

CITY COUNCIL PROCEEDINGS

March 25, 2002

The Mayor and City Council of the City of David City, Nebraska met in open public session at 5:30 p.m. on March 25, 2002 in the meeting room of the City Office, 557 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner-Press on March 21st, 2002 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 notices 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 Stephen Smith, Council members Mark Kirby, Gary Kroesing, Gary Smith, Bill Schatz, Ted Lukassen, and Nick Hein, City Administrator Andrew Brannen, and City Clerk Joan E. Kovar.

Council member Kirby introduced Ordinance No. 922. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hein seconded the motion. Voting YEA: Council members Smith, Kirby, Schatz, Hein, Lukassen, and Kroesing. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 922 on the third and final reading. Council member Hein seconded the motion. Council member Schatz stated that he was eased that the Council decided to do this in the form of a bond issue rather than a direct borrowing. Schatz prefers the bond issue as this provides better protection for the utility department. If the utility department has financial problems they can sell the bonds outward on the open market. Voting YEA: Council members Hein, Kirby, Smith, Kroesing, Lukassen, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 922 was passed and adopted as follows:

ORDINANCE NO. 922

AN ORDINANCE AUTHORIZING THE ISSUANCE OF RECREATIONAL FACILITY JUNIOR LIEN SALES TAX REVENUE BONDS OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF SIX HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$655,000), FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF CONSTRUCTING CERTAIN RECREATIONAL FACILITY IMPROVEMENTS CONSISTING OF A SWIMMING POOL AND RELATED FACILITIES; PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING A PORTION OF THE PROCEEDS OF THE CITY'S 1% SALES AND USE TAX APPROVED BY THE CITY'S QUALIFIED ELECTORS FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF SAID SALES AND USE TAX REVENUE; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAVID

CITY, NEBRASKA:

Section 1. The Mayor and Council of the City of David City, Nebraska (the "City"), hereby find and determine that: (a) the City owns certain recreational facilities including a swimming pool and related facilities, (collectively the "Swimming Pool"), which Swimming Pool represents an undertaking by and of the City which generates certain revenues and fees (the Swimming Pool and any and all additions thereto or improvements thereof hereafter made are also generally herein referred to herein as the "Recreational Facilities"); (b) certain improvements, enlargements, replacements and expansions of the City's Recreational Facilities, including, but not limited to, the construction and acquisition of a new swimming pool and related improvements, appurtenances, furnishings and equipment (collectively, the "Project") are necessary, desirable, advisable and in the best interests of the City; (c) pursuant to Resolution of the Mayor and City Council and Sections 77-27,142 to 77-27,148, inclusive, Reissue Revised Statutes of Nebraska, as amended (the "Local Option Revenue Act"), an election was called and held on May 9, 2001 (the "Election") at which time there was submitted to the qualified electors of the City a proposition for the imposition of a one percent (1.00%) sales and use tax upon the same transactions which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, which election question stated that such tax shall be collected for a period ending October 1, 2010 and that the proceeds of which sales and use tax are to be used for a swimming pool and used for a new all-weather running/walking track, and other park and recreational type projects; (d) notice of the Election and the submission of such question was duly given to the qualified electors of the City as provided by law and at the Election more than 50% of the ballots cast at the Election were in favor of imposing said sales and use tax; (e) pursuant to ordinance adopted and approved by the Mayor and City Council, the City imposed a one percent (1.00%) sales and use tax (the "Special Tax") upon the same transactions which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, to be used for a swimming pool and used for a new all-weather running/walking track, and other park and recreational type projects for the City in accordance with the Local Option Revenue Act; (f) the City has heretofore issued \$1,200,000 aggregate principal amount of its Swimming Pool Sales Tax Revenue Bonds, Series 2001, dated as of May 15, 2001 (the "2001 Bonds") pursuant to Section 17-950, Reissue Revised Statutes of Nebraska, as amended, and Ordinance No. 905 of the City ("Ordinance No. 905") payable from the proceeds of the Special Tax, and not from the revenues and earnings of the Recreational Facilities; (g) the City has no outstanding bonds or other indebtedness payable from the revenue and earnings of the Recreational Facilities; (h) pursuant to the provisions of Sections 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, as amended, the City is authorized to issue revenue bonds for the purpose of providing funds to pay the costs of constructing, acquiring, equipping and furnishing any revenue producing facilities within or without its corporate limits that the municipality has power to acquire, construct, equip or furnish and for any purpose necessary or incidental to any of the foregoing; (i) it is necessary, desirable, advisable and in the best interest of the City that recreational facilities junior lien sales tax revenue bonds of the City be issued in the aggregate principal amount of \$655,000 for the purpose of providing funds to pay the costs of constructing, acquiring, equipping and furnishing the Project; and (j) all conditions, acts and things required to exist or to be done precedent to the issuance of Recreational Facility Junior Lien Sales Tax Revenue Bonds do exist and have been done as required by law.

Section 2. To pay a portion of the cost of constructing, equipping and furnishing of the Project hereof including costs of issuance of the bonds herein authorized, there shall be and there are hereby ordered issued Recreational Facility Junior Lien Sales Tax Revenue Bonds, Series 2002, of the City of David City, Nebraska, in the principal amount of Six Hundred Fifty-five Thousand

Dollars (\$655,000) (the "Bonds"), with said bonds bearing interest at the rates per annum and to become due on November 15 of each year as indicated below:

<u>Principal Amount</u>	<u>Maturing November 15 of Year</u>	<u>Interest Rate Per Annum</u>
\$25,000	2002	4.5%
35,000	2003	4.5%
40,000	2004	4.5%
40,000	2005	4.5%
45,000	2006	4.5%
45,000	2007	4.5%
50,000	2008	4.5%
50,000	2009	4.5%
325,000	2010	4.5%

The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be May 15, 2002. Interest on the Bonds, at the respective rates for each maturity, shall be payable semi-annually on May 15 and November 15 of each year beginning November 15, 2002 (each an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the last business day of the month immediately preceding the month in which the Interest Payment Date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. The Bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity shall be made by the Paying Agent and Registrar upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Bond as the absolute owner of such bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The Treasurer of the City of David City, in David City, Nebraska, is hereby designated to serve as Paying Agent and Registrar for the Bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms and conditions as may be established by the Mayor and City Council from time to time but with such changes as they shall deem appropriate or

necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Bonds at its principal corporate trust office. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the principal corporate trust office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

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

Section 5. The Bonds shall be subject to redemption prior to maturity at the option of the City in whole or in part, at any time at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City shall have complete discretion in the selection of amounts and maturities for redemption. Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new Bond evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue, series and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the principal corporate trust office of said Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Bond for which defective notice has been given.

Section 6. If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of David City, Nebraska are authorized by law or executive order to close, then the date for such payment shall be

the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

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

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF BUTLER

RECREATIONAL FACILITY JUNIOR LIEN SALES TAX REVENUE BOND, SERIES 2002
OF THE CITY OF DAVID CITY, NEBRASKA

No.

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
	November 15,	May 15, 2002	

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the County of Butler, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay, but only from the special sources herein described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable semiannually on May 15 and November 15 of each year beginning November 15, 2002 (each an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this bond is payable upon presentation and surrender of this bond at the office of the Treasurer of the City of David City, the Paying Agent and Registrar in David City, Nebraska. Interest on this bond will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

The Bonds are secured by and are payable solely from (a) the revenue and earnings of certain recreational facilities (the "Recreational Facilities") of the City of David City, Nebraska, and (b) the revenues of the City's one percent (1%) sales and use tax revenues have been pledged and

hypothecated for the payment of the bonds of this issue, subject to a prior pledge of such 1% sales and use tax for previous obligations of the City for which such sales and use tax is pledged in part. The bonds of this issue are a lien only upon said revenue and earnings of the recreational facilities and of the 1% sales and use tax and are not general obligations of the City of David City, Nebraska. The Bonds are a junior lien to the City's \$1,200,000 Swimming Pool Sales Tax Revenue Bonds, Series 2001.

The ordinance authorizing the issuance of this bond and the other bonds of this issue sets forth the covenants and obligations of the City with respect to the Recreational Facilities and the application of the revenue to be derived therefrom together with the sales and use tax revenues, which revenues are by the terms of said ordinance to be deposited into a separate account and disbursed to pay costs of operation and maintenance, make payments of principal and interest on the bonds of this issue and make other payments as specified in said ordinance. Said ordinance also designates the terms and conditions on which this bond shall cease to be entitled to any lien, benefit or security under such ordinance and all covenants, agreements and obligations of the City under such ordinance may be discharged and satisfied at or prior to the maturity or redemption of this bond if moneys or certain specified securities shall have been deposited with the Paying Agent and Registrar or a designated trustee.

This bond is one of an issue of fully registered bonds of the total principal amount of Six Hundred Fifty-five Thousand Dollars (\$655,000) of even date and like tenor except as to date of maturity, rate of interest and denomination which were issued by the City for the purpose of paying for the costs of improving, enlarging and expanding certain portions of the Recreational Facilities in strict compliance with Sections 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, as amended, and has been duly authorized by ordinance legally passed, approved and published and by proceedings duly had by the Mayor and Council of said City.

The bonds of this issue shall be subject to redemption prior to maturity at the option of the City in whole or in part, at any time at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City shall have complete discretion in the selection of amounts and maturities for any such optional redemption.

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

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

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

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

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

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

CITY OF DAVID CITY, NEBRASKA

ATTEST:

Mayor Stephen Smith

City Clerk

[SEAL]

CERTIFICATE OF AUTHENTICATION

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

TREASURER OF THE CITY OF

DAVID CITY, NEBRASKA

By: _____
Authorized Signature

FORM OF ASSIGNMENT

For value received _____
hereby sells, assigns and transfers unto _____ the
within bond and hereby irrevocably constitutes and appoints

Attorney, to transfer the same on the books of registration in the office of the within mentioned
Paying Agent and Registrar with full power of substitution in the premises.

DATE:

Registered Owner Registered Owner

Witness:

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

Section 8. Each of the Bonds shall be executed on behalf of the City with the facsimile
signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal.
In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be
such officer before the delivery of such Bond (including any bond certificates delivered to the Paying
Agent and Registrar for issuance upon transfer or partial redemption), such signature or such
facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such
officer or officers had remained in office until the delivery of such Bond. The Bonds shall not be valid
and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer
shall cause the Bonds to be registered in the office of the Auditor of Public Accounts of the State of
Nebraska. Thereafter the Bonds shall be delivered to the Paying Agent and Registrar for registration
and authentication. Upon execution, registration and authentication of the Bonds, they shall be
delivered to the City Treasurer, who is authorized to deliver them to the Utility Fund of the City of
David City, Nebraska as the initial purchaser thereof, upon receipt of 100% of the principal amount
of the Bonds plus accrued interest thereon to date of payment for the Bonds. Said initial purchaser
shall have the right to direct the registration of the Bonds and the denominations thereof within each
maturity, subject to the restrictions of this Ordinance.

Section 9. The City Clerk shall make and certify duplicate transcripts of the proceedings of
the Mayor and Council with respect to the Bonds, one of which shall be delivered to said purchaser.

Section 10. All accrued interest received from the sale of the Bonds shall be applied to pay

interest falling due on November 15, 2002.

Section 11. The Bonds are secured by and are payable solely from (a) the revenue and earnings of the Recreational Facilities and (b), subject to the payment of the principal of and interest on the 2001 Bonds when and as the same shall become due, the Special Tax, each of which is hereby pledged and hypothecated for the payment of the principal of and interest on the Bonds as the same shall become due. The City does hereby covenant and agree with the holders of said Bonds as follows:

Pursuant to the election proposition approved at the Election in accordance with the Local Option Revenue Act, the revenues from the Special Tax as and when received by the City are hereby pledged to the payment of principal and interest on the Bonds and shall be held and applied in accordance with the terms of the proposition submitted at the Election as directed in this Section 11, subject, however, to any prior pledge of said revenues, including specifically the pledge of sales and use tax revenues to 2001 Bonds. For purposes of holding, allocating and applying the receipts from the Special Tax, the City hereby agrees to establish and maintain under this Ordinance a Bond Payment Account. Said account shall be maintained, so long as any of the Bonds remain outstanding in accordance with the following terms and conditions:

JUNIOR LIEN BOND PAYMENT ACCOUNT - In each calendar year, as and when received, subject to the deposit of Special Taxes in an amount sufficient to pay the principal of and interest on the 2001 Bonds in such calendar year into the Bond Payment Account established by Section 11 of Ordinance No. 905, revenues from the Special Tax shall be deposited first to the Bond Payment Account until such account has credited thereto an amount equal to the amount of principal and interest falling due on the Bonds in such calendar year. The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, in an amount sufficient to pay, when due, the principal of and interest on the Bonds (including amounts necessary for any Required Sinking Fund Redemptions) and to transfer such amounts to the Paying Agent and Registrar at least five (5) business days before each principal and interest payment date.

The provisions of this Section 11 shall require the City to maintain a set of books and records in accordance with such account methods and procedures as are generally applicable to municipal funds and accounts, which books and records shall show credits to and expenditures from the account required by this Section. Monies credited to the account described in this Section 11 shall be deposited or invested separate and apart from other City funds. The City shall not be required to establish separate bank or investment accounts within the separate and segregated fund or account established for revenues from the Special Tax, for the accounts described in this Section 11.

Monies in said Account may be invested in investments permissible for a city of the second class. After all Bonds, both principal and interest, have been retired or provision made for their retirement and redemption, the said one percent Special Tax shall be no longer be levied and collected, and revenues of and funds remaining from said Special Tax shall be transferred to the City's general fund and may be applied for any purpose permitted by law.

Section 12. So long as any of the Bonds issued pursuant to this ordinance shall remain outstanding and unpaid, the City covenants and agrees to establish, revise from time to time as necessary and collect such rates and charges for the service furnished from the Recreational Facilities which funds when combined with the City's Sales and Use Tax Revenue Funds shall adequate to produce revenues and earnings sufficient at all times:

(a) To pay all proper and necessary costs of operation and maintenance of the Recreational Facilities and to pay for the necessary and proper repairs, replacements, enlargements, extensions, and improvements to the Recreational Facilities, provided, however, the City may transfer such funds from its general fund as required from time to time to meet such expenses in compliance with then current budgeting and spending limitations and procedures;

(b) To provide funds to pay, when due, the principal of and interest on the Bonds issued pursuant to this ordinance;

Section 13. So long as any Bonds are outstanding, the City hereby covenants and agrees as follows:

(a) The City will maintain the Recreational Facilities in good condition and will continuously operate the same in a reasonable and efficient manner, and the City will punctually perform all the duties with reference to said recreation facilities required by the Constitution and statutes of the State of Nebraska, but this covenant shall not prevent the City from discontinuing the use and operation of all or any portion of the Recreational Facilities so long as the revenue derived from the City's ownership of the properties constituting the Recreational Facilities shall be sufficient to fulfill the City's obligations as set out in this ordinance.

(b) The City will not grant any franchise or right to any person, firm or corporation to own or operate a recreational facilities or systems in competition with the Recreational Facilities.

(c) The City will maintain insurance on the property constituting the Recreational Facilities (other than such portions of said facilities as are not normally insured) against risks customarily carried by similar facilities, but including fire and extended coverage insurance in an amount which would enable the City to repair, restore or replace the property damaged to the extent necessary to make the Recreational Facilities operable in an efficient and proper manner to carry out the City's obligations under this ordinance. The Mayor and Council shall annually examine the amount of insurance carried with respect to the Recreational Facilities and shall evidence approval of such insurance by resolution. The proceeds of any such insurance received by the City shall be used to repair, replace or restore the property damaged or destroyed to the extent necessary to make the Recreational Facilities operable in an efficient and proper manner, and any amount of insurance proceeds not so used shall be credited to the Surplus Account. In the event of any such insured casualty loss, the City may advance funds to make temporary repairs or provide for an advance on costs of the permanent repair, restoration or replacement from the Operation and Maintenance Account and any such advances shall be repaid from insurance proceeds received.

(d) The City will keep proper books, records, and accounts separate from all other records and accounts in which complete and correct entries will be made of all transactions relating to the Recreational Facilities. The City will have its operating and financial statements relating to the Recreational Facilities audited annually by a certified public account or firm of certified public accountants which audit may be included as a portion of the City's general audit. The City will furnish to the original purchaser of the Bonds within four months after the end of each City fiscal year, a copy of the financial statements of the Recreational Facilities and the report thereon of the certified public accountants.

(e) The City shall cause each person handling any of the monies in the David City Recreational Fund and in the City's Sales and Use Tax Revenue Fund to be bonded by an insurance company licensed to do business in Nebraska in an amount or amounts deemed sufficient by the Mayor and Council to cover the amount of money belonging to said systems reasonably expected to be in the possession or control of any such person. The amount of such bond or bonds shall be fixed by the Mayor and Council and the costs thereof shall be paid as an operating and maintenance expense from the Operation and Maintenance Account.

Section 14. The City's obligations under this ordinance and the liens, pledges, covenants, and agreements of the City herein made or provided for relative to the bonds issued pursuant to this ordinance and any such bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City, or when payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing with the Paying Agent and Registrar or with another national or state bank having trust powers or trust company, in trust solely for such payment (1) sufficient money to make such payment and/or (2) Deposit Securities in such amount and bearing interest at such rates and payable at such time or times and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such time or times as will ensure the availability of sufficient money to make such payment; provided, however, that with respect to any bonds to be paid prior to maturity, the City shall have duly given notice of redemption of such bonds as provided by law or made irrevocable provision for the giving of such notice. Any such money so deposited with a bank, trust company or the Paying Agent and Registrar, may be invested and reinvested in Deposit Securities at the direction of the City, and all interest and income from such Deposit Securities in the hands of such bank, trust company or Paying Agent and Registrar in excess of the amount required to pay principal of and interest on the bonds for which such monies were deposited, shall be paid over to the City as and when collected. For purposes of this Section 16, Deposit Securities shall mean (a) direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and (b) bonds, debentures, notes, participation certificates, or other evidences of indebtedness issued by any of the Federal Home Loan Bank system, the Export Import Bank of the United States, the Federal National Mortgage Association, or the Government National Mortgage Association or any combination of any of the foregoing. For purposes of this Section 16, such Deposit Securities shall be noncallable or callable only at the option of the holder.

Section 15. The terms and provisions of this ordinance do and shall constitute a contract between the City of David City and the holder or holders of the Bonds and no changes, variations or alterations of any kind, except for changes necessary to cure any ambiguity, formal defect or omission, shall be made to this ordinance without the written consent of the holders of two-thirds

(2/3) in principal amount of the Bonds then outstanding, provided, however, that neither the principal and interest to be paid upon any Bond nor the maturity date of any Bond shall be changed without the written consent of all holders of the Bonds then outstanding affected thereby. The holder of any Bond or Bonds may, either in law or in equity, by suit, action, mandamus or other proceeding, enforce or compel performance of any and all of the acts and duties required by this ordinance, and any court of competent jurisdiction may, after default in compliance with the terms of this ordinance on application of any such holder, appoint a receiver to take charge of the Recreational Facilities and operate the same and apply the earnings thereof to the payment of the principal of and interest on bonds issued pursuant to the ordinance in accordance with the provisions hereof.

Section 16. The Mayor, City Clerk/Treasurer and City Administrator of the City are hereby authorized to do all things and execute all such documents as may by them be deemed necessary and proper to complete the issuance and sale of the Bonds as contemplated by this ordinance. Said officers or any one of them are further authorized to make any allocations or elections deemed necessary or appropriate related to the provisions of the Code and regulations thereunder.

Section 17. The City hereby covenants to the purchasers and holders of the Bonds that it will make no use of the proceeds of said bond issue, including money held in any sinking fund attributable to said bonds which would cause said bonds to be arbitrage bonds within the meaning of such term as used in the Internal Revenue Code of 1986, as amended, and further covenants to comply with all applicable regulations thereunder throughout the term of said bond issue. The City hereby 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 Bonds. The City hereby designates the Bonds 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 bonds or other obligations in the aggregate principal amount of more than \$10,000,000 in calendar year 2002. The City agrees to take all further actions, if any, necessary to qualify the bonds herein authorized for such treatment, if available.

Section 18. 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 19. All ordinances or resolutions of the Mayor and Council which are in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 20. This ordinance shall be in force and take effect from and after its passage and approval according to law. This ordinance shall be published in pamphlet form.

PASSED AND APPROVED this 25th day of March, 2002.

Mayor

ATTEST:

City Clerk

(SEAL)

**NOTICE OF PUBLICATION
OF ORDINANCE NO. 922
IN PAMPHLET FORM**

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of David City, Nebraska, held at 5:30 p.m. on March 25, 2002 there was passed and adopted Ordinance No. 922 entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF RECREATIONAL FACILITY JUNIOR LIEN SALES TAX REVENUE BONDS OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF SIX HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$655,000), FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF CONSTRUCTING CERTAIN RECREATIONAL FACILITY IMPROVEMENTS CONSISTING OF A SWIMMING POOL AND RELATED FACILITIES; PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING A PORTION OF THE PROCEEDS OF THE CITY'S 1% SALES AND USE TAX APPROVED BY THE CITY'S QUALIFIED ELECTORS FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF SAID SALES AND USE TAX REVENUE; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

Said Ordinance has been published in pamphlet form and copies of said Ordinance as published in pamphlet form are available for inspection and distribution at the Office of the City Clerk, City Office, 557 4th Street, David City, Nebraska.

Clerk

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Lukassen seconded the motion. Voting YEA: Council members Smith, Schatz, Kirby, Lukassen, Kroesing, and Hein. Voting NAY: None. The motion carried and Mayor Smith declared the meeting adjourned at 5:52 p.m..

Mayor Stephen Smith

City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES
March 25, 2002

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 March 25, 2002; 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