 1st Street and 446 So. 6th Street. City Clerk Kovar stated that she had only received bids from Mid Nebraska Grading and Demo and asked Mayor Zavodny if he would like to open the bids. Mayor Zavodny opened the following bids:

DEMOLITION BID PROPOSAL FORM

The City of David City is accepting bids for Demolition and Clearance activities for the following property:

446 S. 6th Street, DAVID CITY, NEBRASKA

LEGAL DESCRIPTION:

Miles 6th Addition to David City, Block 10, N½ of Lot 3 (50 'x 140')

A. BID SPECIFICATIONS:

1. Contractor is responsible for the hiring of someone to provide a mandatory asbestos inspection prior to the demolition of the structure, completion of the notification form if asbestos is found and needs to be removed, followed by the proper abatement and disposal of the asbestos waste.
2. Contractor to furnish all materials, equipment and labor to perform all work in connection with Demolition, removal of all debris and clearance activities at street address: 446 S 6th Street, David City, Nebraska.
3. This project is to include demolition and clearance of the remains of a two (2) story home that was last used as an apartment house, including any basement foundation walls and/or basement floors, and any detached structures, trees/stumps, sidewalks, and other miscellaneous debris.
4. Salvage material is to become property of the contractor and the contractor is responsible for proper disposal in accordance with Federal, State and Local laws and ordinances. Contractor shall be responsible for all disposal fees as part of the bid. Contractor will submit disposal tickets verifying disposal in a permitted solid waste landfill.
5. Excavated areas shall be filled with clean soil, free of vegetable matter, large stones, bricks or other deleterious material and covered.
6. Grading of the property at the building site shall be undertaken to meet the existing grades of adjacent lots. Grades shall be made to prevent drainage onto adjacent property.
7. All disturbed areas shall be finish-graded smooth. The Contractor is NOT responsible for grass growth.
8. Contractor shall provide protection against damage to adjacent property, streets, sidewalks, utilities, etc. and will make approved repairs for any damage to such items. The Contractor shall coordinate with all utilities for shut-off, capping, etc. for any utilities at the site. Cost for shut-offs, capping, etc. to be part of bid. The City of David City prefers that the contractor will not allow any equipment or personnel to come within 10 feet of any overhead power line.

9. Prior to execution of the Contract, the Contractor will provide Certificates of Insurance for the following:
 - a. Comprehensive Public Liability, not less than \$500,000 per occurrence for injury to persons.
 - b. Aggregate (Bodily Injury & property Damage Combined) not less than \$1,000,000.
 - c. Workmen's Compensation Insurance coverage of statutory limits.
10. Contractor will commence work at the direction of the City of David City with the presentation of a "Notice to Proceed" and will complete performance of said Contract within forty-five (45) days thereafter.

The City of David City certifies that no individual or individuals are currently living in, or will be in-habiting the structure. The City of David City or their agent is responsible for "marking" any trees that **are to stay** with a white "S". All other trees and vegetation, including tree stumps, are to be removed as part of the bid proposal.



B. BID PROPOSAL:

The City of David City Demolition Project will receive City Council Action and Approval by the City Council on Wednesday, November 13, 2013 at 6:30 p.m. for this demolition project at 446 S 6th Street, David City, Nebraska.

Bidders: **Return this entire document to:**

City of David City
Attention: City Clerk Joan Kovar
P.O. Box 191
557 N 4th Street
David City, Nebraska

Clearly marked as a "Sealed Bid"

BEFORE the start of the City Council Meeting which will be held on Wednesday, November 13, 2013 at 6:30 p.m.

FOR ALL MATERIALS, EQUIPMENT AND LABOR TO COMPLETE THE WORK DESCRIBED IN ITEM A: SPECIFICATIONS ABOVE, FOR THE PROPERTY LOCATED AT 446 S 6th Street, DAVID CITY, NEBRASKA,

I (WE) AGREE TO PERFORM ALL THE WORK REQUIRED FOR THE LUMP SUM AMOUNT OF: (\$ 13,383.00)

Thirteen Thousand Three Eighty Three DOLLARS AND 0 CENTS.

Respectfully submitted this 12 day of NOV, 2013.

BY: Joseph Holub
Signature of Bidder

Name of Bidder

Mid Nebraska Grading + Demolition Inc
Name of Business

75-3019211
Federal Employer ID# or SS #

402 672-6258
Telephone Number

PO Box 366
Address

David City NE 68632
City and Zip Code

DEMOLITION BID PROPOSAL FORM

The City of David City is accepting bids for Demolition and Clearance activities for the following property:

465 1st Street, DAVID CITY, NEBRASKA

LEGAL DESCRIPTION:

Miles 4th Addition to David City, Block 4, S 25' of Lot 1 and N 50' of Lot 4. (75' x 140')

A. BID SPECIFICATIONS:

1. Contractor is responsible for the hiring of someone to provide a mandatory asbestos inspection prior to the demolition of the structure, completion of the notification form if asbestos is found and needs to be removed, followed by the proper abatement and disposal of the asbestos waste.
2. Contractor to furnish all materials, equipment and labor to perform all work in connection with Demolition, removal of all debris and clearance activities at street address: 465 1st Street, David City, Nebraska.
3. This project is to include demolition and clearance of the remains of a two (2) story home that was last used as an apartment house, including any basement foundation walls and/or basement floors, and any detached structures, trees/stumps, sidewalks, and other miscellaneous debris.
4. Salvage material is to become property of the contractor and the contractor is responsible for proper disposal in accordance with Federal, State and Local laws and ordinances. Contractor shall be responsible for all disposal fees as part of the bid. Contractor will submit disposal tickets verifying disposal in a permitted solid waste landfill.
5. Excavated areas shall be filled with clean soil, free of vegetable matter, large stones, bricks or other deleterious material and covered.
6. Grading of the property at the building site shall be undertaken to meet the existing grades of adjacent lots. Grades shall be made to prevent drainage onto adjacent property.
7. All disturbed areas shall be finish-graded smooth. The Contractor is NOT responsible for grass growth.
8. Contractor shall provide protection against damage to adjacent property, streets, sidewalks, utilities, etc. and will make approved repairs for any damage to such items. The Contractor shall coordinate with all utilities for shut-off, capping, etc. for any utilities at the site. Cost for shut-offs, capping, etc. to be part of bid. The City of David City prefers that the contractor will not allow any equipment or personnel to come within 10 feet of any overhead power line.

9. Prior to execution of the Contract, the Contractor will provide Certificates of Insurance for the following:
 - a. Comprehensive Public Liability, not less than \$500,000 per occurrence for injury to persons.
 - b. Aggregate (Bodily Injury & property Damage Combined) not less than \$1,000,000.
 - c. Workmen's Compensation Insurance coverage of statutory limits.
10. Contractor will commence work at the direction of the City of David City with the presentation of a "Notice to Proceed" and will complete performance of said Contract within forty-five (45) days thereafter.

The City of David City certifies that no individual or individuals are currently living in, or will be in-habiting the structure. The City of David City or their agent is responsible for "marking" any trees that **are to stay** with a white "S". All other trees and vegetation, including tree stumps, are to be removed as part of the bid proposal.



Council member Smith made a motion to accept the bid of Mid Nebraska Grading & Demolition Inc. in the amount of \$13,383.00 for the demolition of the property located at 446 So. 6th Street. Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Council member Smith made a motion to accept the bid of Mid Nebraska Grading & Demolition Inc. in the amount of \$19,440.00 for the demolition of the property located at 465 1st Street. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Vandenberg, Rogers, and Svoboda. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Mike Jones of Jones Insurance stated: "I would preface this by: I am not your attorney nor am I giving a legal opinion, will defer to Jim and I hope we are on the same page. Taking us back in history there were two issues that evolved a number of years ago relative to the use of the auditorium. 1) Was unsupervised time in the auditorium that resulted in a consequential vandalism problem with damage done or a theft, I can't remember, so at that time we entertained the idea, what can we do? I think the primary concern being safety and the second one being securing the property that was located in the auditorium. Now, where we are today is no different than where we were then. You can do what you want, the insurance is in place, always has been. If you're a landlord you have an inherent liability to protect the public at large and you can't escape it. The insurance is there to address the cases when you're found to be negligent; I think that's the key word here. Just by the fact that you have property, which includes the city auditorium, city sidewalks, there is a risk for the public of getting injured, so there is protections within the insurance policy that addresses the slip and the fall issues under med pay which is common, and then the more serious cases where someone would be seriously hurt, and out of that they decide to charge the City with negligence, the negligence issue comes under the Liability and the Umbrella that the City carries and you're at the maximum required by Statute. So the issue is not whether or not insurance will respond for you, because it will, always has, and that's what it's there for. The bigger issue is how do you want to address securing the property and mitigate loss in the case of something being stolen or vandalized. That's one side of it. The second side of it that the City Administrator and I talked about, was people getting hurt unsupervised in the auditorium area. So, I think my best suggestion to you is use the "prudent rule", which we can't define because it says "what would people normally think of doing to reduce the chance of someone getting hurt"; whether it's at that property or at your own location. What precautions are you taking to help reduce the chance of loss? Is it practical to have city people there being paid to supervise the auditorium while it's being used in order to maybe monitor people using the steps, or getting up on the stage, or something like that. Other solutions might include volunteers being willing to follow what guidelines you give for the use of the auditorium that would maybe limit the access to the stairs; maybe roping off the stairs. Then at least you know if somebody's gone past the ropes they have assumed some risk. Does that get you off the hook? I would say "no"; but does it at least demonstrate that you took some steps that a prudent person would take to warn them that that's a hazard? So in the insurance world the big picture here is not "Can they use it or not use it? That's not an insurance issue. You have insurance no matter what happens, but should there be a serious event, or a series of less serious events that lead up to the potential of a big event; now you're going to find that insurance carriers are going to get a little itchy and probably impose some regulations on you about restricting access or imploring some kind of ways to reduce the hazards. That's really the nuts and bolts of it. It's not going to impair your insurance

coverage whatsoever, it's hopefully going to reduce chances of loss, which could have a financial impact on the city if there was reoccurrence of those because claims drive rates."

City Administrator Abbie Cornett stated that she had visited with Mike and Park Supervisor Scott Bales and if the Council chooses to re-open the auditorium they would:

1. Set schedules, 2 hrs. a day for walking, for example
2. Order ropes to rope off the stairs – signs that say no admittance
3. Locking the doors leading to the lower level
4. Putting up a sign "Walk/exercise at your own risk"
5. Ordering a "floor may be slippery when wet" sign
6. The facility would be closed on snow days, or snow emergency days because that reduces the risk of people tracking in snow
7. No un-accompanied minors

City Attorney Egr stated: "My biggest concern there was never ever a question about the insurance covering us, I mean that's what you pay the premium for is to have your blanket policy, general liability, and so forth as Mike brought forth. I believe that Mike and Abbie have done a great job of outlining those kinds of things so that if the City decided to reopen the auditorium for walking that they took the necessary steps to minimize the negligence that might be involved or considered involved. I get concerned about people hiding in there and attacking some person. That bothers me; that concerns me. What exposure do we have if someone's attacked, raped, or what have you? Having an open auditorium with nobody there to me is just like a swimming pool without lifeguards. There is a difference to walking outside on the track versus walking inside the auditorium. Walking on the track outside, people are aware that situations like that can happen, there is no control. Once you put them in a building that the City owns then you are implying some type of control or safe environment for the people."

Judie Foust stated: "I think it would be wonderful to have it open. I have a petition that 95 people have signed. I can't believe that it hasn't been open. We just all have to be careful and use common sense. I have walked there every day for how many years in the winter when the weather is icy or too cold to walk outside. We have never ever seen anybody there that we either didn't know or would mean any harm to anyone. You always have to be aware of your surroundings. I read somewhere that Council member Ruddy Svoboda would be willing to volunteer to be present in the building and I would be willing to kind of watch over things for the hour that we walk. Not everyone can afford a membership to a wellness center."

Mayor Zavodny stated: "I am going to say that you would have to be pretty ambitious to get up to commit a crime against walkers. Crimes are always crimes of opportunities, and at any given moment the likelihood, especially if our hours are reduced, before it was like 8:00 a.m. to 3:00 p.m., there was a long time, I'd actually be more concerned about that than if you have contracted hours knowing somebody is going to walking in that door potentially any second in those couple hours in a day, so I feel a little better about some protection on that."

Everyone agreed that limiting the time to two hours a day for walkers would be much better than having the auditorium open unsupervised for 8 hours a day.

Russell Heller asked if A.E.D.'s (Automated External Defibrillators) were available at the Auditorium. It was noted that A.E.D.'s are not available at this time. With various sporting events and other activities at the auditorium, and the fact that it is a public building, that is probably something that should be considered.

Council member Svoboda stated: "If we are going to re-open the city auditorium for walkers and are worried about possible crimes, we have a Sheriff's department and they are going to be out cruising and they could happen to stop in at the auditorium every once in a while and say "hello" and everything. So, I'd like to make that comment, because they're going to know what time it's going to be open so they could cruise that area and make it kind of a priority."

Council member Rogers made a motion to pass opening the City Auditorium for walkers, etc., with the time to be determined, signs posted, and appropriate precautions taken. Council member Smith seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

City Administrator Cornett stated: "I think everyone on the Council is aware that one of our vehicles got totaled which is leaving us short on a truck for a department. The Parks department has been lent a truck from the water department. We received just under \$5,000 from the insurance company for the wrecked vehicle. I know that there has been a truck on the agenda for the water department, electric department, or the parks department for a while now. It's on the agenda now just to bring attention to the fact that we are going to need another vehicle at some point."

Mayor Zavodny stated: "I don't think buying the Park a new pickup is the way to go. I can see the Electric Department needing one. So Pat, if we got one for you, do you have one not quite as perfect that the Park Department could use?"

Electric Supervisor Pat Hoefft stated: "No, because he took the truck we were using from the Water Department; it's a 1994."

Mayor Zavodny stated: "For electric especially, when they have to go out in a storm, you need something reliable, something good. We're eligible for state bid I would imagine. Let's get some prices. Compare what you would want in a used one and the cost for a new one. If there's not a huge difference it makes more sense to get a new one with the warranty and things that go with it, but we can evaluate that so let's get some prices."

Council member Smith stated: "I don't think the Park needs a new one."

Mayor Zavodny stated: "Agreed. The electric department. I can justify it for the electric. To me what we need to do is prioritize. I would probably say electric first. I don't like spending money but this City hasn't really been able to keep up on replacing some of these capital improvements and we need to make a plan for that and at some point we need to swallow our pride, bite the bullet, and get them equipment that works. You know the calls we are going to get the night we have a storm and lines are down and they go to start a pickup and it goes click. That's a problem, so we need reliable equipment."

Electric Supervisor Pat Hoefft stated: "We don't need the pickups for a storm. We need them to patrol the lines before we send the truck out. Last year we had the snow storm and the power went out and we had two pickups running the same line nonstop trying to find the problem. We still have the two pickups, the red and the white. The white one, the Dodge, is a two wheel, and surprising that thing actually gets around good in the snow, but, it's rusted out, the box is starting to fall down, we've patched the back once."

City Clerk Kovar stated: "Before I get myself in trouble, we had discussed this agenda item and we didn't know where we were going with it and Gary Janicek said do I need to be there and Abbie and I more or less told him "no" because we are just going to discuss it we are not going to decide on a truck, and Gary said well OK if you're not going to decide who's going to get one then I won't come. So I think Abbie should get prices and then maybe bring all the department heads in and say "Ok, who actually needs a truck or who is going to give somebody else a truck and get them all together and decide who's actually most in need."

Electric Supervisor Pat Hoefft stated: "Yes, I would send it back to a Committee of the Whole and then to a Council meeting before I even tried to make any decisions; that would be my recommendation."

City Administrator Abbie Cornett will research trucks and get the state bid price and check on other prices for a new and/or used truck. We can then compare prices between a used and a new truck, and determine which department should get the truck.

Council member Kroesing had asked that consideration of providing flu shots for the city employees be placed on the council agenda.

Council member Rogers made a motion to provide flu shots for the City employees who want one. Council member Svoboda seconded the motion. Voting AYE: Council members Smith, Vandenberg, Rogers, and Svoboda. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

On November 14, 2012, the City Council authorized the use of the old water tower for the Nebraska Regional Interoperable Network (NRIN) project to connect 911 centers regionally and statewide.

Electric Supervisor Pat Hoefft stated that he had visited with Emergency Manager Rick Schneider of the Butler County Court House and Tim Hoffman of Platte County Emergency Management and they did not have a problem with a service charge. Pat stated that the usage would be very minimal but the service charge is for us to keep the power to it which would pay for the kwh which varies from month to month. We had the expense of the \$160 meter, socket, loop, the material coming down, and labor. The service charge will be \$18.00 a month beginning December 19th but they would appreciate only receiving a yearly bill rather than a monthly bill.

Council member Rogers made a motion to charge the Nebraska Regional Interoperable Network a service charge of \$18.00 per month, to be billed annually beginning on December 19th, 2013. The bill will be mailed to Rick Schneider. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Smith, Vandenberg, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried.

Dale Cooper, on behalf of the Kregger American Legion Post 125, stated: "The aircraft out at the Airport is under contract every year, leased to the Kregger American Legion Post 125. The contract is sent out every spring and when we send the contract back we must include digital photographs of the aircraft. The Department of the Air Force replied that the digital photographs showed that the plane needs polishing and the numbers restored and are requesting that a restoration plan be developed for the F-84 Aircraft. Dale stated that he did some checking and the material needed to polish the aircraft would be about \$300 and the

numbers would cost about \$700 for a total cost of about \$1,000. I'm here to ask if the City would be willing to share costs or possibly share equipment needed to get maybe some legion members up to do the job themselves."

City Administrator Cornett stated that she did some checking herself. Cornett stated: "I checked with some people in the Air Force who referred me to the SAC (Strategic Air & Space) Museum. They thought that after you polish the aircraft the Air Force tends to want a clear coat put over it and their estimates were considerably a lot more expensive to what it might cost to fully restore that; but again those are estimates. The questions I got back were: Do we know exactly, if we go to the work on doing the plan, what they want? They say aircraft needs polishing and AF markings are faded, when we send that back is that going to be enough? We probably need to contact them and get an exact list of what they want done and what level of restoration they want on the aircraft. His biggest piece of advice was call them, speak to them, and get an exact break down of what they want. Some contacts also say if you no longer want the aircraft you may have to pay to have it moved to a different location."

Dale Cooper said that he would make the phone call and find out exactly what is expected and he will then visit with City Administrator Cornett about the findings.

Mike Jones stated that the City has been paying the insurance on the Aircraft for years.

Mayor Zavodny stated: "I would like to recommend that we forego our Committee of the Whole meeting for November because it's the night before Thanksgiving. The council members present expressed agreement. Mayor Zavodny stated: "Ok, then let's not have it."

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Svoboda, Smith, and Rogers. Voting NAY: None. Council members Kroesing and Scribner were absent. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:18 p.m.



CERTIFICATION OF MINUTES
November 13, 2013

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 November 13, 2013; 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