

**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 **9th day of January, 2019**, in the meeting room of the City Office, 557 North 4th Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 3rd day of January, 2019.

AGENDA AS FOLLOWS:

1. Roll Call;
2. Pledge of Allegiance;
3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; _____
Mayor Alan Zavodny
4. Minutes of the December 12th, 2018 meeting of the Mayor and City Council; _____
Council President Kevin N. Hotovy
5. Consideration of Progress Estimate #17 for Constructors, Inc. in the amount of \$145,992.13; _____
Council member Thomas J. Kobus
6. Consideration of Pay Estimate #3 to Eriksen Construction Co., in the amount of \$33,650.19 for the Wastewater Treatment Plant Project; _____
Council member Dana E. Trowbridge
7. Consideration of Claims;
8. Committee and Officer Reports;
9. Consideration of accepting a bid for the annual performance evaluation testing at the power plant; _____
Council member Patrick J. Meysenburg
10. Consideration of Ordinance No. 1301, entitled: AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6th P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM, on the second reading only; _____
Council member John P. Vandenberg

Council member Gary D. Smith

City Clerk Joan E. Kovar

11. 7:30 p.m. Public Hearing to consider the adoption of a One-Year and Six-Year Street Improvement Program for the City of David City, Nebraska;
12. Consideration of Resolution No. 1 – 2019 accepting the One-Year and Six-Year Street Improvement Plans;
13. Consideration of funding the Health Savings Account for the employees for 2019;
14. Consideration of the request by Superintendent of Schools Chad Denker, David City Public Schools, to pave the entrance to the alley on “E” Street between 8th & 9th Street (similar to what they did on the south end of the alley on “D” Street);
15. Consideration of the request by Superintendent of Schools Chad Denker, David City Public Schools, to concrete additional parking stalls on the west side of 9th Street, between “D” and “E” Streets;
16. Consideration / Discussion of the request by Superintendent of Schools Chad Denker, David City Public Schools, concerning available options to relocate and replace the water main that runs north/south on 8th Street between “D” and “E” Streets, in preparation of future building projects;
17. Consideration of deleting Item No. 25 – Video Inspection of Sewer Mains in the amount of \$84,000, from the bid of Midlands Contracting, Inc. in the amount of \$1,074,540.00 that was accepted at the December 12th Council Meeting;
18. Discussion concerning needs and qualification standards for the Water Department, and our employment needs in Wastewater;
19. Consideration of ending mandatory “rounds” from a budgetary standpoint and requiring prior approval in advance for ANY overtime expenditures;
20. Consideration of appointing interim department heads for the water and sewer departments and adjusting the compensation for these interim positions;
21. Consideration of the Track project;
22. Consideration of purchasing a new Hotsy for the Street Department to wash salt off of their equipment;
23. Consideration of a section of the street located just east of 13th & “E” Street, and also “B” Street between 3rd & 4th Street;
24. Consideration of Ordinance No. 1302 authorizing issuance of Bond Anticipation Notes, Series 2019 to fund balance of Downtown Improvements interim construction costs.
25. Consideration of going into Executive Session to discuss a “Potential” Law Suit;
26. Adjournment;

CITY COUNCIL PROCEEDINGS

January 9, 2019

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 North 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 3rd, 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 Agendas which are a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agendas, which were kept continuously current in the office of the City Clerk and were available for public inspection during regular office hours. No new items

were added to the agendas during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council President Kevin Hotovy, and Council members Tom Kobus, Dana Trowbridge, Pat Meysenburg, Gary Smith, and John Vandenberg, City Attorney Jim Egr, and City Clerk Joan Kovar.

Also present for the meeting were: Matt Rief of Olsson, Philip Lorenzen of D.A. Davidson, Planning Commission Member Janis Cameron, Darci Betzen, Superintendent of David City Public Schools Chad Denker, John Kabourek, Jerry Kosch, Library Board Member Larry Griffiths, Travis Hays, Sheriff Tom Dion, Park/Auditorium Supervisor Bill Buntgen, Street Supervisor Chris Kroesing, and Employees C.J. Novak, and Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the December 12th, 2018 meeting of the Mayor and City Council were approved upon a motion by Council member Kobus and seconded by Council member Vandenberg. Voting AYE: Council members Trowbridge, Meysenburg, Smith, Hotovy, Kobus, and Vandenberg. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to approve Progress Estimate #17 for Constructors, Inc., in the amount of \$145,992.13, but also stated that he wants someone from Leo A. Daly present at the next council meeting to give a timeline and what the general plan is on the project. Council member Meysenburg seconded the motion. Voting AYE: Council members Trowbridge, Kobus, Vandenberg, Smith, Meysenburg, and Hotovy. Voting NAY: None. The motion carried.

Council member Kobus made a motion to approve Pay Estimate #3 to Eriksen Construction Co., in the amount of \$33,650.19 for the Wastewater Treatment Plant Project. Council member Meysenburg seconded the motion. Voting AYE: Council members Hotovy, Smith, Vandenberg, Kobus, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

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

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

Newly elected Sheriff Tom Dion was present and stated that he plans to attend every council meeting and hopes that the Mayor and Council will voice any concerns to him.

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

Council member Trowbridge made a motion to table consideration of accepting a bid for the annual performance evaluation testing at the power plant. Council member Meysenburg seconded the motion. Voting AYE: Council members Kobus, Hotovy, Smith, Vandenberg, Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to pass Ordinance No. 1301 on the **second reading only**. Council member Vandenberg seconded the motion. Voting AYE: Council members Smith, Kobus, Meysenburg, Trowbridge, Vandenberg, and Hotovy. Voting NAY: None. The motion carried and Ordinance No. 1301 was passed on 2nd reading as follows:

ORDINANCE NO. 1301

AN ORDINANCE TO EXTEND THE BOUNDARIES AND INCLUDE WITHIN THE CORPORATE LIMITS OF, AND TO ANNEX TO, THE CITY OF DAVID CITY, NEBRASKA, PART OF THE NORTHWEST QUARTER (NW¼) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6th P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

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

- (a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth is urban and suburban in character and contiguous and adjacent to the corporate limits of said City;
- (b) Police, fire, mad snow removal benefits will be immediately available thereto, and City water service will be available as provided by law;
- (c) The Zoning classification of such territory as shown on the official zoning map of the City of David City, Nebraska, is hereby confirmed;
- (d) There is a unity of interest in the use of such territory with the use of lots, lands, streets, and highways in the City, and the community convenience and welfare and the interest of said City will be enhanced through incorporating such territory within the corporate limits of said City.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, extended to include within the corporate limits of said City the contiguous and adjacent territory described in Exhibit "A".

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

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

SECTION 5: Upon the taking effect of this Ordinance, the police, fire and snow removal services of said City shall be furnished to the territory herein annexed, and water service will be available as provided by law.

SECTION 6: If any section, subsection, sentence, clause or phrase of this Ordinance or the annexation of the territory by this Ordinance is for any reason held to be unconstitutional or involved, such decision shall not affect the validity of the annexation of other tracts of land, streets or highways by this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex each tract of land separately.

SECTION 7: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED and APPROVED this _____ day of _____, 20_____.

2nd reading only 1-9-19
Mayor Alan Zavodny

2nd reading only 1-9-19
City Clerk Joan E. Kovar

EXHIBIT "A"

Northwest Quarter (NW $\frac{1}{4}$) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes, (120035344 – R.J. Hein)

AND LESS THE FOLLOWING THREE (3) TRACTS OF REAL ESTATE:

TRACT I: A tract of land located in the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the SE corner of said NW $\frac{1}{4}$, thence westerly, 41.0 feet, on the South line of said NW $\frac{1}{4}$, to the Point of Beginning, said point being on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly Highway right-of-way line; thence westerly 325.00 feet, at a right angle to the last described line; thence southerly, 321.57 feet, parallel with said westerly Highway right-of-way line, to a point on the South line of said NW $\frac{1}{4}$, thence easterly, 325.00 feet, on the South line of said NW $\frac{1}{4}$, to the point of beginning, containing 2.40 acres, (120008578 – Michael & Sandra Burwell)

AND

TRACT II: A tract of land located in the Northwest Quarter (NW $\frac{1}{4}$) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6th P.M., Butler County, Nebraska, described as follows: Commencing at the Southeast Corner of said Northwest Quarter; thence westerly, 41.0 feet, on the south line of said Northwest Quarter, to a point on the westerly right-of-way line of Nebraska Highway No. 15; thence northerly, 321.00 feet, on said westerly highway right-of-way line, to the point of beginning, said point being 40.08 feet west of the east line of said Northwest Quarter; thence westerly, 340.00 feet, at a right angle to

the last described line; thence northerly, 385.00 feet, parallel with the westerly right-of-way line of Nebraska Highway No. 15; thence easterly, 340.00 feet, at a right angle to the last described line, to a point on the westerly right-of-way line of Nebraska Highway Nebraska 15; thence southerly, 385.00 feet, on said westerly right-of-way line to the point of beginning, containing 3.00 acres, more or less. (120008595 – Edward & Gwendolynne Hein)

AND

TRACT III: A parcel of land located in a part of the East Half of the Northwest Quarter of Section 18, Township 15 North, Range 3, East of the 6th P.M., Butler County, Nebraska, being more particularly described as follows: Commencing at the Northeast Comer of said Northwest Quarter; thence N90°00'00"W (assumed bearing) on the North Line of said Northwest Quarter, a distance of 89.01 feet to a point on the westerly right-of-way line of State Highway No. 15, said point also being the point of beginning; thence S06°11'15"E on said westerly right-of-way line, a distance of 221.29 feet; thence N90°00'00"W parallel with said North Line, a distance of 253.85 feet; thence N00°00'00"E perpendicular to said North Line, a distance of 220.00 feet to a point on said North Line; thence S90°00'00"E on said North Line, a distance of 230.00 feet to the point of beginning, containing 1.22 acres, more or less. (120035346 – Samuel J. Stara)

AND

ALSO, EXCEPT THE RAILROAD RIGHT-OF-WAY.



As the next agenda item was the 7:30 p.m. Public Hearing and it was not yet 7:30, City Attorney Egr stated that Mayor Zavodny should simply advance to another agenda item and then come back to it at a later time. Therefore, Mayor Zavodny advanced to agenda item #14 as Chad Denker, David City Public Schools Superintendent, was present.

Council member Hotovy authorized David City Public Schools, at their expense, to pave the entrance to the alley up to the sidewalk, on "E" Street between 8th & 9th Street. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Vandenberg, Kobus, Smith, Hotovy, and Trowbridge. Voting NAY: None. The motion carried.

Council member Trowbridge authorized David City Public Schools, at their expense, to concrete additional angled parking stalls on the west side of 9th Street between "D" and "E" Streets. Council member Kobus seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Kobus, Vandenberg, Smith, and Trowbridge. Voting NAY: None. The motion carried.

Superintendent of Schools, Chad Denker, David City Public Schools, discussed further building projects, nothing official yet, but requested what options are available and the possibility of relocating and replacing the water main that runs north/south on 8th Street between "D" and "E" Streets. Council member Trowbridge made a motion to assign Craig Reinsch of Olsson, with the water department, to draw up a couple of plans and specs of alternate locations, by this summer, to plan for possible long-range projects. Council member Hotovy seconded the

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

Mayor Zavodny opened the Public Hearing at 7:35 p.m. to consider the adoption of a One-Year and Six-Year Street Improvement Program for the City.

Matt Rief of Olsson Associates stated: "Basically every year, for the tax monies that the City receives from the State, we have to submit the One and Six Year Street Improvement Plan. On the One Year plan the big project is the completion of the Downtown project, and then Oak Street from "C" to "D", "A" Street by the culvert and the bridge, "O" Street on the north end of town from 4th to 11th Street, and 11th Street from Kansas Street to the St. Mary's Cemetery. Those are basically the One Year Street Plan that you really want to focus on." Matt Rief also briefly explained the Six-Year Plan.

Street Supervisor Chris Kroesing stated that he recently noticed that there is a section of street located just east of 13th & "E" Street, about a half block to Maple Street, and "B" Street between 3rd & 4th Street, that are in really poor condition. Following discussion, Matt Rief was instructed to include those streets in the One and Six Year Street Improvement Plan.

There being no other comments, Mayor Zavodny closed the Public Hearing at 7:48 p.m.

Council member Trowbridge introduced Resolution No. 1 – 2019 accepting the One-Year and Six-Year Street Improvement Plans and moved for its passage and adoption. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Meysenburg, Vandenberg, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

RESOLUTION NO. 1 – 2019

WHEREAS, The City of David City, Nebraska, has conducted a Public Hearing on January 9, 2019, in accordance with the requirements of the Board of Public Roads Classifications and Standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the One Year and Six Year Street Improvement Plans for Streets, as presented at the public hearing, are unanimously accepted and the City Clerk is hereby instructed to forward a certified copy of this resolution to the Board of Public Roads Classification and Standards of the State of Nebraska.

PASSED AND APPROVED this 9th day of January, 2019.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Council member Hotovy made a motion to contribute 70% (\$3,500 / individual and \$7,000 / family) to the Health Savings Accounts for the employees on the National General Health Insurance Plan (NHIC), for 2019. Council member Smith seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: Council member Trowbridge. The motion carried.

Council member Trowbridge made a motion to delete Item No. 25 – Video inspection of sewer mains in the amount of \$84,000 from the bid (\$1,074,540.00) of Midlands Contracting, Inc. that was accepted at the December 12th Council meeting. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Trowbridge, and Meysenburg. Voting NAY: None. The motion carried.

Council member Trowbridge made a motion to advance to Agenda Item #24 – Consideration of Ordinance No. 1302 authorizing the issuance of Bond Anticipation Notes, Series 2019, to fund the balance of Downtown Improvements Interim Construction Costs. Council member Hotovy seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Meysenburg, and Trowbridge. Voting NAY: None. The motion carried.

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

CITY OF DAVID CITY, NEBRASKA [Prepared/updated by Phil Lorenzen, D.A. Davidson January 2019]

DOWNTOWN IMPROVEMENT PROJECT COST SUMMARY

Construction Cost Total (As adjusted)	\$ 9,359,470.50
Total to January 4, 2019	8,478,175.68
less Retention @ 5%	(447,052.97)
	8,031,122.71
Less Previous Payments	(7,867,211.58)
Balance Due -- Estimate No. 17 dated Jan 4, 2019	163,911.13
Balance of Contract yet to be paid	
Total Contract Amount	\$ 9,359,470.50
Paid to date including Est No. 17	(8,031,122.71)
Subtotal	\$ 1,328,347.79
Add retention	447,052.97
Balance Remaining to be paid	\$ 1,775,400.76
Engineering paid to 12/04/18	
Total Cost	\$ 1,471,357.00
Now paid	(1,411,784.16)
	\$ 59,572.84
Total to Complete Project --ESTIMATED--	\$ 1,834,973.60

Total Project	Construction	\$ 9,359,470.50
	Engineering	\$ 1,471,357.00
	Total	\$ 10,830,827.50
	Less NDOT/Waiver County	(1,800,000.00)
		\$ 9,030,827.50

Proceeds of Prior Issues of Bond Anticipation Notes/for Bonds	
\$ 2,500,000 Series 2017A	\$ 2,475,325
2,000,000 Series 2017B	1,980,422
1,500,000 Series 2018A	1,484,167
\$ 6,000,000	\$ 5,939,914
1,250,000 Water Bonds, Series 2017	1,228,067
\$ 7,250,000	\$ 7,167,981
\$ 900,000 NR DOT (Oct 2018 paid)	900,000
\$ 8,150,000	\$ 8,067,981
Note Interest expense to Oct 25, 2018	\$ 79,722
Water Bond Interest Exp. To Sept 15, 2018	36,692
	\$ 116,414
Note Interest due 1-15-19	20,625
Wtr Bond Int due 3-15-19	16,188
	36,813
	153,227

CURRENT SALES TAX COLLECTIONS APPLIED TO PROJECT
INTEREST EARNED ON INVESTED FUNDS

Bond Anticipation Notes -- Interest and Principal Payment Schedule

	Int. 1-15-18	Int. 4-15-18	Int. 7-15-18	Int. 10-15-18	Int. 1-15-19	Int. 4-15-19	Int. 7-15-19	Int. 10-15-19	Int. 1-15-20	Int. 4-15-20	Int. 7-15-20 + Principal	Int. 10-15-20 + Principal	Int. 4-15-21 + Principal
\$ 2,500,000 Series 2017A, Dtd 07-27-17 Due 7-15-20, 1.65%	19,250		20,625		20,625		20,625		20,625		2,520,625		
\$ 2,000,000 Series 2017B, Dtd 11-14-17 Due 10-15-20, 1.55%		13,003		15,500		15,500		15,500		15,500		2,015,500	
\$ 1,500,000 Series 2018A, Dtd 6-14-18 Due 4-15-21, 2.25%				11,344		16,875		16,875		16,875		16,875	1,516,875
\$ 6,000,000 TOTALS	19,250	13,003	20,625	26,844	20,625	32,375	20,625	32,375	20,625	32,375	2,520,625	2,032,375	1,516,875
Cumulative Interest to Date:	32,253	52,878	79,722	100,347	132,722	153,347	185,722	206,947	238,722	2,759,347	4,791,722	6,308,597	
Grand Total of all BARS to final maturity:	\$ 6,308,597												

Phil stated: "What with the Stock Market meltdown, with the Treasury market drop, there is, I think, maybe a window of opportunity that would allow us to lock in a decent rate and we think that we can get the last piece of this financing done at around a 2% level. It would take 30 days to get it accomplished but my view is I would like to put it on record so we can go ahead and work through the numbers, finalize that last issuance and have that put into place, so that's my recommendation." Phil explained the summary of costs above and then stated: "The bottom line then is that you are needing yet close to two million dollars (\$2,000,000.00), and thus I would suggest that we give consideration to authorizing, not to exceed \$2,000,000, and we'll trim down that as much as we can. I would like to see the City apply some of the cash collections on hand from the sales tax rather than borrow all of the money. With the interest rates on the notes, which

show on the far-left side at the bottom, are 1.65%, 1.55%, 2.25%, and again on this new issue probably about 2%, so the average of that is pretty reasonable. I see no reason to accelerate rolling those into bonds. I would ride that low interest rate and pay down cash as much as we can before we go into permanent bonds which in today's market would be about 3.5%. The unknown is of course where interest rates are in a couple years.

Council Member Trowbridge introduced Ordinance No. 1302 and moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member Meysenburg seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted AYE: Smith, Kobus, Vandenberg, Meysenburg, Hotovy, and Trowbridge. The following voted NAY: None. The motion to suspend the rules was adopted by three-fourths of the members elected to the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Thereupon said Ordinance No. 1302 was then read by title and Council Member Smith moved for its final passage, which motion was seconded by Council Member Kobus. The Mayor stated the question "Shall Ordinance No. 1302 be passed and adopted?" Upon roll call, the following voted AYE: Council members Vandenberg, Hotovy, Trowbridge, Meysenburg, Kobus, and Smith. The following voted NAY: None. The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the Council, the Mayor declared the Ordinance adopted and the Mayor, in the presence of the Council, signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

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

ORDINANCE NO. 1302

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF BOND ANTICIPATION NOTES, SERIES 2019A, OF THE CITY OF DAVID CITY, NEBRASKA, OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO MILLION DOLLARS (\$2,000,000) FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NOS. 2017-1 AND 2017-2, PENDING THE ISSUANCE OF PERMANENT GENERAL OBLIGATION BONDS; PRESCRIBING THE FORM OF SAID NOTES; AGREEING TO ISSUE GENERAL OBLIGATION BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; AND ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES.

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

Section 1. The Mayor and City Council of the City of David City, Nebraska (the "City") hereby find and determine that by Ordinances of the City heretofore adopted, Street Improvement District Nos. 2017-1 and 2017-2, were heretofore created; that the special project engineers for the City, have prepared estimates for the cost of construction of the improvements in the aforesaid Districts; that bids have been opened and tabulated; that the City has entered into contracts for construction of the improvements; and, that there has been placed on file the City's Consulting Engineers' estimate showing that the City's costs, including costs of engineering and costs of issuance and underwriting and a portion of interest to accrue on said notes during construction, is estimated to be \$8,750,000; that it is necessary for the City to have

funds available to meet its payment obligations under the terms of contracts for the cost of the improvements to be constructed relative to the aforesaid Districts and to provide for payment of a portion of the interest accruing on the Notes prior to their maturity, pending the completion of improvements and issuance of permanent financing pursuant to Sections 17-516, 17-520, and Sections 18-1801 and 18-1802 R.R.S. Neb. 2012, and other applicable Sections; that the City has authority under Section 10-137, R.R.S. Neb. 2012 to issue bond anticipation notes for the purpose of providing interim financing for the construction of said improvements including a portion of the interest to accrue on such notes and the costs of issuance thereof, all as set out above; that the City has heretofore issued its Bond Anticipation Notes, Series 2017A, dated July 27, 2017, issued in the principal amount of \$2,500,000, and its Bond Anticipation Notes Series 2017B, dated November 14, 2017 issued in the principal amount of \$2,000,000, to provide a portion of funds for initial construction costs; that to provide funds to meet additional portions of the overall construction costs, it is now necessary to issue an additional series of bond anticipation notes in the principal amount of not to exceed \$2,000,000; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Bond Anticipation Notes, Series 2019A in the amount of not to exceed \$2,000,000, to pay a portion of the costs of the aforesaid improvements, the costs of issuance of said notes and a portion of the interest to accrue on said notes, do exist and have been done as required by law.

Section 2. For the purpose of providing interim financing for a portion of the costs set out in Section 1 pending the issuance of permanent General Obligation Various Purpose Bonds by the City, there shall be and there are hereby ordered issued bond anticipation notes of the City of David City, Nebraska, to be known as (Bond Anticipation Notes, Series 2019A" of the aggregate principal amount of not to exceed Two Million Dollars (\$2,000,000) (herein referred to as the "Notes" or the "notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof, said notes shall be dated as of date of delivery and each of said notes shall bear interest at the rate of 3.00% per annum, payable semiannually on April 15 and October 15 in each year, commencing April 15, 2019, with the principal of said notes to become due and payable as follows:

<u>Principal</u>	
<u>Amount</u>	<u>Maturity</u>
\$2,000,000	April 15, 2021

provided, however, the Notes may be issued in a lesser principal amount and may bear interest at any lower rate of interest, and may be issued with an original issue discount of not greater than 0.80% of their par principal value, all as shall be provided for in a written designation of final principal amount, final interest rate, and original issue discount, if any, (the "Designation") as may be agreed to between the City and the original purchaser specified in Section 6 of this ordinance, and the Mayor or City Administrator are hereby authorized to enter into such Designation on behalf of the City without further action of the City Council; and further provided} the City reserves the right to redeem any or all of said notes prior to maturity anytime on or after October 15, 2019 upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said note or notes by first class mail addressed to the registered address of said registered holder. If less than all of the notes are called and redeemed, such notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding note is called for redemption, in such case upon the surrender of such note called for payment, there shall be issued to the

registered owner of said note, without charge therefor, a registered note or notes for the unpaid principal balance in any of the authorized denominations authorized by this ordinance.

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

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

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

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

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

BOND ANTICIPATION NOTE
OF THE CITY OF DAVID CITY, NEBRASKA
SERIES 2019A

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	April 15, 2021	_____, 2019	

Registered Owner: Cede & Co.

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon from the date of original issue shown above to maturity or earlier redemption, at the rate per annum shown above, payable semiannually on April 15 and October 15 of each year, commencing April 15, 2019. The principal of this note and any interest due upon maturity or earlier call for redemption is payable at the office of the City Treasurer, as Paying Agent and Registrar, in David City, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. The payment of interest hereon, falling due prior to maturity or call for redemption, shall be made by the Paying Agent and Registrar to the registered owner by mailing payment to the address of such registered owner hereof as such address shall appear on the note register maintained by said Paying Agent and Registrar, as of the close of business on the fifteenth day prior to each Interest Payment Date, to such owner's address as shown on such books and records (the "Record Date"). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

This note is redeemable at the option of the City prior to maturity anytime on or after October 15, 2019 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at the address shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of _____ Dollars (\$)) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of David City for the purpose of providing interim financing to pay a portion of the cost of constructing improvements in Street Improvement District Nos. 2017-1 and 2017-2, to pay the cost of issuance of said notes and to pay a portion of the interest to accrue on said notes, pending the issuance of permanent general obligation bonds. The

issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City in strict compliance with Section 10-137, Reissue Revised Statutes of Nebraska, 2012, and all other applicable laws.

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

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

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

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

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

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

CITY OF DAVID CITY, NEBRASKA

Mayor

ATTEST:

City Clerk
(SEAL)

CERTIFICATE OF AUTHENTICATION

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

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

(Form of Assignment)

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

Dated: _____

Registered Owner(s)

Witness: _____

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

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

Notes. Upon the issuance of the Notes as 'book-entry-only' notes, the following provisions shall apply:

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

- (i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Notes,
- (ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or
- (iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Notes.

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

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

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

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Note and all notices with respect to

such Note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

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

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

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

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

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its Various Purpose Bonds or other bonds. The City further covenants and agrees to issue and sell its Various Purpose Bonds or other bonds in a sufficient amount and at such times as

will enable it to take up and pay off the bond anticipation notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

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

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

Section 10. The City hereby covenants to the purchasers and holders of the Notes that it will make no use of the proceeds of said Notes issue, including money held in any sinking fund attributable to said Notes which would cause said Notes to be arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended, and further covenants and agrees to take all actions necessary under current federal law to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Notes. The City hereby designates the Notes as its qualified tax-exempt obligations under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that it does not reasonably anticipate issuance of taxexempt bonds or other obligations, not including private activity bonds (other than qualified 501(c)(3) bonds), in the aggregate principal amount of more than \$10,000,000 in the calendar year that the Notes are issued. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized for such treatment if available.

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

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

Section 13. The Mayor and City Administrator (or either of them) are authorized to approve and deliver a Preliminary Official Statement and a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

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

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

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

PASSED AND APPROVED this 9th day of January, 2019

City Clerk Joan Kovar

Mayor Alan Zavodny

[SEAL]

The grades for the Water and Wastewater operator Licenses were discussed.

Water Department
Grade I – Highest
Grade II – required for David City
Grade III
Grade IV

Wastewater (Sewer) Department
Grade IV – Highest
Grade III
Grade II - required
Grade I

The needs and qualification standards for the Water Department were discussed. Currently Gil Fry, who works part-time, is the only current employee with a Grade II Water Operator License through the State of Nebraska Department of Health and Human Services, which is required to operator a Water Treatment Plant. Both C.J. Novak and Aaron Gustin have the required Grade II for the Wastewater Department, so we are good on the Wastewater. Aaron stated that he will be eligible for his Grade III and Grade II after completion of the Grade III in about 1 year and 3 months.

Mayor Zavodny stated: "So we're a year and 3 months, at least, away from anybody currently on staff outside of Gil getting to the Grade II. We have to consider what the City needs to continue operating; we've got to take care of our proprietary operations. Something happens to Gil we're going to be having to contract or doing something really quickly to be able to continue to operate in compliance. I am a big fan of redundancy and contingency plans and

what worries me is we are on a really, really, thin line. Anything could happen to any of us on any day; stroke, heart attack, car accident, serious illness where we are unable to function. That's what I'm worried about." Discussion followed.

The mandatory rounds were discussed. Council member Trowbridge stated: "January overtime was \$3,871.04 and you guys all got a copy of how it came out in your packages. That annualizes to \$46,000 a year; that's a lot of money. We spent \$832.00 at the power plant and it didn't run last month, but we have to do rounds. We have to walk over and open the door and go in, and do some readings, write them down, go home, and come back again. Every Saturday and Sunday. It's not a law, it's tradition, and it's one thing that nobody seems to want to give up except people around the council table, and not enough of them."

Mayor Zavodny stated: "I think when you start this discussion there needs to be a balance of what would a severe problem cost us if we didn't catch it early, too, so we could be talking hundreds of thousands of dollars versus the overtime."

Council member Trowbridge stated: "But we are under the assumption our SCADA plan (system) fails."

Council member Hotovy stated: "And it can happen."

Mayor Zavodny stated: "It has happened, here."

Council member Trowbridge stated: "Maybe we should have somebody there 24 hrs. a day; that would be even safer; we've got lots of money."

Mayor Zavodny stated: "You can confuse things really quickly for me; Yes, I understand the sarcasm coming out." Mayor Zavodny said with the Union it is outlined what we are going to do with rounds, and on-call, and how much that is going to cost based on paying 5 hours if you're on call, that kind of stuff. Those are the kinds of things that are going to drive a small municipality into the ground because you don't have enough money to pay all of these different things.

Council member Kobus stated: "I wouldn't do the rounds. If something happens now or an hour later, what's the difference, nobody is there, what's the lesser of two evils. I think it's a no brainer."

Mayor Zavodny stated: "This is very similar to farming, you go check on your irrigation motors, you go make sure the pivot hasn't somehow broken loose and is across the highway for some reason. You've got to sometimes look. There is a balance here that we have to get to."

Council member Trowbridge stated: "Alan, I'll give up on trying to make sense out of spending money, let's just move on and forget about it."

Mayor Zavodny stated: "I just think that you can't just say, let's save twenty cents here that could cost you a buck fifty later, and I'm using small numbers, we're talking a few thousand versus tens of thousands, I think that's a risk we can't take."

Council member Kobus stated: "Let's put it this way, in all the rounds ever made what's ever been found?"

Council member Hotovy stated: "Hopefully nothing."

Water employee Aaron Gustin stated: "Well #14, twice last year, pipe burst, if rounds weren't done, all the electrical in there would have been ruined. If the alarm at the plant goes more than 10 hours you have lime out the front door. Something like that happened about a month ago."

Previous Water Supervisor Travis Hays stated: "There have been several instances where we found a problem and fixed it before it became a disaster."

Mayor Zavodny stated: "It does serve a purpose. I think there is a balance and figuring out how to do it, that's why I've talked about cross-training, etc. The other problem is we have fewer people, and we want to cross train, and a department is on call every week-end. When we have a one-person department, that is a problem, because we need to train others so it's not the same person every time."

Discussion followed.

The next agenda item was consideration of appointing interim department heads for the water and sewer departments and making an adjustment to their compensation.

Council member Hotovy stated: "Ultimately both of those departments have to have somebody pulling the trigger, to me it only makes sense. There are EPA reports that have to be filed. To me, asking a regular employee to be doing what I would consider a department heads job, he just as well be, at least, an interim department head."

Council member Kobus stated: "We can't do anything with wages and compensation, can we, with the Union."

Mayor Zavodny said: "That's probably a good question. Let's table this and ask Jerry (Pigsley of Woods & Aitken LLP) to guide us on this."

Aaron Gustin stated: "The Union doesn't prevent promotion, whether temporary or permanent, of any individual within a current department. That's from the Union Rep's mouth because I was curious."

Discussion followed.

Council member Hotovy stated: "I see zero reason why we couldn't appoint interim department heads, that only makes sense. Therefore, Council member Hotovy made a motion to appoint C.J. Novak as the Interim Wastewater Supervisor, and Aaron Gustin as the Interim Water Supervisor. Council member Meysenburg seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, and Meysenburg. Voting NAY: None. Council member Trowbridge abstained. The motion carried."

Park/Auditorium Supervisor Bill Buntgen stated that he is applying for a grant for the replacement of the running track. The grant is only for 25% of the cost of the rubber, so not a very significant grant, maybe only \$5,000 - \$7,000. Bill will also be advertising for bids and going through the bid process. Bill estimated the project at \$70,000 to \$120,000.

City Clerk Kovar asked how the running track project was to be paid for. Council member Trowbridge stated: "This is going to come out of a Tax Increment Financing Project on the north end of town with Timpfe."

City Clerk Kovar stated: "So we should get T.I.F. funds for it?"

Mayor Zavodny stated: "Well, we have had some discussions on how to leverage those yes, and at this point that's all we can say."

Council member Trowbridge stated: "Sometimes T.I.F. funds need to help everybody instead of just simply the business."

Street Supervisor Chris Kroesing provided the following bids:

Central Nebraska Equipment

Alkota model 216x4 (2.0 GPM @ 1600PSI) / 115v-20A / 2.3 HP with temp control Included is a 50' hose and wand/trigger gun	\$3,308.00
A reel would run an additional:	<u>300.00</u>
	\$3,608.00

Hotsy Equipment Co.

Hotsy Model #555 SS Hot Water Pressure Washer 2.2 GPM at 1300 PSI 120v/1/60 2HP Baldor motor, 50' high pressure hose, trigger gun control, 3' quick coupled wand	\$3,195.00
Hotsy Pivot Hose Reel 13"	<u>150.00</u>
	\$3,345.00

Council member Kobus made a motion to accept the bid of Hotsy Equipment Company, for a Hotsy Model #555 SS Hot Water Pressure Washer, in the amount of \$3,345.00. Council member Trowbridge seconded the motion. Voting AYE: Council members Meysenburg, Hotovy, Vandenberg, Smith, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Street Supervisor Chris Kroesing stated that a section of the street located just east of 13th & "E" Street, and also "B" Street between 3rd & 4th Street, are in terrible condition.

Mayor Zavodny asked Chris to get estimates on how much a concrete curb and gutter street would cost for one block.

Council member Kobus made a motion to erect barricades on a section of the street located just east of 13th & "E" Street, and also "B" Street between 3rd & 4th Street, and post signs that say "local traffic only". Council member Trowbridge seconded the motion. Voting AYE: Council members Vandenberg, Meysenburg, Smith, Hotovy, Kobus, and Trowbridge. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to go into executive session to discuss a potential lawsuit. Council member Meysenburg seconded the motion. Voting AYE: Council

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

Mayor Zavodny stated that the City Council was going into executive session to discuss a potential lawsuit, which is a legal matter.

The City Council, Mayor Zavodny, City Attorney Jim Egr, and City Clerk Joan Kovar went into executive session at 9:30 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 9:48 p.m.

There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Trowbridge, Meysenburg, Smith, Hotovy, Kobus, and Vandenberg. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:49 p.m.



CERTIFICATION OF MINUTES
January 9th, 2019

I, Joan Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of January 9th, 2019; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan Kovar, City Clerk