

CITY OF NEBRASKA CITY, NEBRASKA  
MINUTES OF CITY COUNCIL REGULAR MEETING  
February 16, 2009

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers of City Hall, 1409 Central Avenue, on February 16, 2009. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Upon roll call the following answered present: Jeff Crunk, Dean Handy, Brett Gay, and Mark Mercer. The following City Officials were present: City Clerk Arnold M. Ehlers, City Attorney William Davis, Building Inspector Alan Viox and Public Properties Director/Zoning Director Dan Gittinger.

Mayor Jack Hobbie led in the Pledge of Allegiance.

Commissioner Handy moved to approve the minutes of the February 2, 2009, City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call the following voted AYE: Crunk, Handy, Gay, Mercer and Mayor Hobbie. Voting NO: None. Motion adopted.

Mayor Hobbie opened the Public Hearing on the One and Six Year Road and Street Plan. Public properties Director Dan Gittinger and Evan Wickersham the City Street Superintendent presented a report of street projects expected to start in the next year and those anticipated in the next six years. Commissioner Handy inquired about including 1<sup>st</sup> Avenue from 6<sup>th</sup> Street to 11<sup>th</sup> Street in the One -Year plan. Wickersham said that the current plan could be modified to include 1<sup>st</sup> Avenue. No one else spoke in support or opposition to the plan. Commissioner Handy moved to close the public hearing. Upon roll call the following voted AYE: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Mayor Hobbie opened the Public Hearing for the approval of the final plat for the proposed Arbor View Subdivision. Dan Gittinger provided information concerning the plat. No one else spoke in support or opposition to the plat. Commissioner Mercer moved to close the public hearing. Upon roll call the following voted AYE: Crunk, Gay, Handy, Mercer, and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to approve Resolution 2400-09 as modified by adding 1<sup>st</sup> Avenue from 6<sup>th</sup> Street to 11<sup>th</sup> Street to the plan. Upon roll call the following voted AYE: Mercer, Gay, Handy and Mayor Hobbie. Voting NO: Crunk. Motion passed. A true, correct and complete copy of said resolution is as follows:

**RESOLUTION 2400-09**

“**WHEREAS**, the City Street Superintendent has prepared and presented a One and Six Year Plan for Street Improvement Program for the City of Nebraska City, Nebraska and, **WHEREAS**, a public meeting was held on the 16<sup>th</sup> day of February, 2009, to present this Plan and there was a discussion held with respect to said plan;

**THEREFORE, BE IT RESOLVED BY THE** Mayor and City Council of Nebraska City, Nebraska that the plans and data as furnished and/or modified are hereby in all things accepted and adopted.”

Upon roll call the vote is as follows:

Brett Gay	<u>Yes</u>
Jeff Crunk	<u>No</u>
Dean Handy	<u>Yes</u>
Mark Mercer	<u>Yes</u>
Mayor Jack Hobbie	<u>Yes</u>

**ATTEST:** \_\_\_\_\_  
**Arnold M. Ehlers, Clerk**

\_\_\_\_\_  
**Jack Hobbie, Mayor**

Commissioner Mercer moved to approve the final plat for the Arbor View Subdivision contingent upon the owner receiving title to all the ground included in the plat. Upon roll call the following voted AYE: Crunk, Gay, Handy, Mercer, and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Mercer moved to Approve Resolution 2402-09, calling the 2001 Various Purpose Bonds. Upon roll call the following voted AYE: Crunk, Gay, Handy, Mercer, and Mayor Hobbie. Voting NO: None. Motion passed. A true, correct and complete copy of said resolution is as follows:

RESOLUTION NO. 2402-09

A RESOLUTION CALLING THE OUTSTANDING VARIOUS PURPOSE BONDS, SERIES 2001, IN THE OUTSTANDING PRINCIPAL AMOUNT OF \$800,000 OF THE CITY OF NEBRASKA CITY, NEBRASKA.

BE IT RESOLVED AND ENACTED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA, as follows:

Section 1. That the following bonds of the City, in accordance with their option provisions, are hereby called for payment on March 19, 2009, after which date interest on the bonds will cease:

Various Purpose Bonds, Series 2001, dated December 20, 2001, in the principal amount of \$800,000, maturing and bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
\$100,000	December 15, 2009	639591 EG7
100,000	December 15, 2010	639591 EH5
150,000	December 15, 2011	639591 EJ1
150,000	December 15, 2012	639591 EK8
150,000	December 15, 2013	639591 EL6
150,000	December 15, 2014	639591 EM4

Section 2. These bonds are to be paid at the office of the City Treasurer in Nebraska City, Nebraska, as Paying Agent and Registrar.

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent at least thirty (30) days prior to call date and the Paying Agent is hereby irrevocably instructed to take appropriate action to mail notice to the registered owner at least thirty (30) days prior to the call date.

PASSED AND APPROVED this 16<sup>th</sup> day of February, 2009.

(SEAL)

By \_\_\_\_\_  
Jack Hobbie, Mayor

ATTEST:

\_\_\_\_\_  
Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Ordinance 2745-09: AN ORDINANCE AUTHORIZING THE ISSUANCE OF REFUNDING BONDS, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF EIGHT HUNDRED FIFTEEN THOUSAND DOLLARS (\$815,000) ISSUED TO REFUND CERTAIN OUTSTANDING BONDS OF THE CITY; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR A SINKING FUND AND FOR THE LEVY AND COLLECTION OF TAXES TO PAY SAID BONDS; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion and upon roll call the following voted AYE: Mercer, Gay, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend the rule was adopted by three-fifths of the Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor stated the question "Shall Ordinance No. 2745-09 be passed and adopted?" Upon roll call the following voted AYE: Gay, Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board, the Mayor declared the ordinance adopted and the Mayor in the presence of the Board signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto and ordered the Ordinance to be published in pamphlet form as provided therein. A true, correct and complete copy of said ordinance is as follows:

ORDINANCE NO. 2745-09

AN ORDINANCE AUTHORIZING THE ISSUANCE OF REFUNDING BONDS, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF EIGHT HUNDRED FIFTEEN THOUSAND DOLLARS (\$815,000) ISSUED TO REFUND CERTAIN OUTSTANDING BONDS OF THE CITY; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR A SINKING FUND AND FOR THE LEVY AND COLLECTION OF TAXES TO PAY SAID BONDS; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA:

Section 1. The Mayor and Board of Commissioners find and determine: That the City has heretofore issued interest-bearing bonds, all of which remain unpaid and constitute a legal liability against the City as follows:

Various Purpose Bonds, Series 2001, numbered and maturing as they are shown on the books and records of the Paying Agent and Registrar, dated December 20, 2001, in the principal amount of \$800,000 (the "Outstanding Bonds");

that by taking up and paying off such Outstanding Bonds by an issue of Refunding Bonds of the City, a substantial savings in the amount of yearly running interest will be made to the City; that by issuing its refunding bonds in the amount of \$815,000, in pursuance of Section 10-142, R.R.S. Neb. 2007, together with a deposit of other available funds of the City, the Outstanding Bonds can be taken up and paid off on March 19, 2009, and have been called for redemption on said date, and that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Refunding Bonds, in the principal amount of \$815,000 do exist and have been done as required by law.

Section 2. For purposes as set out in Section 1 hereof, there shall be and there are hereby ordered issued Refunding Bonds, in the principal amount of \$815,000 to bear date of original issue of March 19, 2009, and to be in fully registered form. Said bonds shall bear interest at the rates per annum and mature on December 15 of each year in the principal amounts as follows:

<u>Principal Amount</u>	<u>Maturing on December 15 of Year</u>	<u>Interest Rate Per Annum</u>
\$105,000	2009	
105,000	2010	
155,000	2011	
150,000	2012	
150,000	2013	
150,000	2014	

The bonds shall be issued in the denomination of \$5,000 or any integral multiple thereof and shall be numbered from 1 upwards in the order of their issuance. No bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the bonds issued shall be as directed by the initial purchasers thereof. Interest on the bonds shall be payable semiannually on June 15 and December 15 of each year, starting June 15, 2009. The interest due on each interest payment date shall be payable to the registered owners of record as of the close of business on the last day of the calendar month immediately preceding the calendar month in which the interest payment date occurs (the "Record Date"), subject to the provisions of Section 3 hereof. Payment of interest due on the bonds prior to maturity or redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each bond, as of the applicable Record Date, to such owner's registered address as shown on the books of registration, as required to be maintained in Section 3 hereof. Payment of principal due at maturity or at any date fixed for redemption, together with any accrued interest then due, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the bonds to said Paying Agent and Registrar. In the event that bonds of this issue are held in the nominee name of a national clearinghouse or depository, payment of principal or interest shall be made by wire transfer of funds in accordance with any applicable regulations governing "Depository Eligible Securities". The City and said Paying Agent and Registrar may treat the registered owner of any bond as the absolute owner of such bond for the purpose of making payments thereon and for all other purposes and neither the City nor said Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any bond shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the bonds or claims for interest to the extent of the sum or sums so paid. If any bond is not paid upon presentation of the bond at maturity or any interest installment is not paid when due, the delinquent bond or delinquent interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska, 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature.

Section 3. The City Treasurer is hereby designated as Paying Agent and Registrar for the bonds. Said Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the bonds at the office of the Paying Agent and Registrar in Nebraska City, Nebraska. The names and registered addresses of the registered owner or owners of the bonds shall at all times be recorded in such books. Any bond may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar upon surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to such Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar will register such transfer upon said registration books and deliver to the transferee registered owner or owners (or send by registered mail to the transferee owner or owners at such owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new bond or bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the bonds by this ordinance, one bond may be transferred for several such bonds of the same interest rate and maturity and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a bond, the surrendered bond or bonds shall be cancelled and destroyed. All bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the bonds surrendered and shall be entitled to all benefits and protection of this ordinance to the same extent as the bonds upon transfer of which they were delivered. The City and the Paying Agent and Registrar shall not be required to transfer bonds during any period from any Record Date until its immediately following interest payment date or to transfer any bonds called for redemption for a period of 30 days next preceding the date fixed for redemption prior to maturity. In the event that payments of interest due on the bonds on an interest payment date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such interest payment date and shall be payable to the registered owners of the bonds as of a special date of record for payment of such defaulted interest as

shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 4. Bonds maturing on or after December 15, 2014 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after March 19, 2014, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the bonds to be redeemed from such optional redemption in its sole discretion but bonds shall be redeemed only in the amount of \$5,000 or integral multiples thereof. Any bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new bond evidencing the unredeemed principal thereof. Notice of redemption of any bond called for redemption shall be given at the direction of the Mayor and Board by the Paying Agent and Registrar by mail not less than thirty days prior to the date fixed for redemption, first class postage prepaid, sent to the registered owner of such bond at said owner's registered address. Such notice shall designate the bond or bonds to be redeemed by number and maturity, the date of original issue, the date fixed for redemption and state that such bond or bonds are to be presented for payment at the office of the Paying Agent and Registrar. In case of any bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any bond shall affect the sufficiency of the proceedings of the Mayor and Board designating the bonds called for redemption or the effectiveness of such call for bonds for which notice by mail has been properly given and the Mayor and Board shall have the right to further direct notice of redemption for any such bond for which defective notice has been given.

Section 5. If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Nebraska City, Nebraska are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 6. The bonds shall be executed on behalf of the City by being signed by the Mayor and the City Clerk, both of which signatures may be facsimile signatures, and shall have the City seal impressed on each bond. The City Clerk shall make and certify a transcript of proceedings had and done precedent to the issuance of said bonds which shall be delivered to the purchaser of said bonds. After being executed by the Mayor and City Clerk, said bonds shall be delivered to the Treasurer of the City who shall be responsible therefor under his/her official bond. Such Treasurer shall maintain a record of information with respect to said bonds in accordance with the requirements of Section 10-140, R.R.S. Neb. 2007, as amended, and shall cause the same to be filed with the office of the Auditor of Public Accounts of the State of Nebraska. The Paying Agent and Registrar shall register each bond in the name of its initial registered owner as designated by the initial purchaser. Each bond shall be authenticated on behalf of the City by the Paying Agent and Registrar. The bonds shall be issued initially as "book-entry only" bonds using the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers of the City are authorized to execute and deliver a letter of representations and inducement (the "Letter of Representations") in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the bonds. Upon issuance of the bonds as "book-entry-only" bonds, the following provisions shall apply:

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

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the bonds;

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the bonds. The Paying Agent and Registrar shall make payments with respect to the bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

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

(c) If the City determines that it is desirable that certificates representing the

bonds be delivered to the ultimate Beneficial Owners of the bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such bond and all notices with respect to such bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

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

- (i) any successor securities depository or its nominee;
- (ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar's Agreement (if any).

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

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bond certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any bond shall cease to be such officer before the delivery of such bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The bonds shall be delivered to the Paying Agent and Registrar for registration and authentication.

Section 7. Said bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF OTOE  
CITY OF NEBRASKA CITY  
REFUNDING BOND

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
%	December 15, ____	March 19, 2009	

Registered Owner: \_\_\_\_\_  
Principal Amount: \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Nebraska City, in the County of Otoe, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above the principal amount specified above in lawful money of the United States of America on the maturity date specified above, with interest thereon from date of original issue specified above or most recent interest payment date, whichever is later, to maturity (or earlier redemption) at the rate per annum specified above. Said interest shall be payable semiannually on the fifteenth day of June and December in each year, starting June 15, 2009. If this bond is not paid upon presentation at maturity or any interest installment hereon is not paid when due, the bond or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature. The interest hereon due prior to maturity or earlier redemption shall be paid on each interest payment date by the City Treasurer, as Paying Agent and Registrar for the City by wire transfer (but only in accordance with the limited terms of the authorizing ordinance), check or draft mailed to the registered owner hereof, as shown on the records of the Paying Agent and Registrar as of the close of business on the last day of the month immediately preceding the month in which the interest payment date occurs, at such owner's registered address as it appears on the books of registration of the City. The principal of this bond and the interest due at maturity or upon call for redemption prior to maturity are payable on presentation and surrender to said Paying Agent and Registrar at the office of the Paying Agent and Registrar in Nebraska City, Nebraska. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available. For the prompt payment of this bond, principal and interest as the same become due, the full faith, credit and resources of said City are hereby irrevocably pledged.

The City, however, reserves the right and option of paying bonds of this issue maturing on or after December 15, 2014, in whole or in part, on March 19, 2014, or at any time thereafter, at the principal

amount thereof plus accrued interest to the date fixed for redemption. Notice of any such redemption shall be given by mail, sent to the registered owner of any bond to be redeemed at said registered owner's address in the manner provided in the ordinance authorizing said bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof. Any bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new bond or bonds evidencing the unredeemed principal thereof.

This bond is one of an issue of fully registered bonds of the total principal amount of \$815,000, of like tenor herewith except as to denomination, date of maturity and rate of interest issued by said City for the purpose of paying the bonded debt of said City on its legally issued Various Purpose Bonds, Series 2001, numbered as they are shown on the books and records of the Paying Agent and Registrar, dated December 20, 2001, in the principal amount of \$800,000, now existing and unpaid, and in strict conformity with and in pursuance of the provisions of Section 10-142, R.R.S. Neb. 2007. The issuance of said bonds has been authorized by an ordinance duly passed by the Mayor and Board of said City.

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

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

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

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

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of said City, including this bond, does not exceed any limitations imposed by law. The City covenants and agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in said City, in addition to all other taxes, sufficient in rate and amount to pay the interest on this bond when and as the same becomes due and to create a sinking fund to pay the principal of this bond when the same becomes due.

IN WITNESS WHEREOF, the Mayor and Board of the City of Nebraska City, Nebraska, have caused this bond to be executed on behalf of the City by being signed by the Mayor and Clerk of the City, both of which signatures may be facsimile signatures, and by causing the official seal of the City to be affixed hereto, all as of the date of original issue shown above.

CITY OF NEBRASKA CITY, NEBRASKA  
By \_\_\_\_\_ (Do not sign)  
Mayor

ATTEST:  
\_\_\_\_\_  
(Do not sign)  
City Clerk

CERTIFICATE OF AUTHENTICATION

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

\_\_\_\_\_  
(Do not sign)  
City Treasurer of Nebraska City, Nebraska,  
as Paying Agent and Registrar

(FORM OF ASSIGNMENT)

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_, Attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.  
Date: \_\_\_\_\_

SIGNATURE GUARANTEED

By \_\_\_\_\_

Authorized Officer

Note: The signature(s) of this assignment MUST CORRESPOND with the name as written on the face of the within bond in every particular without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Said bonds are hereby sold to Ameritas Investment Corp. at \_\_\_\_\_% of the principal amount thereof, and the City Treasurer is authorized to deliver the bonds to said purchaser upon receipt of the said amount plus accrued interest to the date of payment. Said bonds are sold to the purchaser subject to the opinion of independent bond counsel that said bonds are lawfully issued; that said bonds constitute a valid obligation of the City; and that under existing laws and regulations the interest on said bonds is exempt from both Nebraska state and federal income taxes. Such purchaser and its agents, representative and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Bonds, including, without limitation, authorizing the release of the Bonds by the Depository (as defined herein) at closing. The proceeds of the bonds herein authorized shall be applied to provide for redemption of the Outstanding Bonds as called for redemption on March 19, 2009.

Section 9. The Mayor and Board shall cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to pay the interest on the bonds herein authorized as the same becomes due and to create a sinking fund to pay the principal of said bonds when and as such principal becomes due.

Section 10. The City of Nebraska City, Nebraska, hereby covenants to the purchasers and holders of the bonds hereby authorized that it will make no use of the proceeds of said bond issue, including monies held in any sinking fund for the payment of said bonds, which would cause said bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103 and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the bonds with respect to taxpayers generally but not including insurance companies or corporations subject to the additional minimum tax. The City hereby designates the bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not anticipate issuing tax-exempt obligations in calendar 2009 in an amount in excess of \$10,000,000.

Section 11. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Commissioner Mercer moved to approve the contract with Nebraska Department of Economic Development for acceptance of CDBG Award grant #08-HO-6069 for Owner Occupied Housing Rehabilitation. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Gay moved to approve the agreement with Southeast Nebraska Development District for "Administrative Assistance" on CDBG #08-HO-6069. Upon roll call the following voted AYE: Mercer, Handy, Crunk, Gay and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Mercer moved to approve the recommendation of the Advisory Committee to revise the existing financing categories by eliminating the direct payback loan and including "deferred loan" for eligible families. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Gay moved to approve Resolution 2403-09 adopting Phase I of the 2008 Downtown Revitalization Program. Upon roll call the following voted AYE: Crunk, Mercer, Handy, Gay and Mayor Hobbie. Voting NO: None. Motion passed. A true, correct and complete copy of said resolution is as follows:

**RESOLUTION NO. 2403-09**

**SUBJECT:** Adoption of the **Downtown Nebraska City Implementation Plan** for the **2008 Downtown Revitalization Program- Phase I under Community Development Block Grant (CDBG) #08-DTR-008**, through the Nebraska Department of Economic Development.

**WHEREAS:** Nebraska City, Nebraska has been awarded 2008 Community Development Block Grant (CDBG) Downtown Revitalization Program Category funds through the Nebraska Department of Economic Development (NDED), and,

WHEREAS: The Advisory Committee has recommended the Implementation Plan, as developed through a thorough community participation process;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEBRASKA CITY THAT:**

The City Council herewith adopts as its official Implementation Plan under Phase I of the Downtown Revitalization Program, the materials appended and attached hereto.

Passed and adopted this 16th day of February, 2009.

Jack Hobbie, Mayor

ATTEST: \_\_\_\_\_  
Arnold Ehlers, City Clerk

Commissioner Mercer moved to approve the request by Nebraska City Green Council for the use of city-owned property located in Block 1 of Belmont Addition to Nebraska City as a community garden for two (2) years with the stipulation that it be cleaned up each fall and clients sign a waiver holding the city harmless. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to direct the city attorney to draft an ordinance vacating the alley in Block 72; Kearney Addition for consideration at next meeting. Upon roll call the following voted AYE: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

David Reynolds requested that .72 Ac of R & D Shallenberger Subdivision be annexed into the city. Commissioner Mercer moved to direct the city attorney to draft an ordinance annexing .72 Ac into the city subject to verification that the county can allow the annexation. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to approve the request by Nebraska City Rotary Club to use a portion of Steinhart Park and Tennis Courts on April 25<sup>th</sup> for “Paws for a Cause” Dog Walk and Fund Raiser to eradicate polio. Upon roll call the following voted AYE: Mercer, Crunk, Gay, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Council agreed to consider purchase of city owned property in Blk 79; So. N.C. and Blk 37; Anderson’s 2<sup>nd</sup> Addition with Dan Gittinger researching ownership and developing a legal description of property separating the two (2) parcels to include in sale.

Alan Viox provided an update on the construction progress at the Rowe Memorial Safety Complex. Commissioner Mercer moved to approve Progress estimate #1 in the amount of \$147,643.83. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Mercer moved to authorize staff to solicit purchasers or developers for the “Livingston Property” in Blk 76; N. C. Proper Bill Moore 1759 N.11<sup>th</sup> urged the council to coordinate with the Main Street group. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Mercer moved to table the approval of the Supplemental Agreement with Midwest Right-of-Way Services until further information is provided. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Mercer moved to approve all claims except Claim # 7250D. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to approve Claim #7250D. Upon roll call the following voted AYE: Gay, Gay Handy and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion Passed.

A&L Storage	60.00	Storage	Larson Motors	743.61	Rep
Alamar Uniforms	181.31	Unif	Linweld, Inc	133.80	Supp
Alco Store	92.70	Supp	Mercer's Do It Best	38.41	Supp
Allied Recyc & Ref	222.75	Garbage	Mid-America Termite	43.48	Maint
Ambassador Rehab &	75.00	Med	Midlands Financial Ben	875.00	Contr
Anthens, Garrett	56.25	Ref	Midwest Farmers Coop	70.64	Supp
Arbor Mart,	809.71	Fuel	Midwest Machine	120.00	Rep
Arbor Valley Anml Cinc	224.00	Animal	Midwest ROW Svc	238.00	Eng
Asphalt & Concrete Mat	154.94	Asphalt	Miller Monroe Farrell	3,028.00	Ins



Batting Nets.com	7,882.33	Nets		Moore Medical	295.45	Supp
Bergfeld Recreation	376.00	Supp		Mullenax Auto Supply	1,167.14	Supp
Brown Glass Co	20.00	Rep		N.C. Public School	265.00	Misc
Brown's Shoe Fit	114.75	Unif		N.E.E.D.	375.00	Dues
Bryan LGH Med Center	790.80	Inv.Exp		NC Clerk - Treasurer	42.24	Supp
Callaway Golf Co	3,644.30	Msde		NC News Press	987.75	Ads
Card Services	365.60	Supp		NC Utilities	11,096.95	Util
Casey, J	505.00	Supp		NCTC	320.00	Meals
Casey's General Store	134.55	Fuel		NE Clerk Institute	245.00	Train
CDW Government	414.67	Comp		NE Dept. of Rev	363.23	Sales Tax
Century Lumber	89.40	Rep		NE Health & Human Svc	40.00	Lic
Cintas Corp	125.50	Supp		NE Humanities Cncl	50.00	Misc
City of NC	118,550.00	Bond		Nebraska Liquor Cntrl	45.00	Liq Lic
City Tire & Auto Acc	14.99	Rep		NeFSMA	35.00	Dues
Conner, Aaron	115.00	Ref		NPZA	250.00	Train
Crook, L	162.50	Mileage		Omaha Tractor	143.24	Rep
Data Tech	123.48	Supp		Omaha World-Herald	698.80	Ads
Dick's Body & Paint	343.00	Rep		O'Reilly Auto Parts	139.08	Supp
Dixon, Austin	115.00	Ref		Otoe Cnty Clerk	2,808.71	Contr
Douglas Tire	30.00	Rep		Otoe Cnty Reg Deeds	17.00	Ords
Eagle One	1,283.72	Supp		Otoe Cnty Title Co	3,000.00	Misc
EMS Billing Svc	827.11	Comp		Paper Tiger Shred	35.00	Contr
F.O.E. 968	1,328.00	Meals		Peterson, Travis	55.00	Ref
Farris, Madison	188.00	Ref		Rife Construction	147,643.83	Constr
Farris, Paxton	115.00	Ref		Seade Task Force	5,653.41	Dues
First Class Flowers	98.00	Misc		Shell	381.20	Fuel
Food Pride	16.78	Supp		Smith, Adam	55.00	Ref
Fremont National Bank	28,277.50	Bond		St. Mary's Hospital	56.00	Med
GALLS	100.97	Unif		Stubbendick Implement	106.52	Rep
GE Capital	83.30	Tele		Thurman Bike & Sport	148.50	Supp
Gittinger, D	210.98	Mileage		Tim Engel Constr	4,080.00	Rep
Gogan, Rachel	110.00	Ref		Tri-State Office Prod	444.18	Supp
Great American Otrd	269.74	Rep		Turfwerks	425.31	Rep
Heartland Classified Svc	255.85	Ads		USIS Commercial Svc	100.00	Med
Hemmer Garage	556.10	Rep		USPS	42.00	Postage
Hopkins Automotive	215.18	Rep		Wages & Benefits	96,532.50	Payroll
Hummert International	145.79	Supp		Watkins True Value	141.42	Supp
HWS Consulting Group	30,104.60	Eng		Wick's	3.21	Supp
Ideal Pure Water	31.50	Water		Windstream	2,060.90	Tele
KNCY AM-FM	119.12	Ads		Wood Family Fuel	237.60	Fuel
Konica Minolta Bus Sol	180.75	Contr		Wurtele, John R.	110.00	Ref
Landis Engine	255.05	Rep				

Mayor Hobbie moved to appoint Andrew Sndgrass and Andrew Ullsperger to the Nebraska City Volunteer Fire and Rescue Department. Upon roll call the following voted AYE: Gay, Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Meeting adjourned at 8:06 p.m.

\_\_\_\_\_  
Jack Hobbie, Mayor

\_\_\_\_\_  
Arnold M. Ehlers, Clerk-Treasurer