

MINUTE RECORD

No. 729 — REDFIELD DIRECT E2106195KV

**LA VISTA CITY COUNCIL
MEETING
October 18, 2022**

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 6:00 p.m. on October 18, 2022. Present were Councilmembers: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Also in attendance were, City Attorney McKeon, City Administrator Gunn, Assistant City Administrator Ramirez, City Clerk Buethe, Chief of Police Lausten, Director of Public Works Soucie, Director of Administrative Services Pokorny, Library Director Barcal, Recreation Director Stopak, City Engineer Dowse, Community Development Director Fountain and Director of Human Resources Lowery.

A notice of the meeting was given in advance thereof by publication in the Papillion Times on October 5, 2022. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order, led the audience in the Pledge of Allegiance, and made the announcements.

SERVICE AWARD: LUCAS TIBERI – 5 YEARS

Mayor Kindig recognized Lucas Tiberi for 5 years of service to the City. Lucas could not be at the meeting.

OATHS OF OFFICE - MAYOR’S YOUTH LEADERSHIP COUNCIL

Mayor Kindig administered the oath of office to the Youth Leadership Council Members.

A. CONSENT AGENDA

- 1. APPROVAL OF THE AGENDA AS PRESENTED**
- 2. APPROVAL OF THE MINUTES OF THE OCTOBER 4, 2022 CITY COUNCIL MEETING**
- 3. MONTHLY FINANCIAL REPORT – AUGUST 2022**
- 4. REQUEST FOR PAYMENT – KISSEL, KOHOUT, ES ASSOCIATES LLC – PROFESSIONAL SERVICES – LEGISLATIVE SERVICES – \$10,192.19**
- 5. REQUEST FOR PAYMENT – CITY CENTRE MUSIC VENUE, LLC & ASTRO THEATER, LLC – DISBURSEMENT OF EDP AWARD FUNDS – \$297,711.03**
- 6. REQUEST FOR PAYMENT – OLSSON, INC – PROFESSIONAL SERVICES – CITY PARK PAVILION TESTING – \$3,047.00**
- 7. REQUEST FOR PAYMENT – OLSSON, INC – PROFESSIONAL SERVICES – CITY PARK PAVILION TESTING – \$5,823.50**
- 8. REQUEST FOR PAYMENT – DLR GROUP – PROFESSIONAL SERVICES – LA VISTA CITY CENTRE PARKING STRUCTURE 2 – \$15,251.75**
- 9. REQUEST FOR PAYMENT – DLR GROUP – PROFESSIONAL SERVICES – LA VISTA CITY CENTRE PARKING STRUCTURE 2 – \$17,895.07**
- 10. REQUEST FOR PAYMENT – THOMPSON, DREESSEN & DORNER, INC. – PROFESSIONAL SERVICES – CENTRAL PARK IMPROVEMENTS – \$1,352.00**
- 11. REQUEST FOR PAYMENT – FELSBURG, HOLT & ULLEVIG – PROFESSIONAL SERVICES – GILES ROAD WIDENING – \$53,565.63**
- 12. REQUEST FOR PAYMENT – JE DUNN CONSTRUCTION CO – CONSTRUCTION SERVICES – CENTRAL PARK PAVILION AND SITE IMPROVEMENTS – \$699,873.00**
- 13. REQUEST FOR PAYMENT – DESIGN WORKSHOP, INC – PROFESSIONAL SERVICES – 84TH STREET BRIDGE – \$1,902.50**
- 14. REQUEST FOR PAYMENT – NEBRASKA DEPT. OF TRANSPORTATION – CONSTRUCTION SERVICES – APPLEWOOD CREEK TRAIL – \$120,948.77**
- 15. APPROVAL OF CLAIMS**

1000 BULBS, bld&grnds	516.86
3CMA MEMBERSHIP, services	400.00
ABM INDUSTRIES INC, services	9,897.66
ACTIVE NETWORK LLC, services	84.54
AED ZONE, services	20.00
AMAZON CAPITAL SERVICES, supplies	2,112.90

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BACON LETTUCE CREATIVE, services	2,960.00
BAUER BUILT INC, maint.	100.00
BELLEVUE LIBRARY FOUNDATION INC, services	1,250.00
BOOT BARN, apparel	150.00
BRODERSEN, C., travel	71.76
CARROT-TOP INDUSTRIES INC, services	698.53
CENTURY LINK/LUMEN, phones	192.56
CINTAS CORP, services	2,182.10
CITY OF PAPILLION - MFO, services	240,674.00
COMP CHOICE INC, services	186.50
CORNHUSKER INTL TRUCKS INC, maint.	172.94
COX COMMUNICATIONS INC, services	467.15
CULLIGAN OF OMAHA, services	34.50
D & K PRODUCTS, bld&grnds	9,202.45
DATASHIELD CORP, services	20.00
DELGADO, G., travel	93.50
DELL MARKETING, services	2,263.03
DOWSE, P., travel	93.50
ENTERPRISES INC, supplies	497.98
EYMAN PLUMBING INC, bld&grnds	273.25
FEDEX, services	12.43
FIKES COMMERCIAL HYGIENE, supplies	62.00
FITZGERALD SCHORR BARMETTLER, services	24,494.10
FNIC, services	291,903.25
FOSTER, T., travel	93.50
FOUNTAIN, B., travel	218.75
GENERAL FIRE & SAFETY, bld&grnds	1,700.00
GENUINE PARTS CO, maint.	59.02
GREAT PLAINS COMMUNICATION, services	777.60
GUARDIAN ALLIANCE TECHNOLOGIES, services	540.00
HDR ENGINEERING INC, services	831.90
INGRAM LIBRARY SERVICES, books	464.95
J & J SMALL ENGINE, services	440.63
JENSEN TIRE & AUTO, maint.	92.15
K ELECTRIC, bld&grnds	3,157.76
KANOPY INC, services	142.00
KRIHA FLUID POWER, maint.	396.45
LARSEN SUPPLY CO, supplies	400.16
LIBRA INDUSTRIES, supplies	70.00
LOGAN CONTRACTORS, supplies	122.25
LOGO LOGIX EMBROIDERY, apparel	23.00
LOWE'S, supplies	114.94
LUCAS COLOR CARD, supplies	1,004.00
MACQUEEN EQUIPMENT LLC, services	76.72
MARTIN ASPHALT, supplies	316.00
MATHESON TRI-GAS, supplies	281.29
MAX I WALKER UNIFORM, services	10.15
MENARDS, bld&grnds	405.39
METRO AREA TRANSIT, services	959.00
MID-AMERICAN BENEFITS INC, services	3,678.22
MIDWEST TAPE, media	222.61
MIDWEST TURF & IRRIGATION, maint.	8.13
MSC INDUSTRIAL, supplies	902.55
NE DEPT OF REVENUE, sales tax	60.83
NE LAW ENFORCEMENT, services	150.00
NE LIBRARY COMMISSION, media	1,717.00
NEBRASKALAND TIRE, maint.	281.00

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NEWSBANK, services	3,892.00
NORTON, J., travel	229.62
NPZA-NE PLANNING/ZONING, services	105.00
OFFICE DEPOT INC, supplies	357.97
OMNI ENGINEERING, services	310.85
ON YOUR MARKS INC, supplies	988.95
ONE CALL CONCEPTS INC, services	292.98
O'REILLY AUTO PARTS, maint.	966.70
OVERDRIVE (RECORDED BOOKS), media	800.00
PAPILLION SANITATION, services	366.80
PAYROLL MAXX, payroll & taxes	407,663.61
PITNEY BOWES, postage	50.00
PLUTA, D., travel	98.50
RDG PLANNING & DESIGN, services	27,205.42
REACH SPORTS MARKETING GROUP, services	700.00
READY MIXED CONCRETE CO, services	1,725.68
REGAL AWARDS INC, supplies	18.00
RIVER CITY RECYCLING, services	400.00
ROBERT HALF, services	5,094.72
RTG BUILDING SERVICES INC, bld&grnds	6,665.00
SAMPSELL, J., travel	93.50
SAMPSON CONSTRUCTION CO, services	1,342,929.00
SARPY COUNTY SHERIFF'S OFFICE, services	5,000.00
SCARPA, D., travel	93.50
SCHAEWE, Z., travel	93.50
SCHLEGEL, J., travel	93.50
SHI INTERNATIONAL CORP, services	8,354.10
SIGN IT, services	60.00
SINNETT, J., travel	218.75
SITE ONE LANDSCAPE SUPPLY, bld&grnds	1,123.80
SOLBERG, C., travel	330.41
SOUCIE, J., travel	93.50
SUBURBAN NEWSPAPERS INC, services	960.12
THE COLONIAL PRESS, services	11,695.52
THE PENWORTHY CO, books	429.04
THE SCHEMMER ASSOC, services	2,482.50
THE WALDINGER CORP, bld&grnds	972.00
TORNADO WASH LLC, services	210.00
TRADE WELL PALLET INC, supplies	220.00
TRANS UNION RISK, services	75.00
UNITE PRIVATE NETWORKS, services	4,400.00
UNITED STATES POSTAL SERVICE, postage	1,511.73
US BANK NATL ASSOC, services	16,091.12
VERIZON WIRELESS, phones	365.69
VOIANCE LANGUAGE, services	25.00
WESTLAKE HARDWARE, supplies	198.91

Councilmember Thomas made a motion to approve the consent agenda. Seconded by Councilmember Sheehan. Councilmember Frederick reviewed the bills and stated everything was in order. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

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REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Director of Administrative Services Pokorny introduced the new Human Resources Director, Wendy Lowery.

Assistant City Administrator Ramirez reported that the trees in Flagpole Park will not be decorated this holiday season due to on-going construction.

Community Development Director Fountain reported that there will be a joint meeting with City Council and the Planning Commission regarding the Land Use Study and Market Analysis. Date to be determined.

Recreation Director Stopak provided an update on upcoming events at the Community Center.

Library Director Barcal reported that the library was nominated for the National Medal for Museum and Library Award.

Chief of Police Lausten reported that the Police Department received a monetary award from the Commission on Accreditation for Law Enforcement Agencies (CELEA) for new police officers and a grant for training.

Director of Public Works Soucie reported on the Fall Clean-Up Days and times.

B. CONDITIONAL USE PERMIT – CIMARRON TERRACE PHASE III – LOT 2 CIMARRON WOODS REPLAT 3

1. PUBLIC HEARING

At 6:18 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on the proposed Conditional Use Permit - Cimarron Terrace Phase III – Lot 2 Cimarron Wood Replat 3. Turner Resnick with Pedcor presented an overview of the project. There was public comment expressing concern about the project.

At 6:31 p.m. Councilmember Hale made a motion to close the public hearing. Seconded by Councilmember Thomas. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

2. RESOLUTION

Councilmember Thomas introduced and moved for the adoption of Resolution No. 22-098 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR PEDCOR INVESTMENTS, LLC FOR MULTIPLE FAMILY RESIDENTIAL DEVELOPMENT ON LOT 2 CIMARRON WOODS REPLAT THREE.

WHEREAS, Pedcor Investments, LLC, has applied for approval of a Conditional Use Permit for the construction and operation of multiple family dwellings (apartments) on Lot 2 Cimarron Woods Replat Three, generally located southwest of the intersection of S 96th Street and Harrison Street; and

WHEREAS, the La Vista Planning Commission reviewed the application on September 1, 2022 and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the Conditional Use Permit for such purposes; and

WHEREAS, road conditions at 99th and Harrison will be in satisfactory condition as determined by the City.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, with such modifications that the City Administrator or City Attorney may determine necessary or advisable, for Pedcor Investments, LLC to allow for the construction and operation of multiple family dwellings on Lot 2 Cimarron Woods Replat Three.

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Seconded by Councilmember Hale. Council Discussion was held. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

C. AMEND LA VISTA MUNICIPAL CODE

1. REPEAL ORDINANCE NO. 1386 (CODIFIED AS MUNICIPAL CODE 113.55 THROUGH 113.63)

Councilmember Hale introduced Ordinance No. 1460 entitled: AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA REPEALING ORDINANCE NO. 1386 AND PROVISIONS OF THE LA VISTA MUNICIPAL CODE GOVERNING ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES, USE OF PROCEEDS, AND ADMINISTRATIVE PROVISIONS, AS CODIFIED IN CODE SECTIONS 113.55 THROUGH 113.63; AND PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Thomas seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Ronan, Sheehan, Thomas, Frey, Quick, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion passed.

Councilmember Thomas made a motion to approve final reading and adopt Ordinance 1460. Councilmember Sheehan seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1460 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

2. ORDINANCE – ADOPT MUNICIPAL CODE SECTIONS 113.55 THROUGH 113.62

Councilmember Thomas introduced Ordinance No. 1461 entitled: AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ENACTING PROVISIONS OF THE LA VISTA MUNICIPAL CODE GOVERNING ENHANCED EMPLOYMENT AREAS AND GENERAL BUSINESS OCCUPATION TAXES WITHIN OR OUTSIDE SUBSTANDARD AND BLIGHTED COMMUNITY REDEVELOPMENT AREAS, USE OF PROCEEDS, AND ADMINISTRATIVE PROVISIONS, TO BE CODIFIED IN CODE SECTIONS 113.55 THROUGH 113.62; REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY, PUBLICATION, AND AN EFFECTIVE DATE.

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Hale seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion passed.

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1461. Councilmember Thomas seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1461 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

D. RESOLUTION – AUTHORIZE IMPROVEMENT AGREEMENT – NEBRASKA MULTISPORT COMPLEX

Councilmember Quick introduced and moved for the adoption of Resolution No. 22-099 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN IMPROVEMENT AGREEMENT IN CONNECTION WITH A MULTISPORT RECREATIONAL FACILITY GENERALLY NORTH AND EAST OF GILES ROAD AND EASTPORT PARKWAY.

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WHEREAS, the City Council, on April 19, 2022 approved a Conditional Use Permit for a private recreational facility to be constructed, owned, and operated by Omaha Multi-Sport Complex, a Nebraska nonprofit corporation d/b/a Nebraska Multisport Complex, ("Nebraska Multisport") upon the following described tract of land within the City of La Vista: Tax Lots 11 and 15, together with all of Tax Lot 2A and parts of Tax Lots 2B1 and 3 lying North and West of railroad right-of-way, together with Northwesternly part of Tax Lot 1A1B and the Northwesternly part of Tax Lots 2B1 and 3 lying South and East of railroad right-of-way, all located in Section 17, Township 14 North, Range 12 East, of the 6th P. M., subject to certain conditions; and

WHEREAS, The City and Nebraska Multisport desire to execute and enter an improvement agreement ("Improvement Agreement") in connection with such complex and other developments on adjacent lots.

NOW THEREFORE, BE IT RESOLVED, a proposed Improvement Agreement ("Agreement") is presented with this Resolution for consideration of the City Council, which Agreement is approved in form and content presented, subject to any additions, subtractions, or modifications as the Mayor or City Administrator or his or her designee determines necessary or appropriate before the Agreement is executed, the final form and content of which Agreement the Mayor is authorized to execute and deliver on behalf of the City.

BE IT FURTHER RESOLVED, that the Mayor or City Administrator or his or her designee shall be authorized to take any actions on behalf of the City as he or she determines necessary or appropriate to carry out the Agreement or actions approved in this Resolution.

Seconded by Councilmember Frey. Council discussion was held. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey and Sell. Nays: None. Abstain: Hale. Absent: Frederick. Motion carried.

E. GENERAL BUSINESS OCCUPATION TAXES ("GBOT"); GBOT REVENUE NOTE – VICINITY OF 120TH AND GILES ROAD

1. ORDINANCE – ENACT GENERAL BUSINESS OCCUPATION TAXES WITHIN DESIGNATED ENHANCED EMPLOYMENT

Councilmember Thomas introduced Ordinance No. 1462 entitled: AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN ENHANCED EMPLOYMENT AREA AND GENERAL BUSINESS OCCUPATION TAXES WITHIN SUCH AREA IN THE VICINITY OF 120TH AND GILES ROAD; AND PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Frey seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Ronan, Sheehan, Thomas, Frey, Quick, and Sell. Nays: None. Abstain: Hale. Absent: Frederick. Motion passed.

Councilmember Sell made a motion to approve final reading and adopt Ordinance 1462. Councilmember Thomas seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1462 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: Hale. Absent: Frederick. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

2. RESOLUTION – AUTHORIZING CITY OF LAVISTA OCCUPATION TAX REVENUE NOTE

Councilmember Sell introduced and moved for the adoption of Resolution No. 21-100 entitled: A RESOLUTION AUTHORIZING THE ISSUANCE OF AN OCCUPATION TAX REVENUE NOTE (120 AND GILES PROJECT), OF THE CITY OF LA VISTA, NEBRASKA, FOR THE PURPOSE OF PAYING CERTAIN PROJECT COSTS IN CONNECTION WITH THE 120 AND GILES ENHANCED EMPLOYMENT AREA; PRESCRIBING THE FORM AND DETAILS OF SUCH NOTE AND THE

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COVENANTS AND AGREEMENT TO FACILITATE AND PROTECT THE PAYMENT THEREOF; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of La Vista, in the State of Nebraska, (the “**City**”) is a municipal corporation and first class city organized and existing under the constitution and laws of the State of Nebraska;

WHEREAS, pursuant to Section 18-2142.04, R.R.S. Neb., as amended, (the “**Act**”) the City may establish an enhanced employment area for a portion of the City under certain terms and conditions as provided in the Act;

WHEREAS, the City established the 120 and Giles Enhanced Employment Area of the City of La Vista, Nebraska, under the Act (the “**Enhanced Employment Area**”) and pursuant to an Improvement Agreement (the “**Improvement Agreement**”) between the City and Omaha Multi-Sport Complex, a Nebraska nonprofit corporation d/b/a Nebraska Multisport Complex (“**NMSC**”) approved by the Mayor and Council of the City prior to the adoption of this resolution;

WHEREAS, the Act permits the City to levy general business occupation taxes within the Enhanced Employment Area, and the City has established the 120 Giles GBOT pursuant to the Occupation Tax Ordinance (defined herein) and as described and defined in the Improvement Agreement which shall be imposed and levied within the Enhanced Employment Area (the “**GBOT**”) for the purpose of paying all or any part of the costs or expenses to design, construct, and provide the 120 Giles Authorized Work, as defined in the Improvement Agreement; and

WHEREAS, in order to pay a portion of the 120 Giles Authorized Work, it is necessary, desirable, advisable, and in the best interest of the City to issue the Occupation Tax Revenue Note (120 and Giles Project) (the “**Note**”), in a principal amount determined by an Authorized City Representative and deliver such Note to NMSC in exchange for NMSC paying the costs of the GBOT Public Improvements, as described and defined in the Improvement Agreement, to pay the costs of issuing the Note, and such Note to be issued and secured in the form and manner as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to words and terms defined elsewhere in this Resolution, the following capitalized words and terms as used in this Resolution shall have the following meanings:

“**Act**” means Section 18-2142.04, Reissue Revised Statutes of Nebraska, as amended.

“**Authorized City Representative**” means the Mayor, City Administrator or a designee of the City Administrator.

“**Business Day**” means a day on which the banking institutions in the City are scheduled in the normal course of operations to be open to the public.

“**City**” means the City of La Vista, Nebraska.

“**Clerk**” means the Clerk of the City of La Vista, Nebraska.

“**Council**” means City Council of the City of La Vista, Nebraska.

“**Cumulative Outstanding Principal Amount**” means the aggregate principal amount of the Note issued and outstanding from time to time in accordance with the provisions of this Resolution, as reflected in the Note Register as provided in this Resolution.

“**Date of Original Issue**” means the date the Note is initially issued and delivered to the Purchaser.

“**Enhanced Employment Area**” shall have the meaning provided in the recitals hereto.

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“Government Obligations” means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

“Mayor” means Mayor of the City.

“NMSC” shall have the meaning provided in the recitals hereto.

“Note” means the Occupation Tax Revenue Note (120 and Giles Project) authorized and issued pursuant to this Resolution in an aggregate principal amount not to exceed \$3,500,000, with the final stated principal amount of the Note to be determined by an Authorized City Representative based on reasonable expectations for Occupation Tax Revenues to be generated during the course of the 20 year term of the Note, the interest rate of the Note, and other factors which may be appropriate in the determination of such Authorized City Officer.

“Note Counsel” means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel acceptable to the City.

“Note Payment Date” means such dates as determined by an Authorized City Representative and indicated in the Note, with a final maturity of not more than 20 years after the date of issuance.

“Note Register” means the books for the registration, transfer and exchange of the Note kept at the office of the Clerk.

“Occupation Tax Ordinance” means the ordinance of the City providing for the initial general business occupation taxes in the Enhanced Employment Area, passed and approved contemporaneously with this resolution.

“Occupation Tax Revenue Fund” means the fund by that name described by **Section 5.1** hereof.

“Occupation Tax Revenues” means the moneys received by the City attributable to the general business occupation tax imposed pursuant to the Occupation Tax Ordinance, as the same may be amended from time to time.

“Permitted Investments” means any securities and obligations, if and to the extent the same are at the time legal for investment of the City’s moneys held in the funds and accounts referred to in **Section 5.1** hereof.

“Project” means the costs and expenses of the 120 Giles Authorized Work, as defined in the Improvement Agreement.

“Project Costs” means the costs attributable to the Project.

“Purchaser” means NMSC or such other party designated by NMSC and acceptable to the City, as the original purchaser of the Note.

“Record Date” for the interest payable on any Note Payment Date means the 15th day (whether or not a Business Day) preceding such Note Payment Date.

“Registered Owner” or **“Note Owner”** when used with respect to any Note means the person in whose name such Note is registered on the Note Register.

“Resolution” means this Resolution as from time to time amended in accordance with the terms hereof.

“State” means the State of Nebraska.

ARTICLE II

AUTHORIZATION OF NOTE

Section 2.1. Authorization of Note. There is hereby authorized and directed to be issued a Note of the City, designated “Occupation Tax Revenue Note (120 and Giles Project),” in

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the principal amount of not to exceed \$3,500,000, for the purpose of paying a portion of the Project Costs, and paying the costs of issuance of the Note.

Section 2.2. Description of the Note. The Note shall be substantially in the form set forth in **Exhibit A** hereto, and shall be subject to registration, transfer and exchange as provided in **Section 2.4** hereof. The Note shall be dated the date of its initial issuance and delivery, shall mature on the final Note Payment Date (subject to prior prepayment and subject to extension as provided in **Section 3.1**), and shall bear interest, if any, at the rate per annum, as determined by the Authorized City Representative and as provided in the Note delivered to the Purchaser.

The Note shall bear interest (computed on the basis of a 360-day year of twelve 30-day months), if any, from its issuance date or from the most recent interest payment date to which interest has been paid or duly provided for.

Section 2.3. Consideration for the Note. Upon execution of the Note, it shall be registered in the name of the Purchaser and shall be delivered in consideration of payment of the Project Costs by or on behalf of the Purchaser. Proceeds of the Note may be advanced and disbursed, and thus the outstanding principal amount determined, in the manner set forth below:

(a) There shall be submitted to the City Administrator a disbursement request in a form acceptable to the Authorized City Representative (the "**Disbursement Request**"), executed by an authorized representative of the Developer, (A) certifying that a portion of the Project has been substantially completed and (B) certifying the actual costs incurred by NMSC in the completion of such portion of the Project which are eligible expenses under the Improvement Agreement as part of the Project.

(b) The Authorized City Representative shall determine whether the costs requested for reimbursement under the Disbursement Request are currently reimbursable under the Improvement Agreement. Upon determination thereof, the Authorized City Representative shall evidence such allocation in writing and inform NMSC of the amount allocated to and drawn against the Note. Such amounts shall be proceeds of the Note and the Clerk shall enter on the Note Register in writing of the date and amount of such allocation. The Clerk shall keep and maintain a record of the amounts allocated pursuant to the terms of this Resolution as "Principal Amount Advanced" and shall enter the aggregate principal amount then Outstanding as the "Cumulative Outstanding Principal Amount" on its records maintained for the Note. The aggregate amount of Disbursement Requests approved for Project Costs and allocated to the principal amount drawn on the Note shall not exceed the stated principal amount of the Note.

The City shall have no obligation to approve any Disbursement Request unless such request has been properly approved as described above.

The records maintained by the Clerk as to principal amount advanced and principal amounts paid on the Note shall be the official records of the Cumulative Outstanding Principal Amount for the Note for all purposes.

Section 2.4. Method and Place of Payment of Note. The principal of and interest on the Note shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America.

Interest on the Cumulative Outstanding Principal Amount of the Note from the date of original issue or the most recent Payment Date to which interest has been paid or duly provided for on the Note, is payable on each Payment Date until the principal of the Note has been paid, whether at maturity or upon earlier redemption.

The principal and interest payable on the Note on any Note Payment Date shall be paid to the Registered Owner of such Note as shown on the Note Register at the close of business on the Record Date for such interest (a) by check or draft mailed to such Registered Owner, or (b) by electronic transfer to such Registered Owner upon written notice given to the City by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. Such electronic transfer notice shall be effective until such Registered Owner gives the City written notice to the contrary.

Section 2.5. Registration, Transfer and Exchange of Note. The City covenants that it will, so long as the Note remains outstanding, cause to be kept at the office of the City books for the

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registration, transfer and exchange of the Note as herein provided. The Note when issued shall be registered in the name of the Registered Owner thereof on the Note Register.

The Note may be transferred and exchanged only upon the Note Register as provided in this Section. The Note is transferable only as permitted by the City in writing, and only upon the execution by such transferee of an investment letter substantially in a form approved by the City.

The City may deem and treat the person in whose name any Note is registered as the absolute owner of such Note, whether the Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on said Note and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and the City shall not be affected by any notice to the contrary.

Section 2.6. Execution, Authentication and Delivery of the Note. The Note, including any Note issued in exchange or as substitution for the Note initially delivered, shall be signed by the manual or facsimile signatures of the officers of the City. In case any officer whose signature appears on any Note ceases to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Note may be signed by such persons who at the actual time of the execution of such Note are the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Note. The City shall deliver the Note to the Purchaser.

Section 2.7. Mutilated, Destroyed, Lost and Stolen Note. If (a) any mutilated Note is surrendered to the City, or the City receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the City such security or indemnity as may be required to save the City harmless, then, in the absence of notice to the City that such Note has been acquired by a bona fide purchaser, the City shall execute, register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of the same maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Note, pay such Note when due.

Upon the issuance of any new Note under this Section, the City may require the payment by the Registered Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the City) connected therewith.

Every new Note issued pursuant to this Section shall constitute a replacement of the prior obligation of the City.

Section 2.8. Sale of Note. The delivery of the Note to the Purchaser is hereby ratified and confirmed. Delivery of the Note shall be made to the Purchaser as soon as practicable after the adoption of this Resolution.

Section 2.9. Redemption of Note . The Note is subject to redemption at the option of the City prior to the maturity thereof at any time as a whole or in part from time to time in such principal amount as the City shall determine, at a redemption price equal to 100% of the principal amount then being redeemed plus accrued interest thereon to the date fixed for redemption.

Section 2.10. Determination of Outstanding Principal Amount of Note . Notwithstanding the amount indicated on the face of the Note, the Cumulative Outstanding Principal Amount of the Note shall be determined and maintained by the Clerk. The Clerk shall make such notations in the Note Register as are required to reflect any redemptions of the Note from time to time. NMSC may examine the books of registry maintained by the Clerk upon request, and the Clerk shall grant such request as soon as reasonably practicable.

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ARTICLE III

TERMS AND PAYMENT

Section 3.1. Terms and Payment. The Note shall be issued substantially in the form set forth in **Exhibit A**. The Note shall be dated the date of its initial issuance and delivery, shall become due and shall bear interest as set forth below and on the face of the Note.

On each Note Payment Date, an amount equal to all amounts then on deposit in the Occupation Tax Revenue Fund shall be due and payable, first to interest due and the remainder to principal. To the extent amounts in the Occupation Tax Revenue Fund are insufficient to pay all of the principal of or interest on the Note prior to or on the final Note Payment Date, such deficiency shall be borne entirely by the Registered Owner of the Note and NMSC without recourse of any kind to the City.

The City may prepay all or any portion of the Note at any time and from time to time without premium or penalty of any kind.

ARTICLE IV

SECURITY FOR THE NOTE

Section 4.1. Security for the Note. The Note shall be a limited, special obligation of the City payable solely from and secured as to the payment of principal and interest, subject to the provisions of **Section 4.2**, by a pledge of the Occupation Tax Revenues and no other moneys, revenues, funds or accounts. Other than the power to impose and collect the Occupation Tax Revenues, the taxing power of the City are not pledged to the payment of the Note either as to principal or interest. The Note shall not constitute a general obligation of the City, nor shall it constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

Section 4.2. Pledge of Certain Funds. The moneys and securities now or hereafter held in, and moneys and securities to be deposited in the Occupation Tax Revenue Fund, and all interest and earnings thereon and proceeds thereof are hereby pledged to secure the payment of the Note. When the Note has been paid in full and discharged, then the requirements contained in this Resolution and the pledge of revenues made hereunder and all other rights granted hereby shall terminate.

Section 4.3. No Recourse. Notwithstanding any other provisions of this Resolution, neither the Registered Owner of the Note, the Purchaser, nor NMSC shall have any recourse of any kind against the City in the event of that the Occupation Tax Revenues are insufficient to pay the principal of or interest on the Note for any reason whatsoever.

ARTICLE V

CREATION OF FUNDS AND ACCOUNTS; DEPOSIT AND APPLICATION OF NOTE PROCEEDS

Section 5.1. Creation of Occupation Tax Revenue Fund. There are hereby created and ordered to be established within the treasury of the City the Occupation Tax Revenue Fund (the "**Occupation Tax Revenue Fund**"), which shall be a separate fund.

Such fund shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and shall not be commingled with any other moneys, revenues, funds and accounts of the City. The Occupation Tax Revenue Fund shall be maintained and administered in the manner provided in this Resolution so long as the Note remains outstanding hereunder.

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ARTICLE VI

APPLICATION OF REVENUES

Section 6.1. Application of Occupation Tax Revenue Fund. The moneys in the Occupation Tax Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Resolution. The Occupation Tax Revenues shall be determined and collected in the manner provided by law.

All amounts paid and credited to the Occupation Tax Revenue Fund shall be expended and used for the sole purpose of (a) paying the costs of issuance of the Note incurred by the City, and (b) paying the principal of and interest on the Note as and when the same become due on each Note Payment Date or as otherwise provided in **Section 3.1**.

ARTICLE VII

DEPOSIT AND INVESTMENT OF MONEYS

Section 7.1. Deposit of Moneys. Moneys in each of the fund created by and referred to in this Resolution and held by the City shall be continuously and adequately secured as provided by the laws of the State and invested in Permitted Investments.

Section 7.2. Investment of Moneys. All earnings on any investments held in any fund shall accrue to and become a part of such fund.

ARTICLE VIII

ADDITIONAL NOTE

Section 8.1. Additional Note. The City covenants and agrees that so long as the Note remains outstanding, the City will not issue any additional bonds, notes or debt payable from the Occupation Tax Revenue Fund or any part thereof without the prior written consent of the Registered Owner.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.1. Remedies. The provisions of this Resolution, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owner. Subject to the limitations set forth in **Section 9.2**, the Registered Owner shall have the following rights:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of the Registered Owner against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Resolution or by the constitution and laws of the State of Nebraska;

(b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owner.

Section 9.2. Remedies Cumulative. No remedy conferred herein upon the Registered Owner is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of the Registered Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owner by this Resolution may be enforced and

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exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceedings taken by the Registered Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to the Registered Owner, then, and in every such case, the City and the Registered Owner shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Registered Owner shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.1. Amendments. The rights and duties of the City and the Registered Owner, and the terms and provisions of the Note or of this Resolution, may be amended or modified at any time in any respect by Resolution of the City with the written consent of the Registered Owner, such consent to be evidenced by an instrument or instruments executed by the Registered Owner and duly acknowledged, and such instrument shall be filed with the City Finance Director.

Without notice to or the consent of the Registered Owner, the City may amend or supplement this Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owner.

Every amendment or modification of the provisions of the Note or of this Resolution, to which the consent of the Registered Owner is given, as above provided, shall be expressed in a Resolution adopted by the governing body of the City amending or supplementing the provisions of this Resolution and shall be deemed to be a part of this Resolution. A certified copy of every such amendatory or supplemental Resolution, if any, and a certified copy of this Resolution shall always be kept on file in the office of the Clerk and shall be made available for inspection by the Registered Owner or a prospective purchaser or owner of the Note authorized by this Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental Resolution or of this Resolution will be sent by the Clerk to any such Registered Owner or prospective Registered Owner.

Notwithstanding anything to the contrary in this **Section 10.1**, before any Resolution supplementing or amending this Resolution pursuant to this **Section 10.1** shall become effective, there shall have been delivered to the City an opinion of Note Counsel stating that such supplemental Resolution is authorized or permitted by this Resolution and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon the City in accordance with its terms.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the Resolution of the City, duly certified, as well as proof of any required consent to such modification by the Registered Owner. It shall not be necessary to note on any outstanding Note any reference to such amendment or modification.

Section 10.2. Payments Due on Days Other Than Business Days. In any case where the date of maturity of principal or interest on the Note or the date fixed for prepayment of any Note is not a Business Day, then payment of principal or interest need not be made on such date but may be made on the first succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for prepayment, with no adjustment in accrued interest for the period between such prepayment date and such first succeeding Business Day.

Section 10.3. Notices, Consents and Other Instruments by Registered Owner. Any notice, consent, request, direction, approval, objection or other instrument required by this Resolution to be signed and executed by the Registered Owner other than the assignment of the Ownership of the Note, may be in any number of concurrent writings of similar tenor and may be signed or executed by such Registered Owner in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of the Note, if made in the following manner, shall be sufficient for any of the purposes of this Resolution, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted under any such instrument, namely:

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(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of the Note, the amount or amounts, numbers and other identification of the Note, and the date of holding the same shall be proved by the Note Register.

Section 10.4. Further Authority. The officers of the City, including the Mayor and the Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make any changes or additions in this Resolution and the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the City's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 10.5. Severability. If any section or other part of this Resolution or the Note is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Resolution.

Section 10.6. Governing Law. This Resolution shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

Section 10.7. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the governing body of the City.

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MINUTE RECORD

**PASSED AND APPROVED THIS 18TH DAY OF OCTOBER 2022, BY THE MAYOR
AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA.**

(Seal)

ATTEST:

Mayor

Clerk

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EXHIBIT A

[FORM OF NOTE]

Registered No. 1 Up to \$ (subject to reduction as described herein)

UNITED STATES OF AMERICA
STATE OF NEBRASKA
CITY OF LA VISTA
OCCUPATION TAX REVENUE NOTE
(120 AND GILES PROJECT)
SERIES 20

Interest Rate Maturity Date Issue Date
% , 20 , 20

REGISTERED OWNER:

PRINCIPAL AMOUNT: SEE SCHEDULE 1 ATTACHED HERETO

All capitalized terms used in this Note and not otherwise defined herein shall have the meanings set forth for such terms in the resolution authorizing the issuance of this Note adopted by the City on October , 2022 (the "Resolution").

The CITY OF LA VISTA, NEBRASKA, (the "City") for value received, hereby promises to pay, but solely from certain specified tax revenues and other funds hereinafter specified, to the Registered Owner named above, or registered assigns, on the Date of Maturity stated above (or earlier as hereinafter referred to), the Principal Amount reflected above, or such lesser amount reflected on the books and records of the City, upon presentation and surrender hereof at the office of the registrar and paying agent herefor, and in like manner to pay interest on the Cumulative Outstanding Principal Amount reflected on the books and records of the City at the Rate of Interest stated above, calculated on the basis of a 360-day year consisting of twelve, 30-day months, from the Date of Original Issue stated above, or the most recent interest payment date to which interest has been paid or duly provided for, as specified below, to maturity or earlier redemption, payable on of each year until payment in full of such Principal Amount, beginning , 202_ , by check or draft mailed to the Registered Owner hereof as shown on the bond registration books maintained by the City on the 15th day of the month preceding the month in which the applicable interest payment date occurs, at such Owner's address as it appears on such bond registration books. The principal of this Bond and the interest hereon are payable in any coin or currency which on the respective dates of payment thereof is legal tender for the payment of debts due the United States of America.

Payments hereon shall be due and payable on of each year, beginning on , 202_ , and ending on , 20_ . Payments are to be applied first to interest due and the remainder to principal. The principal and interest payable on this Note on any payment date shall be paid to the person in whose name this Note is registered at the close of business on the 15th day (whether or not a business day) of the calendar month first preceding such payment date (a) by check or draft mailed by the City to such Registered Owner, or (b) by electronic transfer to such registered owner upon written notice given to the City by such Registered Owner not less than 15 days prior to such record date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account

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number to which such registered owner wishes to have such transfer directed. The principal of and interest on this Note shall be payable in lawful money of the United States of America.

This Note is a duly authorized Note of the City designated "Occupation Tax Revenue Note (120 and Giles Project)." The Note is being issued for the purpose of paying a portion of the Project Costs in connection with the Project, and paying costs related to the issuance of the Note, under the authority of and in full compliance with the constitution and laws of the State of Nebraska, including particularly the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended, and pursuant to the Resolution.

The records maintained by the City Finance Director as to the principal amount issued and principal amounts paid on this Note shall be the official records of the Cumulative Outstanding Principal Amount of this Note for all purposes.

At its option, the City may prepay all or any portion of the Note at any time and from time to time without premium or penalty of any kind. The Note is subject to redemption and payment in accordance with the terms and conditions as set forth in the Resolution.

The Note is a special obligation of the City payable solely from and secured as to the payment of principal and interest by a pledge of Occupation Tax Revenues deposited in the Occupation Tax Revenue Fund, as more fully provided in the Resolution.

Other than the imposition and collection of the Occupation Tax Revenues, the taxing power of the City are not pledged to the payment of the Note either as to principal or interest. The Note shall not constitute a general obligation of the City, nor shall it constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. Reference is made to the Resolution for a description of the covenants and agreements made by the City with respect to the collection, segregation and application of the Occupation Tax Revenues to pay the Note, the nature and extent of the security for the Note, the rights, duties and obligations of the City with respect thereto, and the rights of the Registered Owner thereof.

Reference is hereby made to the Resolution, a copy of which is on file in the office of the City Clerk, and to all of the provisions of which the Registered Owner of this Note by its acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for this Note; the Occupation Tax Revenues pledged to the payment of the principal of and interest on this Note; the nature and extent and manner of enforcement of the pledge; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Registered Owner of this Note; the rights, duties and obligations of the City and the Registrar thereunder; the terms and provisions upon which the liens, pledges, charges, trusts and covenants made therein may be discharged at or prior to the maturity or redemption of this Note, and this Note thereafter no longer be secured by the Resolution.

This Note is subject to redemption prior to maturity, at the option of the City, in whole or in part at any time at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the date fixed for redemption. Reference is hereby made to the Resolution for a description of the redemption procedures and the notice requirements pertaining thereto.

This Note may be transferred and exchanged only upon the Note Register as provided in the Resolution. This Note is transferable only to banks, other financial institutions or accredited investors (as defined in Rule 501 of Regulation D of the Securities Act of 1933) and only upon the execution by such transferee of an investment letter in such form as approved by an Authorized City Representative (as defined in the Resolution). Upon surrender hereof at the principal office of the City Clerk, the City shall transfer or exchange this Note for a new Note of the same maturity and in the same principal amount as the principal amount outstanding on this Note at such time. The City may deem and treat the person in whose name this Note is registered on the Note Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

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This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until this Note has been executed by the City.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Note have existed, happened and been performed in due time, form and manner as required by law, and that before the issuance of the Note, provision has been duly made for the collection and segregation of the Occupation Tax Revenues and for the application of the same as hereinbefore provided.

IN WITNESS WHEREOF, THE CITY OF LA VISTA, NEBRASKA, has executed this Note by causing it to be signed by the manual or facsimile signature of the Mayor of the City of La Vista, Nebraska and attested by the manual or facsimile signature of the Clerk of the City of La Vista, Nebraska, and its official seal to be affixed hereto or imprinted hereon.

CITY OF LA VISTA, NEBRASKA

This Note is the Note of the issue described in the within-mentioned

By: _____

Resolution.

Mayor

Registration Date: _____, 202__

(Seal)

ATTEST:

By: _____

City Clerk

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ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints agent to transfer the within Note on the books kept by the City for the registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Note in every particular.

Signature Guaranteed By:

[Name of Eligible Guarantor Institution (as defined by SEC Rule 17Ad-15 (12 CFR 240.17Ad-15) or any similar rule which the City deems appropriate)]

By: _____
Title: _____

Seconded by Councilmember Thomas. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey and Sell. Nays: None. Abstain: Hale. Absent: Frederick. Motion carried.

F. RESOLUTION – ADOPT BUSINESS CONTINUITY & DISASTER RECOVERY PLAN

Mayor Kindig requested that Item F be tabled to an upcoming meeting. Councilmember Sell made a motion to table Item F. Seconded by Councilmember Hale. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

G. RESOLUTION – APPROVE INTERLOCAL AGREEMENT – APPLEWOOD CREEK TRAIL NRD PROJECT REIMBURSEMENT

Councilmember Sell introduced and moved for the adoption of Resolution No. 22-102 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, APPROVING AN INTERLOCAL AGREEMENT WITH THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (PMNRD) FOR REIMBURSEMENT OF PROJECT COSTS IN AN AMOUNT NOT TO EXCEED \$250,000. FOR THE CONSTRUCTION COSTS OF THE APPLEWOOD CREEK TRAIL.

WHEREAS, the Mayor and Council of the City of La Vista determined the development and construction of the Applewood Creek Trail is necessary; and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for the project; and

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WHEREAS, the reimbursement will reduce the local cost share of the Applewood Creek Trail; and

WHEREAS, the City applied for cost-sharing assistance from the NRD for a portion of the costs of the project; and

WHEREAS the Board of Directors of the NRD approved the project for cost-share assistance; and

WHEREAS the NRD is requesting to enter into an Interlocal Agreement with the City of La Vista,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorizing an interlocal agreement with the Papio-Missouri River Natural Resources District (PMNRD) for reimbursement of project costs in an amount not to exceed \$250,000. for the construction costs of the Applewood Creek Trail.

Seconded by Councilmember Frey. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

H. RESOLUTION – AUTHORIZE AMENDMENT NO.1 – PROFESSIONAL SERVICES AGREEMENT – SPECIAL INSPECTIONS & MATERIALS TESTING

Councilmember Thomas introduced and moved for the adoption of Resolution No. 22-103 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF AMENDMENT NO. 1 TO A PROFESSIONAL SERVICES AGREEMENT WITH OLSSON, INC FOR CERTAIN SPECIAL INSPECTIONS AND MATERIALS TESTING ASSOCIATED WITH THE LINK PROJECT FOR AN ADDITIONAL AMOUNT OF \$48,925.00 FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$89,065.00.

WHEREAS, the City Council of the City of La Vista has determined that bridge inspection services are necessary; and

WHEREAS, the FY23/FY24 Biennial Budget includes funding for this project;

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure Council approval prior to authorizing any expenditure over \$5,000.00.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorizing the execution of Amendment No. 1 to a professional services agreement with Olsson, Inc for certain special inspections and materials testing associated with the Link project for an additional amount of \$48,925.00 for a total contract amount not to exceed \$89,065.00.

Seconded by Councilmember Hale. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

I. RESOLUTION – AUTHORIZE PURCHASE – PROOFPOINT ESSENTIALS SOFTWARE

Councilmember Thomas introduced and moved for the adoption of Resolution No. 22-104 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE PURCHASE OF PROOFPOINT ESSENTIALS EMAIL SECURITY SOFTWARE FROM INOTEK IN AN AMOUNT NOT TO EXCEED \$6,740.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of Proofpoint Email Security Software is necessary; and

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WHEREAS, the FY23 Information Technology budget includes funding for the proposed purchase; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the city administrator secure Council approval prior to authorizing any purchase over \$5,000.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase of Proofpoint Essentials Email Security Software from InoTeck in an amount not to exceed \$6,740.00.

Seconded by Councilmember Sheehan. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

J. RESOLUTION – AUTHORIZE PURCHASE – SKID-STEER LOADER

Councilmember Sell introduced and moved for the adoption of Resolution No. 22-105 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF ONE (1) 2022 T66T4 BOBCAT SKID-STEER LOADER FROM BOBCAT OF OMAHA, OMAHA, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$62,000.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a skid-steer loader is necessary; and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for the proposed purchase, and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the city administrator secure Council approval prior to authorizing any purchase over \$5,000.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase of a one (1) 2022 T66T4 Bobcat Skid-Steer Loader from Bobcat of Omaha, Omaha, Nebraska in an amount not to exceed \$62,000.00.

Seconded by Councilmember Quick. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

COMMENTS FROM THE FLOOR

Jane Gleason of 7606 S. 60th Street inquired when the Land Use Study & Market Analysis presentation will be.

COMMENTS FROM MAYOR AND COUNCIL

Councilmember Sheehan commented on the Mayor's Youth Leadership Council and the last pancakes in the park event.

At 7:19 p.m. Councilmember Thomas made a motion to adjourn the meeting. Seconded by Councilmember Hale. Councilmembers voting aye: Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: Frederick. Motion carried.

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No. 729 — REDFIELD DIRECT E2106195KV

October 18, 2022


PASSED AND APPROVED THIS 1ST DAY OF NOVEMBER 2022.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, MMC
City Clerk