

## CITY COUNCIL PROCEEDINGS

September 12, 2007

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on September 6<sup>th</sup>, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Dana Trowbridge, Council members Gary Smith, Bill Scribner, Nick Hein, Rick Holland, Ted Lukassen, and Bill Schatz, City Administrator Joe Johnson, Attorney Jim Birkel, and City Clerk-Treasurer Joan Kovar.

Also present were: Police Chief Stephen Sunday, Water/Sewer Supervisor Jim Kruse, Pat Hoefft, Marge Grubaugh, Dorothy Buntgen, Margaret Kitt, Jack Klosterman, Bob Hilger, Alan Zavodny, Amy Slama, Senior Community Planner of JEO Consulting Group David Potter, BCD Executive Director Willow Holoubek, and Banner Press Editor Larry Peirce.

The meeting opened with the Pledge of Allegiance.

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

The minutes of the August 8<sup>th</sup>, 2007 meeting of the Mayor and City Council were approved upon a motion by Council member Hein and seconded by Council member Holland. Voting AYE: Council members Schatz, Lukassen, Scribner, Smith, Holland, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge asked for Petitions, Communications, and Citizens' Concerns in addition to those contained in the Agenda packets. There were none.

Mayor Trowbridge asked for consideration of claims. Council member Hein made a motion to authorize the payment of claims. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Schatz, Lukassen, Holland, Smith, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge scheduled a Committee of the Whole meeting for Monday, September 24<sup>th</sup>, at 6:00 p.m. in the City Office meeting room.

Mayor Trowbridge called for Committee and Officers' Reports in addition to those written reports contained in the Agenda packet. There were no additional reports.

Council member Smith made a motion to accept the Committee and Officers' Reports as presented. Council member Hein seconded the motion. Voting YEA: Council members Scribner, Schatz, Lukassen, Holland, Hein, and Smith. Voting NAY: None. The motion carried.

Mayor Trowbridge declared the Public Hearing open at 7:09 p.m. to consider an Option to Purchase and an Annexation Agreement concerning the R.J. & Cortney Hein real estate located in the Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes and LESS three (3) tracts of real estate. Citizen Bob Hilger questioned if this annexation was requested by R. J. & Cortney Hein and if it was in conjunction with the Ethanol Plant. Mayor Trowbridge answered "Yes" and explained contiguous annexation. Mayor Trowbridge stated that this also serves as an economic development tool as the property is available if needed. There being no further questions or comments, Mayor Trowbridge closed the Public Hearing at 7:13 p.m.

Council member Schatz made a motion to move forward with an Option to Purchase and an Annexation Agreement concerning the R.J. & Cortney Hein real estate located in the Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes and LESS three (3) tracts of real estate. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Lukassen, Smith, Holland, and Schatz. Voting NAY: None. Council member Hein abstained due to a conflict of interest. The motion carried.

Council member Schatz made a motion to approve the request by R. J. Hein that his property listed above be reserved or used for the location of industry but continue to be used for agricultural purposes until the use is converted for the location of industry, and that the above described territory be annexed by the City of David City. Council member Lukassen seconded the motion. Voting AYE: Council members Holland, Scribner, Smith, Lukassen, and Schatz. Voting NAY: None. Council member Hein abstained due to a conflict of interest. The motion carried. Following is a copy of the Option to Purchase and Annexation Agreement.

#### **OPTION TO PURCHASE AND ANNEXATION AGREEMENT**

This Option to Purchase and Annexation Agreement, hereinafter referenced as "Option", is made and entered into by and between R.J. HEIN and CORTNEY HEIN, husband and wife, hereinafter referenced as "Grantor", whether one or more, and THE CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "Grantee", whether one or more.

WHEREAS, Grantor owns the following described real estate, to-wit:  
As per Exhibit "A" attached hereto and incorporated herein by reference  
as if fully set forth hereinafter referenced as "Territory"; and,

WHEREAS, the Grantee is involved in promoting industrial development by various means provided by Nebraska Statutes, including Tax Increment Financing (T.I.F.); and,

WHEREAS, the Territory is adjacent to and/or near to developing real estate for industrial and commercial purposes; and,

WHEREAS, it would be in the best interests of the Grantee to have an option through its Business and Development group and through Grantee's business and development interests to have an option to purchase the Territory for such interests; and,

WHEREAS, it would be in the best interests of the Grantee to annex the Territory to

enhance Grantee's business and develop interests; and,

WHEREAS, it is in the best interests of the Grantor to have the Territory annexed into the corporate limits of the Grantee to enhance the value of the Territory for the Grantor; and,

WHEREAS, the Grantee does need the Territory reserved or used for the location of industry, but for the Territory to continue to be used for agricultural purposes until the use is converted for the location of industry; and,

NOW, THEREFORE, the Grantor and Grantee agree as follows:

(A) The Grantor will request that Grantee will annex the Territory and request that the Territory be reserved or used for the location of industry, but continue to be used for agricultural purposes until the use is converted for the location of industry.

(B) The Grantor hereby grants to the Grantee an Option to Purchase the Territory for a period of twenty-five (25) years from the date of this Option.

(C) The purchase price for the Territory or parts of the Territory upon exercise of the Option to Purchase by the Grantee will be either (1) a mutually agreed price per acre or (2) the price established by the average of an appraiser chosen by the Grantor, an appraiser chosen by the Grantee, and an appraiser chosen by the said two (2) appraisers. The Appraisals shall be based upon value for industrial and/or commercial property and values and not agricultural use values.

(D) As consideration for this Option, which the Grantor and Grantee agree to be valuable considerations, to Grantee will pay to/provide for the Grantor and Grantor will accept from the Grantee the following:

- (1) Grantee will annex the Territory.
- (2) Grantee will provide that the Territory be reserved or used for the location of industry, but will continue to be used for agricultural purposes until the use is converted for the location of industry.
- (3) The Grantee will pay for the necessary map of the Territory needed for annexation purposes through a licensed surveyor as required by Nebraska Statute Section 17-405 of the Revised Statutes of Nebraska as Amended.
- (4) The Grantee will pay all legal costs associated directly or indirectly with this Option for BOTH the Grantor and Grantee.
- (5) The Grantee will allow the row crop ground of the Territory, despite the annexation of the Territory into the corporate limits of the Grantee, to be grazed by livestock on the normal seasonal basis as customary in the Butler County, Nebraska area.
- (6) The Grantee will allow the Grantor, if Grantor so decides, to place a center pivot system or irrigation system on Territory with the necessary well or wells as needed SUBJECT to the Wellhead Ordinance of the



On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, DANA E. TROWBRIDGE, JR. as Mayor, for the City of David City, Nebraska, a Nebraska Municipal Corporation, personally appeared before me, whose identity was proved on the basis of satisfactory evidence to be the person whose name is subscribed on this Option To Purchase And Annexation Agreement, and acknowledged that he executed it, on behalf of the City of David City, Nebraska.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

State of Nebraska    )  
                                  ) SS.  
County of Butler    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, JOAN E. KOVAR, as City Clerk, the City of David City, Nebraska, a Nebraska Municipal Corporation, personally appeared before me, whose identity was proved on the basis of satisfactory evidence to be the person whose name is subscribed on this Option To Purchase And Annexation Agreement, and acknowledged that she executed it, on behalf of the City of David City, Nebraska.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes,

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

TRACT I:     A tract of land located in the Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> 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.

AND

TRACT II:     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 6<sup>th</sup> 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.

AND

TRACT III: A tract of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the SE comer of said NW¼, thence westerly, 41.0 feet, on the South line of said NW¼, 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 NW¼, thence easterly, 325.00 feet, on the South line of said NW¼, to the point of beginning, containing 2.40 acres,

ALSO EXCEPT THE RAILROAD RIGHT-OF-WAY,

REQUEST FOR ANNEXATION

The undersigned, being the owner of the following described real estate, to-wit:

Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15), North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, LESS all real estate conveyed for road purposes,

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

TRACT I: A tract of land located in the Northwest Quarter (NW¼) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> 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.

AND

TRACT II: 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 6<sup>th</sup> P.M., Butler County, Nebraska, being more particularly described as follows: Commencing at the Northeast Corner 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.

AND

TRACT III: A tract of land located in the Southeast Quarter (SE<sup>1/4</sup>) of the Northwest Quarter (NW<sup>1/4</sup>) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows: Commencing at the SE corner of said NW<sup>1/4</sup>, thence westerly, 41.0 feet, on the South line of said NW<sup>1/4</sup>, 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<sup>1/4</sup>, thence easterly, 325.00 feet, on the South line of said NW<sup>1/4</sup>, to the point of beginning, containing 2.40 acres,

ALSO EXCEPT THE RAILROAD RIGHT-OF-WAY,

which territory lies contiguous to the corporate limits of the City of David City, Nebraska and remains unsubdivided, requests the following of the City of David City, Nebraska, to-wit:

- (A) That the above described territory be reserved or used for the location of industry, but continue to be used for agricultural purposes until the use is converted for the location of industry; and
- (B) That the above described territory be annexed by the City of David City, Nebraska.

An accurate map of the above described territory prepared by a competent surveyor and certified by a licensed surveyor is filed with this Request for Annexation.

This Request for Annexation is made pursuant to Section 17-405 of the Revised Statutes of Nebraska as Amended.

Dated: September 4<sup>th</sup>, 2007

Original signed by R.J. Hein

Council member Schatz introduced Ordinance No. 1055. City Attorney Egr stated that since the property owner requested the annexation, the Council can suspend the statutory rule. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Lukassen, Schatz, Holland, and Smith. Voting NAY: None. Council member Hein abstained due to a conflict of interest. The motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1055 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Lukassen, Holland, Scribner, Smith, and Schatz. Voting NAY: None. Council member Hein abstained due to a conflict of interest. The motion carried and Ordinance No. 1055 was passed and adopted as follows:

**ORDINANCE NO. 1055**

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 (NW<sup>1</sup>/<sub>4</sub>) OF SECTION EIGHTEEN (18), TOWNSHIP FIFTEEN (15), NORTH, RANGE THREE (3), EAST OF THE 6<sup>th</sup> P.M., BUTLER COUNTY, NEBRASKA; TO PROVIDE BENEFITS THERETO; TO PROVIDE FOR SEVERABILITY; TO CONFIRM ZONING CLASSIFICATION; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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 effect 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 12<sup>th</sup> day of September, 2007.

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Mayor Dana Trowbridge

ATTEST:

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City Clerk Joan E. Kovar

#### **EXHIBIT "A"**

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ALSO EXCEPT THE RAILROAD RIGHT-OF-WAY.

Mayor Trowbridge declared the Public Hearing open at 7:18 p.m. to hear testimony of support, opposition, criticism, suggestions, or observations for the following:

- 1) An update to the David City Future Land Use Map
- 2) An entire update to the David City Ordinance
- 3) A complete update to the David City Zoning Map

David L. Potter, Senior Community Planner, JEO Consulting Group, Inc., has been working with the steering committee in the development of the new Zoning Ordinance and updated Future Land Use Map and Zoning Map. As they proceeded with the Zoning Ordinance there were changes made to the Zoning Map. This in turn created a need to update the Future Land Use Map to be consistent with the proposed Zoning Map. Fifteen (15) copies were provided of the draft Zoning Ordinance, Future Land Use Map, and Zoning Map.

David L. Potter stated that some of the bigger changes to the zoning ordinance and maps included:

- Corrected corporate limits.
- New one-mile zoning jurisdictional line that takes the max amount of land allowed by Statute.
- Larger and updated definition section.

- Special Exceptions are now Conditional Use and run with the property owner.
- High Residential Zoning District is now predominantly R-2 Zoning.
- R-3 Zoning is high density residential consisting of apartments and conditional uses such as hospital and medical facilities.
- R-1 Zoning does not allow for duplexes or multi-family dwellings.
- New sign regulations.
- New regulations for home occupations, towers, wind energy systems, and adult entertainment.
- Incorporation of Airport Overlay District.
- Change of zoning on some Industrial and Mobile Home Districts.
- Landscaping regulations.

David also explained additional zoning changes that will be included on the maps.

Margaret Kitt stated that she wanted her property to remain zoned Industrial instead of R-2 Two Family Residential as proposed. She stated that she rents storage space and currently has her garage rented to a construction company. Margaret asked if this would still be allowed if zoned R-2. David Potter stated that if she is currently zoned for what she is currently doing, it would continue as long as the use is continual. Those particular uses can continue but she cannot change it to a different use. This would not preclude her from renting building space out. Her property will be "grandfathered" as "Storage". She can change tenants as long as the usage doesn't change. If she decides to rent her property as a mechanic shop then she would have to request a zoning change.

Willow Holoubek, 3531 M Road, stated that her property is zoned as Light Industrial but would rather the zoning be a Transitional Agricultural District. Willow explained that she brings cattle in during the spring, then moves them out, then brings them back in for the fall and then moves them back out again. David again stated that she would be grandfathered at her current operation. If she would decide to build something new she would need to request a conditional use permit.

The Lanspa/ Amy Slama property was discussed that is located on the northwest corner of "A" and County Road M. She would also like her property zoned Transitional Agricultural, except for the East 702' of this property which she would like zoned as R-2 Two Family Residential for a proposed subdivision.

Mayor Trowbridge closed the Public Hearing at 8:02 p.m.

Since there were several changes identified, Attorney Birkel stated that it may be best to actually update the maps before approving the maps and considering an ordinance. Therefore, Council member Hein made a motion to continue consideration of an update to the David City Future Land Use Map, an entire update to the David City Ordinance, and a complete update to the David City Zoning Map to the October 10<sup>th</sup> council meeting. Council member Smith seconded the motion. Voting AYE: Council members Scribner, Schatz, Lukassen, Holland, Smith, and Hein. Voting NAY: None. The motion carried.

Since the next agenda item was an 8:30 p.m. budget hearing, and it was not 8:30, Council member Lukassen made a motion to advance to Agenda Items #17, 18, 19, and 20. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Schatz, Hein, Smith, Holland, and Lukassen. Voting NAY: None. The motion carried.

Council member Holland introduced Resolution No. 10 - 2007 and moved for its passage and adoption. Council member Scribner seconded the motion. Voting YEA: Council members Lukassen, Schatz, Hein, Smith, Scribner, and Holland. Voting NAY: None. The motion carried and Resolution No. 10 – 2007 was passed and adopted as follows:

**RESOLUTION 10 - 2007**

**A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA, A MUNICIPAL CORPORATION, TO APPLY FOR THE NEBRASKA COMMUNITY IMPROVEMENT PROGRAM SPECIAL PROJECTS AWARD.**

**WHEREAS,** local municipal and county government must provide leadership for improving community and economic development efforts; and

**WHEREAS,** community and economic development needs can best be determined and solved through a cooperative effort between elected officials and the citizens they represent; and

**WHEREAS,** the Nebraska Community Improvement Program, administered by the Nebraska Department of Economic Development, has been reviewed and found to be a means to improve our community; and

**WHEREAS,** the City Council, of the City of David City do herewith pledge their full support, endorsement, and cooperation in carrying out the requirements of the NCIP;

**NOW, THEREFORE,** be it resolved that the City of David City urges its citizens to join this effort and hereby declares this City to be an official entrant in the NCIP for the year(s) of 2007-2008.

PASSED AND APPROVED THIS 12<sup>th</sup> DAY OF SEPTEMBER, 2007

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Mayor Dana Trowbridge

ATTEST:

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City Clerk Joan Kovar

Council member Schatz stated that even though a motion was made to advance agenda items 17 - 20 he would prefer to advance each agenda item separately. Attorney Birkel stated that the motion to advance 17 - 20 all in one motion was sufficient. None the less, Council member Schatz made a motion to advance to agenda item #18 - Consideration of Authorizing Mayor Trowbridge to execute a Disadvantaged Business Enterprise (DBE) Program for the Airport. Council member Smith seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz made a motion to authorize Mayor Trowbridge to execute a Disadvantaged Business Enterprise (DBE) Program for the Airport. Council member Lukassen seconded the motion. This program is a Federal requirement for each fiscal year that you anticipate awarding contracts totaling \$250,000 or more for airport planning or development. Voting AYE: Council members Holland, Hein, Smith, Scribner, Lukassen, and Schatz. Voting NAY: None. The motion carried.

Council member Schatz made a motion to advance to agenda item #19 - Consideration of an Agency Agreement with the Nebraska Department of Aeronautics regarding Federal Grant Project No. 3-31-0025-03. Council member Scribner seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz made a motion to approve an agency agreement with the Nebraska Department of Aeronautics regarding Federal Grant Project No. 3-31-0025-03. Council member Hein seconded the motion. Voting AYE: Council members Holland, Lukassen, Smith, Scribner, Hein, and Schatz. Voting NAY: None. The motion carried.

Council member Schatz made a motion to advance to agenda item #20 - Consideration of Resolution No. 11 - 2007 adopting and approving the execution of an agency agreement with the Department of Aeronautics for Project No. 3-31-0025-03 to obtain Federal Assistance for the Development of the Airport. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz introduced Resolution No. 11 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting AYE: Council members Lukassen, Smith, Scribner, Holland, Hein, and Schatz. Voting NAY: None. The motion carried and Resolution No. 11 - 2007 was passed and adopted as follows:

**RESOLUTION NO. 11 - 2007**

**A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. 3-31-0025-03 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.**

BE IT RESOLVED by the Mayor and Members of the City Council of David City, Nebraska, that:

1. The City of David City shall enter into an Agency Agreement with the Department of Aeronautics for Project No. 3-31-0025-03 for the purpose of obtaining Federal

assistance in the development of the Airport and that such agreement shall be set forth herein below.

2. The Mayor of the City of David City is hereby authorized and directed to execute said Agency Agreement on behalf of the City of David City, and the City Clerk is hereby authorized to attest said execution.
3. The said agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

Passed and approved this 12<sup>th</sup> day of September, 2007

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

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**EXHIBIT "O"**

AGENCY AGREEMENT

Project No. 3-31-0025-03

This is an agreement between the City of David City, Nebraska, hereinafter referred to as the "Airport Sponsor" and the Nebraska Department of Aeronautics, hereinafter referred to as the "Department," made and entered into in accordance with, and for the purpose of, complying with the laws of the State of Nebraska.

The Airport Sponsor desires to develop the David City Municipal Airport and to use federal airport aid funds available for that purpose. Therefore, the Airport Sponsor hereby designates the Department as its agent in accordance with Sections 3-124 and 3-239, R.R.S. 1943, and the Department hereby accepts such designation and agrees to act as the agent of the Airport Sponsor.

It is mutually understood and agreed between the parties that the Airport Sponsor has submitted to the Department its proposed project for the development of said airport, and that such project has been approved by the Department, in accordance with Section 3-239, R.R.S. 1943.

The Airport Sponsor hereby warrants, undertakes and agrees that if the Federal Aviation Administration makes a grant offer, and the Airport Sponsor executes a Grant Agreement, it will develop and manage said airport in the manner set forth in the Grant Agreement and abide by the conditions, rules and regulations of the Federal Aviation Administration.

The terms and conditions of this Agency Agreement and the respective duties, undertakings and agreements of the parties with respect to this Agency Agreement and with respect to the project of airport development, are as follows:

A. The Department shall accept, receive, receipt for, and disburse all funds granted by the United States for airport aid in accordance with federal laws, rules and regulations and in accordance with Sections 3-101 to 3-154 and 3-239, R.R.S. 1943, as the agent of the Airport Sponsor.

B. Upon receipt of such federal funds, the Department shall deposit them in the State Treasury, according to law, and shall cause disbursement to be made therefrom as follows:

FIRST: If the Department advances funds to the Airport Sponsor as the equivalent of the United States' share of allowable project cost, the Department shall reimburse itself for any such advancement out of such federal funds thereafter received.

SECOND: The Department shall cause the balance of such federal funds due the Airport Sponsor to be paid promptly to the Airport Sponsor.

C. The Department shall maintain accurate records of all the funds received and expended by it in connection with the project. These records shall be open to inspection by the Airport Sponsor, the Federal Aviation Administration and their authorized representatives in the offices of the Department at all reasonable times.

D. The Airport Sponsor reserves the right, power and authority to execute the Application for Federal Assistance, the federal Grant Agreement, all construction and engineering contracts, all agreements related to the purchase of land and all amendments to these items. Aside from the matters so reserved, the Department shall, as agent for the Airport Sponsor, process, execute and submit to the Federal Aviation Administration all papers, forms and documents required by that agency for the approval, carrying out and completion of the project.

D. The Airport Sponsor agrees to reimburse, the Department for its administrative costs of furnishing all services performed by it as agent of the Airport Sponsor, including, but not limited to, the services set forth in the attached Exhibit A, "Administrative Services". Departmental administrative costs charged to the project are considered allowable costs for federal and state participation. These costs will be charged according to the "Schedule of Fees and Charges" shown in the attached Exhibit B, which schedule shall be subject to change upon notification in writing by the Department to the Airport Sponsor.

As used herein, the following words, terms and phrases shall have the meanings herein given:

"Application for Federal Assistance" means the document prepared as the formal application submitted to the Federal Aviation Administration for a grant of federal funds.

“Develop” means to plan, construct or improve the airport as defined in the Application for Federal Assistance.

“Project” means a plan of action for the accomplishment of specific airport developments.

“Grant Agreement” means the contract between the United States of America and the Airport Sponsor in which the Federal Aviation Administration, on behalf of the United States, agrees to pay a portion of the allowable costs of the project.

Executed by the Nebraska Department of Aeronautics this 14<sup>th</sup> day of August, 2007.

(SEAL)

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Director

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**EXHIBIT A**  
**AGENCY AGREEMENT**  
**ADMINISTRATIVE SERVICES**

1. Conduct airport site inspections.
2. Review and secure federal approval of Airport Layout Plans (ALP).
3. Prepare and process CIP Data Sheets and related documents used to request an allocation, of federal funds, if requested by the Sponsor.
4. Assist in the preparation and processing of Environmental Impact Statements and other environmental studies.
5. Review and process land acquisition documents, title opinions, sponsor certifications and audit reports.
6. Prepare an independent cost analysis of consultant costs, if requested by the Sponsor.
7. Prepare a Disadvantaged Business Enterprise (DBE) Program, if requested by the Sponsor and represent the Sponsor in the DBE Unified Certification Program.
8. Review, process, and secure federal approval of all contracts and agreements, change orders and amendments to these agreements.
9. Attend pre-design conferences and conduct design (plan-in-hand) inspections.
10. Review and process the plans, specifications, special provisions and contract documents. Provide U.S. Labor Department wage rate determinations.
11. Attend prebid and preconstruction conferences.
12. Prepare and secure execution of Applications for Federal Assistance and associated documents. Prepare and process program changes.
13. Process Grant Agreements and amendments.

14. Review periodic pay estimates and forward federal funds to the Airport Sponsor:
15. Prepare applications, requests, transfers or letters of credit for Grant Agreement payments.
16. Conduct or participate in periodic and final inspections.
17. Prepare and/or process other federal documents not otherwise specifically covered above.

- Exhibit A -

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EXHIBIT B  
AGENCY AGREEMENT  
**SCHEDULE OF FEES AND CHARGES**

- A. Salary Costs. Charges will be the monthly rate worked times a factor of 2.5 for overhead and benefits for the following positions:

Engineer VI	Engineering Associate (all)*
Engineer V	Engineering Aide (all)*
Engineer IV	Accountant (all)
Engineer III	Accounting Clerk*
Engineer II*	Attorney (all)
Engineer I*	Drafter (all)*

\* Employees in these positions receive time and one half for time worked over 40 hours per week.

- B. Living Costs and Outside Expenses. Actual.

Charges will be actual expenses and shall include meals, lodging, telephone calls, etc. normally paid by Department.

- C. Materials, Supplies, & Rental Equipment. Actual.

Charges will be actual costs and shall be charged in accordance with invoices, billings, contracts or agreements.

- D. Transportation. Actual.

Charges will be those established by Department policy for all users for operating a state automobile or using a state aircraft.

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Council member Schatz made a motion to advance to agenda item #21 - Consideration of Ordinance No. 1058 amending Chapter 7, Section 7 - 107 of the David City Municipal Code Book concerning "Fire Regulations". Council member Lukassen seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz introduced Ordinance No. 1058, amending Chapter 7, Section 7-107 of the David City Municipal Code Book concerning "Fire Regulations". Council member Schatz made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Smith seconded the motion. All of the Council members were present, all voted YEA, and the motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1058 on the third and final reading. Council member Smith seconded the motion. Voting YEA: Council members Hein, Holland, Scribner, Lukassen, Smith, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1058 was passed and adopted as follows:

**ORDINANCE NO. 1058**

AN ORDINANCE AMENDING SECTION 7-107 OF THE "FIRE REGULATIONS" OF THE CITY OF DAVID CITY, NEBRASKA, MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1. Section 7-107 of Chapter 7 of the David City Municipal Code Book be amended to read as follows:

**§7-107 FIRE PREVENTION; BURNING AND FIRES PROHIBITED; EXCEPTION AND REGULATIONS.** All open burning and open fires in the City are prohibited, except; in barbecues, outdoor fireplaces or with written permission of the Fire Chief for a particular event. Approved containers that have the permit hereinafter required, that continue to meet the specifications for the same hereinafter provided in this Chapter, that continue to be renewed as hereinafter provided, that are not revoked, and that are in existence on or before September 1, 2007 may be used for burning of materials that do not give off toxic gases or fumes, offensive or foul odors, or dirty or oily smoke. Permitted materials to be burned include paper without ink, cardboard, wood, etc. Prohibited materials include feathers, meat, tires, oil or other noxious material including household garbage or newspapers. David City Residents must pay a yearly \$20 application fee and file a yearly burn barrel permit with the City Office. The burn barrel permits are non-transferable. All open burning containers must first be inspected and approved by the Police Chief or representative before they can be used. A first offense will result in a permanent revocation of the burn permit. (Ref. 17-549, 17-556.)

Section 2. That any Ordinance or section of any Ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2007.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

Council member Schatz made a motion to advance to Agenda item #22 - Consideration of a Redevelopment Contract between the Community Development Agency of the City of David City, and the Eating Establishment - David City, L.L.C. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

The Council questioned if a recess was needed, but Attorney Birkel stated that the Council could simply proceed as the Community Development Agency.

Council member Smith, acting in the capacity of the Community Development Agency of the City, made a motion to authorize Mayor Trowbridge, acting in the capacity of the Chairman of the Community Development Agency of the City, to execute a Redevelopment Contract between the Community Development Agency of the City of David City, and the Eating Establishment - David City, L.L.C.. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

#### REDEVELOPMENT CONTRACT

This Redevelopment Contract is made and entered into as of the 12<sup>th</sup> day of September, 2007, by and between the Community Development Agency of the City of David City, Nebraska (Agency) and, Eating Establishment - David City, L.L.C. (Developer).

#### WITNESSTH:

WHEREAS, the Agency is a duly organized and existing Community Development Agency, a body politic and corporate under the laws of the State of Nebraska, with lawful power and Agency to enter into this Redevelopment Contract;

WHEREAS, the City of David City, Nebraska (the "City"), in furtherance of the purposes and pursuant to the provisions of Section 12 of Article VIII of the Nebraska Constitution and Sections 18-2101 to 18-2154, Reissue Revised Statutes of Nebraska, 1943, as amended (collectively the Act), has designated an area described on the attached Exhibit A as a blighted and substandard area; and

WHEREAS, the Agency has completed all procedures necessary for adoption of a Redevelopment Plan and approval of a Redevelopment Contract; and

WHEREAS, pursuant to Section 18-2119 of the Act, Agency has solicited proposals for redevelopment of the redevelopment area, and Developer submitted a redevelopment contract proposal; and

WHEREAS, Agency and Developer desire to enter into this Redevelopment Contract for acquisition and redevelopment of the redevelopment area;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein set forth, Agency and Developer do hereby covenant, agree and bind themselves as follows:

#### ARTICLE I

#### DEFINITIONS AND INTERPRETATION

Section 1.01 Terms Defined in this Redevelopment Contract.

Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Redevelopment Contract, such definitions to be equally applicable to both the singular and plural forms and masculine, feminine and neuter gender of any of the terms defined:

"Act" means Section 12 of Article VIII of the Nebraska Constitution, Sections 18-2101 through 18-2154, Reissue Revised Statutes of Nebraska, 1943, as amended, and acts amendatory thereof and supplemental thereto.

"Bondholder" means the holders of Bonds issued by the Agency from time to time outstanding.

"Bonds" or "Series 2007 A Bonds" means the Agency's Community Redevelopment Revenue Bonds ( Eating Establishment - David City, L.L.C. Project), Series 2007 A issued pursuant to Section 3.02 hereof.

"Governing Body" means the City Council of the City.

"Premises" or "Redevelopment Area" means all that certain real property situated in David City, Butler County, Nebraska, more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

"Project" means the improvements to the Premises, as further described in Exhibit B attached hereto and incorporated herein by reference.

"Project Costs" means only costs or expenses incurred by Developer to acquire, rehabilitate, construct and equip the Project pursuant to the Act.

"Redevelopment Contract" means this redevelopment contract between Agency and Developer dated September 12, 2007, with respect to the Project.

"Redevelopment Plan" means Exhibit B attached hereto as supplemented by this Redevelopment Contract and the attachments hereto, adopted by the Agency and the City pursuant to the Act, as amended from time to time.

"Resolution" means the Resolution of the Agency dated September 12, 2007, as supplemented from time to time, approving this Redevelopment Contract and providing for the issuance of the Bonds.

"TIF Revenues" means incremental ad valorem taxes generated by the Project which are allocated to and paid to the Agency pursuant to the Act.

"City" means the City of David City, Nebraska.

#### Section 1.02 Construction and Interpretation.

The provisions of this Redevelopment Contract shall be construed and interpreted in accordance with the following provisions:

(a) This Redevelopment Contract shall be interpreted in accordance with and governed by the laws of the State of Nebraska, including the Act.

(b) Wherever in this Redevelopment Contract it is provided that any person may do or perform any act or thing the word "may" shall be deemed permissive and not mandatory and it shall be construed that such person shall have the right, but shall not be obligated, to do and perform any such act or thing.

(c) The phrase "at any time" shall be construed as meaning "at any time or from time to time."

(d) The word "including" shall be construed as meaning "including, but not limited to."

(e) The words "will" and "shall" shall each be construed as mandatory.

(f) The words "herein," "hereof," "hereunder," "hereinafter" and words of similar import shall refer to the Redevelopment Contract as a whole rather than to any particular paragraph, section or subsection, unless the context specifically refers thereto.

(g) Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require.

(h) The captions to the sections of this Redevelopment Contract are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

### ARTICLE II REPRESENTATIONS

#### Section 2.01 Representations by Agency.

Agency makes the following representations and findings:

(a) Agency is a duly organized and validly existing Community Development Agency under the Act;

(b) The proposed land uses and building requirements in the Project are designed with the general purpose of accomplishing, in conformance with the general plan of development of the City, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations, or conditions of blight;

(c) The Redevelopment Contract is feasible and in conformity with the general plan for the development of the City as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Act;

(d) Based on the representations of Developer and other information provided to the Agency,

(i) the Project would not be economically feasible without the rise of tax-increment financing;

(ii) the Project would not occur in the Redevelopment Area without the use of tax-increment financing; and  
(iii) the costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and the Agency and have been found to be in the long-term best interest of the community impacted by the Project;

(e) This Redevelopment Contract (and attachments hereto) constitute a redevelopment plan and has been duly approved and adopted by the Community Development Agency of the City pursuant to Section 18-2116 and 18-2117 of the Act;

(f) The Agency has requested proposals for redevelopment of the Redevelopment Area pursuant to section 18-2119 of the Act, and deems it to be in the public interest and in furtherance of the purposes of the Act to accept the proposal submitted by Developer as specified herein; and

(g) The Redevelopment Project will achieve the public purposes of the Act by, among other things, increasing the tax base, and lessening blight and substandard conditions in the Redevelopment Area.

Section 2.02 Representations of Developer.

The Developer makes the following representations:

(a) The execution and delivery of the Redevelopment Contract and the consummation of the transactions therein contemplated will not conflict with or constitute a breach of or default under any bond, debenture, note or other evidence of indebtedness or any contract, loan agreement or lease to which Developer is a party or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Developer contrary to the terms of any instrument or agreement.

(b) There is no litigation pending or to the best of its knowledge, threatened against Developer affecting its ability to carry out the acquisition, construction, equipping and furnishing of the Project or the carrying into effect of this Redevelopment Contract or, except as disclosed in writing to the Agency, as to any other matter materially affecting the ability of Developer to perform its obligations hereunder.

(c) Developer has made a fiscal analysis of the project and specifically represents to the City and Agency that:

(i), the Project would not be economically feasible without the use of tax-increment financing, and Developer will not undertake the Project without tax-increment financing;

(ii) the Project would not occur in the Redevelopment Area and Developer will not construct the Project without the use of tax-increment financing;

ARTICLE III  
OBLIGATIONS OF THE AGENCY

Section 3.01 Division of Taxes.

In accordance with Section 18-2147 of the Act, the Agency hereby includes in the Redevelopment Plan of the Agency a provision that any ad valorem tax on real property in the that portion of the Project, described on Exhibit A, for the benefit of any public body be divided for a period of fifteen years after the effective date of this provision as provided in Section 18-2147 of the Act. The effective date of this provision shall be January 1, 2008.

Section 3.02 Issuance of Bonds.

Agency on or about September 12, 2007, will issue its Series 2007 A Bonds in the aggregate principal amount of approximately \$25,350.00, bearing interest at five and nine one hundredths percent (5.09%) per annum (Series 2007 A Bonds, Eating Establishment Project). The Bonds shall be limited obligations of the Agency, and shall be solely payable from and secured by TIF Revenues and other security specifically pledged therefore.

Section 3.03 Pledge of TIF Revenues.

Pursuant to the Resolution, the Agency will pledge the TIF Revenues as Security for the Bonds.

Section 3.04 Grant of Proceeds of Bonds.

Agency will grant 100% the proceeds from the Bonds, to Developer for the purpose of paying Project Costs.

Section 3.05 Creation of Fund.

Agency will create a special fund to collect and hold the TIF Revenues. Such special funds shall be used for no purpose other than to pay Bonds issued pursuant to Sections 3.02 above.

Section 3.06 Perform Obligations of Redevelopment Plan.

Agency will perform, or provide for the performance, in a timely manner, of all obligations to set forth in the Redevelopment Plan required to be performed by the Agency or City, as provided in this Redevelopment Contract, and attached Exhibit B.

Section 3.07 Purchase Bonds.

The Agency will have no obligation to purchase the Bonds or provide for the purchase of the Bonds.

ARTICLE IV  
OBLIGATIONS OF DEVELOPER

Section 4.01 Construction of Project.

Developer will complete the Project and pay for the rehabilitation and equipping of a commercial building for a restaurant, including the installation of all equipment necessary for its operation as shown on Exhibit B attached hereto.

Section 4.02 Non Discrimination.

Developer agrees and covenants for itself, its successors and assigns that as long as any Bonds are outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability marital status or receipt of public assistance in connection with the Project. Developer, for itself and its successors and assigns, agrees that during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance. Developer will comply with all applicable federal, state and local laws related to the Project.

Section 4.03 Pay Real Estate Taxes.

Developer intends to, but is not specifically obligated to, create a taxable real property base attributable to the Project of \$137,000.00, no later than January 1, 2008. During the period that any Bonds are outstanding, Developer will (1) not protest a real estate property valuation on the Premises of \$137,000.00, or less; (2) not convey the Premises or structures thereon to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes; (3) and cause all real estate taxes and assessments levied on the Premises to be paid prior to the time such become delinquent during the term that any Bonds are outstanding.

Section 4.04 Payment in Lieu of Taxes.

Developer agrees to make payments in lieu of taxes to the extent that the total ad valorem taxes with respect to the project are insufficient to pay the Bonds when due. To the extent any annual tax payment is less than 1/14<sup>th</sup> of the principal of the Bonds, outstanding, beginning in 2009, Developer will pay an amount in lieu of such tax directly to the Agency, immediately upon receipt of notice from Agency.

Section 4.05 Acknowledgement of Tax Level.

Developer acknowledges that the payment of the Bonds is entirely contingent on factors over which the Agency has no control, including but not limited to the assessed valuation of the project, the variation of tax levies established in the future by taxing entities, statutory, constitutional and court ruling changes.

Section 4.06 Payment of Costs.

Developer shall pay all the firm of Bacon & Vinton the sum of \$2,500.00 from bond proceeds upon the issuance of the Bonds for all costs of issuance and documentation for this project. The Developer shall pay no costs of the City of David City regarding the blight study, or otherwise.

Section 4.07 Purchase of Bonds.

The Developer shall purchase all Bonds issued pursuant to this agreement at 100% of the par amounts thereof immediately upon issuance by the Agency.

ARTICLE V  
FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES

Section 5.01 Financing.

Developer shall pay all Project Costs, if any, which are in excess of the amounts paid from the proceeds of the Bonds granted to Developer.

ARTICLE VI  
DEFAULT, REMEDIES; INDEMNIFICATION

Section 6.01 General Remedies of Agency and Developer.

Subject to the further provisions of this Article VI, in the event of any failure to perform or breach of this Redevelopment Contract or any of its terms or conditions, by either party hereto or any successor to such party, such party, or successor, shall, upon written notice from the other, proceed immediately to commence such actions as may be reasonably designed to cure or remedy such failure to perform or breach which cure or remedy shall be accomplished within a reasonable time by the diligent pursuit of corrective action. In case such action is not taken, or diligently pursued, or the failure to perform or breach shall not be cured or remedied within a reasonable time, this Redevelopment Contract shall be in default and the aggrieved party may institute such proceedings as may be necessary or desirable to enforce its rights under this Redevelopment Contract, including, but not limited to, proceedings to compel specific performance by the party, failing to perform or in breach of its obligations.

Section 6.02 Additional Remedies of Agency.

In the event that:

(a) Developer, or its successor ha interest, shall fail to substantially complete the construction of the Redevelopment Project on or before January 1, 2008, or shall abandon construction work for any period of 90 days; or (b) Developer, or its successor in interest, shall fail to pay real estate taxes or assessments on the Premises or any part thereof or payments in lieu of taxes pursuant to Section 4.04 when due, and such taxes or assessments or payments in lieu of taxes shall not have been paid, or provisions satisfactory to the Agency made for such payment, such event shall be deemed a failure to perform under this Redevelopment Contract.

In the event of such failure to perform, breach or default occurs and is not cured in the period herein provided, the parties agree that the damages caused to the Agency would be difficult to determine with certainty and that a reasonable estimation of the amount of damages that could be incurred is the amount of the grant to the Developer pursuant to Section 3.04 of this Redevelopment Contract, plus interest as provided herein (the "Liquidated Damages Amount"). The Liquidated Damages Amount shall be paid by Developer to Agency within 30 days of demand from Agency.

Interest shall accrue on the Liquidated Damages Amount at the rate of one percent (1%) over the prime rate as published and modified in the Wall Street Journal from time to time and interest shall commence from the date that the Agency gives notice to the Developer demanding payment.

Payment of the Liquidated Damages Amount shall not relieve Developer of its obligation to pay real estate taxes or assessments or payments in lieu of taxes with respect to the Project.

Section 6.03 Remedies in the Event of Other Developer Defaults.

In the event Developer fails to perform any other provisions of this Redevelopment Contract (other than those specific provisions contained in Section 6.02), Developer shall be in default. In such an instance, the Agency may seek to enforce the terms of this Redevelopment Contract or exercise any other remedies that may be provided in this Redevelopment Contract or by applicable law; provided, however, that the default covered by this Section shall not give rise to a right or rescission or termination of this Redevelopment Contract, and shall not be covered by the Liquidated Damages Amount.

Section 6.04 Enforced Delay Beyond Party's Control.

For the purposes of this Redevelopment Contract, neither party, as the case may be, nor any successor shall be in breach of or in default in its performance of obligations within its control, when and without its fault, a default in such obligation occurs caused by acts of God, or Government, or in the event of enforced delay in the project due to unforeseeable causes beyond the control of the parties or either of them, including fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays in subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Agency or of Developer with respect to construction of the Project, as the case may be, shall be extended for the period of the enforced delay: Provided, that the party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof and requested an extension for the period of the enforced delay.

Section 6.05 Limitation of Liability; Indemnification.

Notwithstanding anything in this Article VI or this Redevelopment Contract to the contrary neither Agency, City, nor their officers, directors, employees, agents or their governing bodies shall have any pecuniary obligation or monetary liability under this Redevelopment Contract. Specifically, but without limitation, neither City nor Agency shall be liable for any costs, liabilities, actions, demands, or damages for failure of any representations, warranties or obligations hereunder. The Developer releases the Agency and the City from, agrees that the Agency and the City shall not be liable for, and agrees to indemnify and hold the Agency and the City harmless from any liability for any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project.

Developer will indemnify and hold each of the Agency and the City and their directors, officers, agents, employees and member of their governing bodies free and harmless from any loss, claim, damage, demand, tax, penalty, liability, disbursement, expense, including litigation expenses, or court costs arising out of any damage or injury, actual or claimed, of whatsoever kind or character, to property (including loss of use thereof) or persons, occurring or allegedly occurring in, on or about the Project during the term of this Redevelopment Contract or arising out of any action or inaction of Developer, whether or not related to the Project, or resulting from or in any way connected with the management of the Project, or in any way related to the enforcement of this Redevelopment Contract or any other cause pertaining to the Project.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Notice Recording.

This Redevelopment Contract or a notice memorandum of this Redevelopment Contract may be recorded with the County Register of Deeds in which the Premises is located.

Section 7.02 Governing Law.

This Redevelopment Contract shall be governed by the laws of the State of Nebraska, including but not limited to the Act.

City Council Meetings

September 12, 2007

Page #24

Section 7.03     Binding Effect: Amendment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and assigns. This Redevelopment Contract shall run with the Premises. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound.

[IN WITNESS WHEREOF, Agency and Developer have signed this Redevelopment Contract as of the date and year first above written.

COMMUNITY DEVELOPMENT AGENCY  
OF THE CITY OF DAVID CITY, NEBRASKA

Eating Establishment - David City, LLC

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Manager

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF NEBRASKA     )  
  )  
COUNTY OF BUTLER     )     ss..

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, September, by \_\_\_\_\_ and \_\_\_\_\_, Chair and Secretary, respectively, of the Community Development Agency of the City of David City, Nebraska, on behalf of the Agency.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA     )  
  )  
COUNTY OF BUTLER     )     ss..

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, September, by \_\_\_\_\_ Manager of Eating Establishment - David City, L.L.C., on behalf of the company.

\_\_\_\_\_  
Notary Public

EXHIBIT A

DESCRIPTION OF PREMISES  
(REDEVELOPMENT AREA)

Legal Description of Redevelopment Project:

Lots five and six, Block thirty three, Original Town of David City, Butler County, Nebraska, and the East thirty feet of Lots seventeen and eighteen, in said Block thirty three.

EXHIBIT B

DESCRIPTION OF PROJECT AND  
DEVELOPERS REDEVELOPMENT PLAN FOR  
EATING ESTABLISHMENT PROJECT

OVERVIEW:

This plan is intended to redevelop an area within the City of David City, which has been declared blighted and substandard within the meaning of the Community Development Law of the State of Nebraska.

The Developer will acquire and rehabilitate the real estate shown on Exhibit A by remodeling and equipping the premises as an indoor restaurant.

The Developer will not develop the project in the redevelopment area or elsewhere without the benefit of tax increment financing. The costs of the project are simply too great to be absorbed by the Developer without the assistance of tax increment financing. The Developer proposes that the Community Development Agency issue Bonds to be repaid from the incremental tax revenues generated by the redevelopment project pursuant to §18-2147 of the Nebraska Revised Statutes, for a period of 15 years from an effective date of January 1, 2008. The Developer will use the proceeds of the Bonds to assist in the acquisition and rehabilitation of the Project.

THE REDEVELOPMENT PLAN:

1. Relationship of Plan to Local objectives for appropriate land use: This plan contemplates no change in current land use. Reutilization of the existing real estate meets existing local objectives for appropriate land use for the area affected by this plan by revitalizing an existing structure.
  2. Relationship of Plan to Local objectives for improved traffic flow and public utilities plan area: This plan contemplates no relocation of the existing access roads. There will be a slight burden on traffic flow as employees and customers will access the facility from adjacent streets. However, current traffic signals and roadways are sufficient to handle the increased traffic.
  3. Relationship of Plan to Local objectives for community facilities: This plan neither provides nor requires any additional community facilities. However, it will provide an attractive expanded restaurant facility in the community.
  4. Redevelopment project boundaries: Exhibit B t to the Redevelopment Contract shows the boundaries of the project. The property is unimproved.
  5. Proposed land use plan: Exhibit B 1 shows the proposed land use plan after redevelopment as a restaurant.
  6. Information on standards for population densities; land coverage; building intensities and land coverage after redevelopment: Population density will remain unchanged for the area.
  7. Statement regarding change in street layouts: This Plan proposes no changes in street layout.
  8. Site plan after redevelopment: Exhibit B 1 is an accurate site plan of the redevelopment project after redevelopment.
  9. Statement as to the kind and number of additional public facilities or utilities required to support land use after redevelopment: No additional public utilities are required to support the proposed change.
  10. Public cost/benefit analysis: This plan requires that the Developers will rehabilitate a commercial building on the site. It is expected that up to 10 full time equivalent employees will be added. No public funds, other than the tax increment financing benefit, will be used on the structure. The Developer will provide all financing for the project. The Developer will obtain funds for the purchase of the Bonds issued by the Agency, or purchase such bonds outright. Such bonds shall not be backed by the City or the Agency, and will only be repaid from the increased ad valorem tax stream created by the project rehabilitation, over a 15 year period commencing January 1, 2008. After the 15-year TIF period, the increased taxes will be paid to the normal taxing authorities.
- Most employees will come from the surrounding area. Therefore, no undue stress on the school system, police or fire protection is contemplated. Current housing in David City is adequate for the current employees. No adverse impact to other employers in the area is contemplated. The Agency has not identified any additional negative impacts to citizens or taxing entities affected by the Redevelopment Project
11. Pledge of Incremental Taxes. Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon real property in the Redevelopment Project area specified in the plan, shall be divided, for the period not to exceed 15 years after the effective date of the provision, which effective date shall be January 1, 2008.

a. That portion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation shall be paid into the funds, of each such public body in the same proportion as all other taxes collected by or for the bodies; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Agency to pay the principal of, the interest on, and any

premiums due in connection with the bonds, loans, notes, or advances on money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Agency for financing or refinancing, in whole or in part, a redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness including interest and premium due have been paid, the Agency shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in such redevelopment project shall be paid into the funds of the respective public bodies.

Council member Schatz made a motion to advance to agenda item #23 - Consideration of Resolution No. 12 - 2007 approving a Redevelopment Plan as contained in a Redevelopment Contract, making findings with regard to such plan, and approving other action thereon. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz introduced Resolution No. 12 - 2007 and moved for its passage and adoption. Council member Holland seconded the motion. Voting AYE: Council members Lukassen, Smith, Hein, Scribner, Holland, and Schatz. Voting NAY: None. The motion carried and Resolution No. 12 - 2007 was passed and adopted as follows:

**RESOLUTION NO. 12 - 2007**

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, APPROVING A REDEVELOPMENT PLAN AS CONTAINED IN A REDEVELOPMENT CONTRACT; MAKING FINDINGS WITH REGARD TO SUCH PLAN AND APPROVING OTHER ACTION THEREON.

WHEREAS, the City, of David City, Nebraska a municipal corporation has determined it to be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1943, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, The City has previously declared an areas of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, The Community Development Agency of the City of David City, Nebraska (the Agency) has prepared a Redevelopment Plan as contained in a Redevelopment Contract pursuant to Section 18-2111 of the Act:

NOW, THEREFORE, be it resolved by the Mayor and City Council of the City of David City, Nebraska:

1. The Redevelopment Plan as contained in the Redevelopment Contract in the form attached to this Resolution as Exhibit A is hereby determined to be feasible and in conformity with the general plan for the development of the City of David City as a whole and the Redevelopment Plan is in conformity with the legislative declarations and determinations set forth in the Act;

2. The Mayor and City Council specifically find, as follows:

(a) The project described in the redevelopment contract and plan attached thereto, would not be economically feasible without the use of tax-increment financing;

(b) The project would not occur in the Redevelopment Area without the use of tax-increment financing; and

(c) The costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and have been found to be in the long term best interests of the community impacted by the project.

3. Approval of the Redevelopment Plan is hereby approved, ratified and affirmed and the Agency is hereby directed to execute the Redevelopment Contract and implement the Redevelopment Plan in accordance with the Act, with such amendments and revisions as are appropriate.

4. Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon real property described herein, shall be divided, for the period not to exceed 15 years after the effective date of the provision, which effective date shall be January 1, 2008 as to the following described real estate, to wit:

Lots Five and Six, Block Thirty-Three, Original Town of David City, Butler County, Nebraska, and the East Thirty Feet of Lots Seventeen and Eighteen, in said Block Thirty-Three, as follows:

a. That portion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation shall be paid into the funds, of each such public body in the same proportion as all other taxes collected by or for the bodies; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Agency to pay the principal of; the interest on, and any premiums due in connection with the bonds, loans, notes, or advances on money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Agency for financing or refinancing, in whole or in part, a redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness including interest and premium due have been paid, the Agency shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in such redevelopment project shall be paid into the funds of the respective public bodies.

5. The Mayor and Clerk are authorized and directed to execute and deliver, from time to time, to the County Assessor, the Notice of Allocation of Taxes for filing with the County Assessor which is attached hereto and marked as exhibit B, with the appropriate description of real estate, as established pursuant to the Redevelopment Contract and Redevelopment Plan.

Passed and approved this 12<sup>th</sup> day of August, 2007.

CITY OF DAVID CITY,  
BUTLER COUNTY, NEBRASKA

BY: \_\_\_\_\_

Mayor Dana Trowbridge

ATTEST:

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City Clerk Joan E. Kovar

Council member Schatz made a motion to advance to agenda item #24 - Consideration of Mayor Trowbridge executing a Notice to Divide Tax for a Community Redevelopment Project. Council member Hein seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz made a motion to authorize Mayor Trowbridge to execute a Notice to Divide Tax for a Community Redevelopment Project. Council member Scribner seconded the motion. Voting AYE: Council members Smith, Hein, Lukassen, Holland, Scribner, and Schatz. Voting NAY: None. The motion carried.

At 8:20 p.m., Mayor Skip Trowbridge declared a recess. The meeting resumed at 8:35 p.m..

Mayor Trowbridge declared the Budget Hearing and Budget Summary to set the final tax request open at 8:35 p.m.. Mayor Trowbridge opened the floor for questions, comments, or concerns concerning the proposed budget and final tax request. It was noted that the utility bill (Electric, Water, & Sewer) will be waived for city departments that can not turn a profit - those being the Street, Police, Park, and Library departments. The money normally spent for utilities will be budgeted as Contingency Fund Improvements for these departments, which money will need to be specifically asked for with Council approval for improvements the Public can see and enjoy. City Administrator Johnson noted that Salaries & Wages allow for a 2½% Cost of Living Adjustment. Mayor Trowbridge told the Public that he used to mistakenly look at the proposed budget and didn't look at the particulars. The city is considering a new Ethanol Plant and therefore have budgeted \$600,000 for a road project, \$300,000 for sanitary sewer to the project. This distorts the budget, but it must be budgeted for on both the receipts and expenditures. Grant money and Tax Increment Financing will be used so it will not be a burden on the tax payers. There being no other comments, questions, or concerns, Mayor Smith closed the Budget Hearing at 8:43 p.m..

Council member Schatz introduced Resolution No. 7 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Holland, Hein, Schatz, and Scribner. Voting NAY: None. The motion carried and Resolution No. 7 – 2007 was passed and adopted as follows:

**RESOLUTION NO. 7 – 2007**

**A RESOLUTION OF THE CITY OF DAVID CITY TO APPROVE AN ADDITIONAL ONE PERCENT (1%) INCREASE IN RESTRICTED FUNDS.**

WHEREAS, Nebraska Revised Statute 13-519.02 provides that a governmental unit may exceed its restricted funds limit for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

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

1. That an additional one percent (1%) increase in restricted funds for the 2007-2008 budget is approved.

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2007.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

Council member Schatz introduced Resolution No. 8 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Smith, Lukassen, Holland, Scribner, Hein, and Schatz. Voting NAY: None. The motion carried and Resolution No. 8 - 2007 was passed and adopted as follows:

**RESOLUTION NO. 8 - 2007**

**RESOLUTION OF THE CITY OF DAVID CITY SETTING THE PROPERTY TAX REQUEST.**

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purpose of the levy set by the County Board of Equalization unless the Governing Body of the City of David City passes by a majority vote, resolution of ordinance setting the tax request at a different amount; and,

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and,

WHEREAS, it is in the best interest of the City of David City that the property tax request for the current year be a different amount than the property tax request for the prior year.

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

1. The 2007-2008 property tax request be set at \$498,940.00.
2. A copy of this resolution be certified and forwarded to the County Clerk prior to September 20, 2007.

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2007.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

Council member Schatz introduced Resolution No. 9 - 2007 and moved for its passage and adoption. Council member Hein seconded the motion. Voting YEA: Council members Lukassen, Holland, Smith, Scribner, Hein, and Schatz. Voting NAY: None. The motion carried and Resolution No. 9 – 2007 was passed and adopted as follows:

**RESOLUTION NO. 9 - 2007**

**A RESOLUTION OF THE CITY OF DAVID CITY TO CARRY FORWARD UNUSED BUDGET AUTHORITY.**

WHEREAS, Nebraska Revised Statute 13-521 provides that a governmental unit may choose not to increase its total of restricted funds by the full amount by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority.

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

1. That the unused budget authority of \$613,356.23 from the 2006 - 2007 budget shall be carried forward to the 2007 - 2008 budget of the City of David City, Nebraska.

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2007.

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Mayor Dana Trowbridge

ATTEST:

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City Clerk Joan E. Kovar  
(SEAL)

Council member Schatz introduced Ordinance No. 1057, the annual appropriation bill. Council member Schatz made a motion to suspend the statutory rule that requires an ordinance be read on three separate days. Council member Holland seconded the motion. All of the Council members were present, all voted AYE, and the motion carried.

Council member Schatz made a motion to pass and adopt Ordinance No. 1057 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Hein, Holland, Scribner, Lukassen, Smith, and Schatz. Voting NAY: None. The motion carried and Ordinance No. 1057 was passed and adopted as follows:

**ORDINANCE NO. 1057**

**THE ANNUAL APPROPRIATION BILL**

AN ORDINANCE OF THE CITY OF DAVID CITY, NEBRASKA, ADOPTING THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

WHEREAS, Nebraska Revised Statute 17-706 provides that a city council of the second class shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed "The Annual Appropriation Bill", in which corporate authorities may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of city.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1. That after complying with all procedures required by law, the budget presented and set forth in the budget statement is hereby approved as the Annual Appropriation Bill for the fiscal year beginning October 1, 2007, through September 30, 2008. All sums of money contained in the budget statement are hereby appropriate for the necessary expenses and liabilities of the City of David City, Nebraska. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capital, Lincoln, Nebraska, and to the County Clerk of Butler County, Nebraska, for use by the levying authority.

SECTION 2. That any ordinance or section of any ordinance passed and approved prior to or subsequent to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

SECTION 3. This ordinance shall be published in pamphlet form and shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 12th day of September, 2007.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar

(SEAL)

Council member Hein made a motion to go into executive session concerning real estate litigation which is necessary for the protection of the public and/or private interest. Council member Holland seconded the motion. Voting AYE: Council members Scribner, Smith, Lukassen, Schatz, Holland, and Hein. Voting NAY: None. The motion carried.

Mayor Trowbridge announced that the City Council would be going into executive session concerning real estate litigation which is necessary for the protection of the public and/or private interest. The Mayor, Council, City Administrator, and Attorney Jim Birkel went into executive session at 8:52 p.m...

Council member Hein made a motion to come out of executive session at 9:38 p.m.. Council member Schatz seconded the motion. Voting AYE: Council members Lukassen, Smith, Holland, Scribner, Schatz, and Hein. Voting NAY: None. The motion carried.

There being no further business to come before the Council, Council member Hein made a motion to adjourn. Council member Holland seconded the motion. Voting AYE: Council members Smith, Lukassen, Scribner, Schatz, Holland, and Hein. Voting NAY: None. The motion carried and Mayor Trowbridge declared the meeting adjourned at 9:40 p.m.

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Mayor Dana Trowbridge

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City Clerk Joan E. Kovar



CERTIFICATION OF MINUTES  
September 12, 2007

City Council Meetings

September 12, 2007

Page #33

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 September 12, 2007; 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.

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Joan E. Kovar, City Clerk