

The Council met in regular session and in compliance with agenda posted at City Hall, Post Office and First National Bank with each Council member being notified of agenda prior to the meeting. The meeting was called to order by Mayor Daryl Reitmajer at 7:00 p.m. and opened with the Pledge of Allegiance. The Mayor informed the public of the location of posting of the Open Meetings Law. Roll call was taken with the following Council members present: Diana Vasicek, Gerry Tyler, Jerry Johnson, Jim Svoboda, and Janet Jonas. Absent was Merle Hennings.

The Mayor called for items not listed on the agenda and none were presented.

Council Committee reports were given. Vasicek reported the Clean Up Committee had met and heard a report from Jackson on the vehicles that had been cleaned up in town. She reported they had also discussed techniques used in other communities that might be more effective. Svoboda reported the Street Committee is still working on the solid waste issues and would have more to report in the future. Discussions are still being held with Region V. Johnson reported Wahoo had been selected for a visit in the 2008 NCIP judging process. Judges will be in Wahoo on October 16th.

Rob Brigham from Wahoo School District No. 30 was present to request the Council consider an Interlocal agreement with them for the application of a CDBG for an ADA Compliance Study. He explained issues with the school and the need for them to fully know the extent of their ADA Compliance issues. He requested cooperation with the City on the project and explained the funding would not require a cash contribution by the City. A motion was made by Johnson, seconded by Jonas, to authorize the Mayor to sign the Interlocal Agreement as discussed with the school. Roll call vote: Johnson, yes; Jonas, yes; Vasicek, yes; Tyler, yes; and Svoboda, yes. Hennings, absent and not voting. Motion carried.

The following resolution, **Resolution No. 2008-23**, was introduced by Jonas, who moved for its approval, seconded by Svoboda:

WHEREAS, the City of Wahoo, Nebraska (the "**City**"), is a second class city organized and existing under the constitution and laws of the State of Nebraska;

WHEREAS, pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "**Act**"), and Resolution No. 1022071, the City has duly declared a certain redevelopment area (the "**Redevelopment Area**") to be blighted and substandard and in need of redevelopment pursuant to the Act;

WHEREAS, pursuant to the Act and Resolution No. 2008-01, the City has approved a General Redevelopment Plan for the Redevelopment Area (the "**Redevelopment Plan**");

WHEREAS, pursuant to the Act and Resolution No. 2008-19, the City has approved an amendment to the Redevelopment Plan (the "**Redevelopment Contract**") for a certain project area inside the Redevelopment Area (the "**Project Area**") to be redeveloped by Rock Creek Fur Co. LLC, a Nebraska limited liability company (the "**Developer**"), which contemplates, among other things, acquiring, clearing, and developing the Project Area, including the construction of certain infrastructure improvements to service the Project Area, and certain other redevelopment projects incidental thereto and permitted by the Act (collectively, the "**Project**");

WHEREAS, the Redevelopment Contract provides, among other things, that the City will issue its obligations to be secured by moneys in the TIF Revenue Fund for the purpose of paying a portion of the Project Costs for the Project; and

WHEREAS, in order to pay a portion of the costs of the Project, it is necessary, desirable, advisable, and in the best interest of the City to issue its Community Redevelopment Tax Increment Revenue Note (Rock Creek Fur Co. LLC Project), Series 2008 (the "**Note**"), in the principal amount of \$25,300 to pay a portion of the Project Costs, to pay the costs of issuing the Note, and to be issued and secured in the form and manner as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WAHOO, 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 the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended.

"Authorized City Representative" means the Mayor, the City Administrator or such other person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Developer containing the specimen signature of such person and signed on behalf of the City by its City Administrator. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized City Representative.

"Authorized Developer Representative" means the President, any Vice President, or Manager of the Developer, or such other person at the time designated to act on behalf of the Developer as evidenced by written certificate furnished to the City containing the specimen signature of such person and signed on behalf of the Developer by the President, any Vice President, or Manager of the Developer. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Developer Representative.

"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 Wahoo, Nebraska, and any successors or assigns.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

"County" means Saunders County, Nebraska.

"Developer" means Rock Creek Fur Co. LLC, a Nebraska limited liability company.

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

"Interest Amounts" means those amounts set forth in the column titled Interest on **Exhibit D** hereto.

"Note" means the Community Redevelopment Tax Increment Revenue Note (Rock Creek Fur Co. LLC Project), Series 2008, in the principal amount of \$25,300, authorized and issued pursuant to this Resolution.

"Note Counsel" means Gilmore & Bell, P.C., or other firm of nationally recognized bond counsel.

"Note Payment Date" means June 15 and December 15 of each year, beginning on June 15, 2010, and ending on December 15, 2023.

"Note Register" means the books for the registration, transfer and exchange of the Note kept at the office of the City.

"Permitted Investments" means any of the following 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:

- (a) United States Government Obligations;
- (b) bonds, notes or other obligations of the State of Nebraska, or any political subdivision of the State of Nebraska, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the City;
- (d) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (e) certificates of deposit, time deposits or other deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a), (b) or (d) above, which

shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificate of deposit or time deposits; and

(f) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State of Nebraska.

"Principal Amounts" means those amounts set forth in the column titled Principal on **Exhibit D** hereto.

"Project Area" means that portion of the Redevelopment Area described on **Exhibit B-2**.

"Project" means the redevelopment project as defined in the Redevelopment Contract.

"Project Costs" means the costs attributable to the Project and to work on any "redevelopment project," as defined in the Act, that may be paid through TIF Revenues and which the City has agreed to pay under the Redevelopment Contract and such other costs allowed under the Redevelopment Plan and the Redevelopment Contract, including those identified in **Exhibit B-3**.

"Project Fund" means the fund by that name described in **Section 5.1** hereof.

"Purchaser" means the Southeast Nebraska Development District, 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) of the calendar month first preceding such Note Payment Date.

"Redevelopment Area" means the area described in **Exhibit B-1** which the governing body of the City has found to be blighted and substandard pursuant to the Act.

"Redevelopment Contract" means the Redevelopment Contract between the City and Developer.

"Redevelopment Plan" means the General Redevelopment Plan approved by the City for the Redevelopment Area.

"Registered Owner" or **"Noteowner"** 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.

"TIF Revenue Fund" means the fund by that name described by **Section 5.1** hereof.

"TIF Revenues" means the monies received from the County attributable to the increase in the current equalized assessed valuation of taxable real property in the Project Area over and above the initial equalized assessed value of each such unit of property in the Project Area, all as determined in accordance with the Redevelopment Plan and the Act as in effect on the date the Note is issued.

"State" means the State of Nebraska.

"Value" as of any particular time of determination, means, (a) with respect to cash the face value thereof, and (b) with respect to any investments, the lower of the cost of the investment or the market price of the investment on the date of valuation.

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 "Community Redevelopment Tax Increment Revenue Note (Rock Creek Fur Co. LLC Project) Series 2008," in the principal amount of \$25,300, for the purpose of paying a portion of the Project Costs, to fund capitalized interest on the Note through the first occurring Note Payment Date, if any, 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 as provided in Article III), and shall bear interest at the respective rates per annum, as stated in **Exhibit D**.

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. 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.

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 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 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 2.4. 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 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 to banks, other financial institutions or accredited investors (as defined in Rule 501 of Regulation D of the Securities Act of 1933), or as otherwise permitted by the City in writing, and only upon the execution by such transferee of an investment letter substantially in the form attached hereto as **Exhibit C**. Upon surrender thereof at the City, the City shall transfer or exchange any Note for a new Note of the same maturity and in the same principal amount as the outstanding principal amount of the Note that was presented for transfer or exchange. Any Note presented for transfer or exchange shall be accompanied by an investment letter substantially in the form attached hereto as **Exhibit C** and by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the City, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging the Note is exercised, the City shall authenticate and deliver the Note in accordance with the provisions of this Resolution. All fees and expenses of the City for the registration, transfer and exchange of the Note provided for by this Resolution shall be paid by the new Registered Owner. Any additional costs or fees that might be incurred in the secondary market, other than fees of the City, are the responsibility of the Registered Owner.

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.

At reasonable times and under reasonable regulations established by the City, the Note Register may be inspected and copied by any Registered Owner (or a designated representative thereof).

The City may impose a charge against a Registered Owner for the reimbursement of any governmental charge required to be paid in the event that such Registered Owner fails to provide a correct taxpayer identification number to the City. Such charge may be deducted from an interest or principal payment due to the Registered Owner.

Section 2.5. 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 signature of the Mayor, attested by the manual or facsimile signature of the City Clerk, and shall have the official seal of the City affixed thereto or imprinted thereon. 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 City Clerk are hereby authorized and directed to prepare and execute the Note. The City shall deliver the Note to the Purchaser, upon payment of the purchase price of the Note plus accrued interest thereon to the date of their delivery.

Section 2.6. 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 by it 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, and shall be entitled to all the benefits of this Resolution equally and ratably with all other outstanding Note.

Section 2.7. Sale of Note. The Sale of the Note to the Purchaser at a purchase price of 100% of the principal amount of the Note, plus accrued interest, if any, to the date of delivery, 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, upon payment therefor in accordance with the terms of sale.

ARTICLE III

PREPAYMENT

Section 3.1. General. The Note is subject to prepayment as provided in this Article.

Section 3.2. Prepayment Provisions.

(a) **Optional Prepayment.** The Note is subject to optional prepayment, without premium, as a whole or in part on any Note Payment Date, at the prepayment price equal to the amount of the principal that remains outstanding, plus the interest accrued thereon to the Note Payment Date.

(b) **Mandatory Super-Sinker Prepayment.** The Note shall be subject to mandatory prepayment prior to maturity, without premium, pursuant to the super-sinker requirements of this Section in an amount equal to such amount then on deposit in the TIF Revenue Fund on each Note Payment Date, beginning on June 15, 2010.

(c) **Mandatory Sinking Fund Prepayment; Assignment of Claim.**

(1) **Mandatory Sinking Fund Prepayment.** The Note shall be subject to mandatory prepayment prior to maturity pursuant to the sinking fund requirements of this Section at a prepayment price equal to 100% of the Principal Amount of **Exhibit D** plus the interest on such Principal Amount accrued to the Payment Date, without premium, on each Note Payment Date, beginning on June 15, 2010. All amounts paid pursuant to the mandatory super-sinker provision of **Section 3.2(b)** shall be credited to the amounts due pursuant to this Section and stated on **Exhibit D**.

(2) **Assignment of Claim.** If sufficient funds are not available in the TIF Revenue Fund to pay the amounts set forth in **Exhibit D** on the Note Payment Dates, the Redevelopment Contract requires the Developer to pay to the City for deposit in the TIF Revenue Fund an amount equal to the sinking fund payment then due and owing as set forth on **Exhibit D**, minus the amount then on deposit in the TIF Revenue Fund (collectively, the "**Developer Payment**"). If the Developer fails and refuses to make any required Developer Payment, the City hereby assigns to the Registered Owner the right to enforce the Redevelopment Contract and to make a claim against the Developer for any Developer Payment due and owing.

The interest rate used to calculate the interest on the Principal Amounts shall be fixed at 3.5%. If necessary, the City shall calculate any required adjustment in the amortization of the Principal and Interest Components of Rental Payments, including providing a new mandatory sinking fund prepayment schedule.

Section 3.3. Notice of Prepayment. Each mandatory prepayment shall be paid on the Note Payment Date and in the minimum amount set forth in **Exhibit D**. The interest portion of the payment represented by the Note designated for prepayment shall cease to accrue from and after such Note Payment Date and on such Note Payment Date the Total Payment Amount shall become due and payable on the Note from TIF Revenues.

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 TIF Revenues and moneys in the Project Fund and no other moneys, revenues, funds or accounts. The taxing power of the City is 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 TIF Revenue Fund and the Project Fund, and all interest and earnings thereon and proceeds thereof are hereby pledged to secure the payment of the Note.

ARTICLE V

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

Section 5.1. Creation of Funds and Accounts. There are hereby created and ordered to be established within the treasury of the City the following separate funds and accounts:

- (a) City of Wahoo, Nebraska, Rock Creek Fur TIF Revenue Fund (the "TIF Revenue Fund").
- (b) City of Wahoo, Nebraska, Rock Creek Fur Project Fund (the "Project Fund").

Said funds and accounts 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 TIF Revenue Fund and the Project Fund shall be maintained and administered in the manner provided in this Resolution so long as the Note remains outstanding hereunder.

Section 5.2. Deposit of Note Proceeds. The net proceeds received from the sale of the Note shall be deposited in the Project Fund.

Section 5.3. Application of Moneys in the Project Fund. Moneys in the Project Fund shall be used solely for the purpose of paying the Project Costs and the costs and expenses incident to the issuance of the Note.

ARTICLE VI

APPLICATION OF REVENUES

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

All amounts paid and credited to the TIF Revenue Fund shall be expended and used for the sole purpose of paying the principal of and interest on the Note as and when the same become due (including any mandatory prepayment) on each Note Payment Date.

ARTICLE VII

DEPOSIT AND INVESTMENT OF MONEYS

Section 7.1. Deposits of Moneys. Moneys in each of the funds and accounts 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 TIF Revenue Fund or the Project Fund or any part thereof without the prior written consent of the Registered Owner.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.1. Acceleration of Maturity Upon Default. The City covenants and agrees that if it defaults in the payment of the principal of or interest on any of the Note as the same become due on any Note Payment Date, then, at any time thereafter and while such default continues, the Registered Owner may by written notice to the City filed in the office of the City Clerk or delivered in person to said City Clerk, declare the principal of the Note then outstanding to be due and payable immediately, and upon any such declaration the Note shall become and be immediately due and payable, anything in this Resolution or in the Note contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said outstanding Note has been so declared to be due and payable, all arrears of interest upon all of said Note, except interest accrued but not yet due on such Note, and all arrears of principal upon all of said Note has been paid in full and all other defaults, if any, by the City under the provisions of this Resolution and under the provisions of the statutes of the State of Nebraska have been cured, then and in every such case the Registered Owner shall, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 9.2. 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 9.3**, 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;
- (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 9.3. 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 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 or proved in the manner of a deed to be recorded, and such instrument shall be filed with the City Clerk, but no such amendment, modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon the Note;
- (b) effect a reduction in the amount which the City is required to pay by way of principal of or interest on the Note; or
- (c) permit the creation of a lien on the TIF Revenue Fund, the Project Fund, or other funds and accounts pledged hereunder prior or equal to the lien of the Note.

Any provision of the Note or of this Resolution may, however, be amended or modified by Resolution duly adopted by the governing body of the City at any time in any respect with the written consent of the Registered Owner.

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 City 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 City 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 and will not adversely affect the exclusion from federal gross income of interest on the Note, if applicable.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City 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:

(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 of the City.

Section 10.4. Further Authority. The officers of the City, including the Mayor and the City 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 Council of the City.

Roll call vote: Jonas, yes; Svoboda, yes; Vasicek, yes; Tyler, yes; and Johnson, yes. Hennings, absent and not voting. Motion carried.

Harrell explained the two items that needed Council approval as corrections/changes to the 2008-09 budget. She indicated that at the time of the Council hearing the utility numbers had not been included in the state budget document; those were added and the notice of adopted budget was republished. In addition, there was an error in the calculation of the allowed growth that increased the total unused restricted funds authority on the state budget document. Harrell indicated this did not change any property tax requirements, allocations to departments or in any proposed expenditures. A motion was made by Jonas, seconded by Johnson to approve the corrected budget as presented. Roll call vote: Jonas, yes; Johnson, yes; Vasicek, yes; Tyler, yes; and Svoboda, yes. Hennings, absent and not voting. Motion carried.

The City Annexation Committee members presented a financing proposal for the payment of infrastructure for the areas to be annexed to the Council for review. Johnson explained the process for arriving at this proposal. He also explained that this was presented to the Subdivision Representatives for comment and review and no comments were received. The Council reviewed the proposal and expressed agreement with the concept for the financing. Council also stated that the numbers presented in the proposal were clearly only for discussion purposes and the final numbers would be ultimately determined by a future Board of Equalization.

A motion was made by Jonas, seconded by Vasicek, to approve the consent agenda as presented including the September 11, 2008 minutes of the Council and the following licenses: Vic Huttenmeyer, H & S Plumbing, Lincoln, plumber, renewal; John Zohner, John Henry's Plumbing, Lincoln, plumber, renewal; Ron Skinner, Skinner Plumbing, Valley, plumber, renewal; Larry Stanford, Stanford's Plumbing, Columbus, plumber, renewal; Phillip Ward, Flynn Heating & Air, Valley, HVAC Contractor, renewal; and John Zohner, John Henry's Plumbing, Lincoln, HVAC Contractor, renewal. Roll call vote: Jonas, yes; Vasicek, yes; Tyler, yes; Johnson, yes; and Svoboda, yes. Hennings, absent and not voting. Motion carried.

A motion was made by Johnson, seconded by Vasicek to adjourn at 7:44 p.m.

Approved: _____, 2008.

Melissa M. Harrell, Clerk

Daryl Reitmajer, Mayor