

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**OCTOBER 19, 2021 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
ECONOMIC DEVELOPMENT PROGRAM AUTHORIZE ISSUANCE OF BONDS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RITA RAMIREZ ASSISTANT CITY ADMINISTRATOR/ DIRECTOR OF COMMUNITY SERVICES

## **SYNOPSIS**

A resolution has been prepared authorizing the issuance of Economic Development Fund bonds in the principal amount of up to \$3.5 million for the purpose of funding an award to Omaha Multi-Sport Complex, Inc. dba Nebraska Multisport Complex.

## **FISCAL IMPACT**

The FY21/22 Budget contains funding for the bond issue.

## **RECOMMENDATION**

Approval.

## **BACKGROUND**

Pursuant to voter approval, the City in 2003 established the City's Economic Development Program ("Program"), giving the City flexibility among other things to respond to desirable opportunities for community or economic development using funds raised from local sources of revenue to provide incentives or investment in the La Vista community.

An application was received from Omaha Multi-Sport Complex, Inc., dba Nebraska Multisport Complex for a \$3 million award for the Phase 1 development of a premier multisport complex and related facilities in the vicinity of Interstate 80, 120<sup>th</sup> Street and Eastport Parkway. Phase 1 is comprised of twelve synthetic multisport playing fields and related parking, concession, and other amenities, which is expected to provide substantial economic development benefits for the City.

The Application Review Committee recommended approval of the application and submission of the application to the City Council for consideration of approval and funding. The Citizen Advisory Review Committee ratified and adopted the Application Review Committee's recommendation. Documents in connection with the award(s) have been prepared and on file with the City Clerk.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL, LA VISTA, NEBRASKA, MAKING FINDINGS; APPROVING RECOMMENDATIONS, APPLICATION AND AWARD OF \$3.0 MILLION UNDER CITY ECONOMIC DEVELOPMENT PROGRAM FOR MULTISPORT FIELDS COMPLEX TO BE CONSTRUCTED BY OMAHA MULTI-SPORT COMPLEX D/B/A NEBRASKA MULTISPORT COMPLEX, SUBJECT TO SPECIFIED CONDITIONS; AUTHORIZING FURTHER ACTIONS; AND PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Findings. The Mayor and City Council find, determine, ratify, affirm and approve the following:

1. The Nebraska Legislature made the following findings in Neb. Rev. Stat. Section 18-2702:
  - a. There is a high degree of competition among states and municipalities in our nation in their effort to provide incentives for businesses to expand or to locate in their respective jurisdictions;
  - b. Municipalities in Nebraska are hampered in their efforts to effectively compete because of their inability under Nebraska law to respond quickly to opportunities or to raise sufficient capital from local sources to provide incentives for the provision of new services or business location or expansion decisions which are tailored to meet the needs of the community;
  - c. The ability of a municipality to encourage the provision of new services or business location and expansion has a direct impact not only upon the economic well-being of the community and its residents but upon the whole state as well; and
  - d. There is a need to provide Nebraska municipalities with the opportunity of providing assistance to business enterprises in their communities, whether for expansion of existing operations, the creation of new businesses, or the provision of new services, by the use of funds raised by local taxation when the voters in the municipality determine that it is in the best interest of their community to do so.
2. Based on these findings, the Legislature enacted the Local Option Municipal Economic Development Act ("Act"), Neb. Rev. Stat. Sections 18-2701 to 18-2738, in 1991, as subsequently amended, allowing municipalities including cities of the first class in Nebraska to establish economic development programs and use local sources of revenue for financial assistance to qualifying businesses upon voter approval.
3. The City of La Vista voter-approved Economic Development Program is codified in La Vista Municipal Code Chapter 117 ("La Vista Economic Development Program" or "Program"). In establishing the La Vista Economic Development Program, the Mayor and City Council stated a purpose of the Economic Development Program as giving the City flexibility to quickly respond to desirable opportunities for community or economic development using funds raised from local sources of revenue to provide incentives or investment in the La Vista community or its infrastructure for the location or expansion of services or businesses or rehabilitation of residential neighborhoods in or near the City.
4. Neb. Rev. Stat. Section 18-2738 provides that the powers conferred by the Act shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provisions of the law of Nebraska, including the Community Development Law.
5. Neb. Rev. Stat. Section 18-2738 further provides that the Act and all grants of power, authority, rights, or discretion to the City under the Act shall be liberally construed, and all incidental powers necessary to carry the Act into effect are expressly granted to and conferred upon the City.
6. Section 117.14 of the La Vista Economic Development Program provides broad authority for the City to provide financial assistance to qualifying businesses, including direct loans or grants.
7. Omaha Multi-Sport Complex d/b/a Nebraska Multisport Complex ("Applicant") submitted an application for a \$3.0 million award ("Award") under the Program ("Application") for

twelve synthetic multisport playing fields and related parking, concession, and other amenities ("Fields Complex") as the first phase of its multisport complex in the vicinity of Interstate 80, 120<sup>th</sup> Street and Eastport Parkway. Once built, Applicant at its cost will own, operate, and maintain the Fields Complex, which will be a destination not only for teams, parents, and families from other parts of Nebraska, but also from the surrounding states and region. The facility is projected to regularly host regional sport events in the months of March-October. In addition, it is expected to draw an estimated 5,000 - 6,000 visitors to La Vista each week by participants, spectators, families and others from within 75 miles in connection with regular programming at the complex.

8. Total estimated cost to design, construct, acquire, and equip the proposed Fields Complex is approximately \$30 million, including \$4.5 million for land. Applicant will finance and contribute funds to pay remaining costs of the Fields Complex in excess of Award. The City would not have any responsibility with respect to the Fields Complex, including without limitation, its construction, equipping, upkeep, maintenance, repairs, or replacement. Applicant, as a condition of the Award, agrees that the Fields Complex and related parking in perpetuity will be subject to a perpetual right of City to elect to use all or part of the Fields Complex each calendar year for events of City or its designee on such days or at such times that events are not previously scheduled for events of Applicant, for a total of not less than ten days per year, fully staffed by Applicant and at no cost or expense to City or its designee, except actual costs of labor, and no markup or profit ("Right of Use"). Such Right of Use will be subject to any additional requirements specified in connection with Program award(s) or as agreed in writing by the City and Applicant.
9. The Program Administrator of the La Vista Economic Development Program by memorandum ("Program Administrator Memorandum") made and communicated to the Application Review Committee findings and determinations including a preliminary determination that the Application appeared to be viable pursuant to La Vista Municipal Code Section 117.16(B), based on the following, and subject to the conditions specified in the Program Administrator Memorandum, if any:
  - The Applicant is a qualifying business and eligible under the La Vista Economic Development Program. The Application states that the Applicant is a nonprofit corporation which, upon opening of the Fields Complex, derives its principal source of income from tourism-related activities;
  - The proposed Award and activities are eligible under the La Vista Economic Development Program;
  - Applicant in connection with the Application indicates that the Applicant does not have any actual or potential legal actions or other risks that may significantly impact its ability to perform; and
  - The Applicant has complied with application requirements to the satisfaction of the Program Administrator ("Program Administrator Preliminary Determination").
10. The Program Administrator, pursuant to La Vista Municipal Code Section 117.16(C), referred the Application, together with the Program Administrator Memorandum and any supplemental financial or other information, to the Application Review Committee for the Committee to review and otherwise perform responsibilities under the Economic Development Program. The Program Administrator also provided such information to the Citizen Advisory Review Committee to advise the Mayor and City Council; and further provided such information to Hunden Strategic Partners ("City Consultant"), which analyzed the Application, for analysis and feedback. After reviewing the Application, City Consultant, among other things, stated that the project offers the City a unique opportunity to develop a novel regional sports asset that will generate significant economic impact with relatively low public sector investment.
11. The Application Review Committee reviewed the Application and other information described above, and the findings and determinations including the Program Administrator Preliminary Determination in the Program Administrator Memorandum, and provided any recommendations to the Program Administrator concerning negotiations with the Applicant and whether any further information, assurances, certifications, requirements or guarantees from the Applicant are desired. Once the Committee completed its review, and following any additional negotiations by the Program Administrator, the Application Review Committee, based on its review of the Application and other information provided, found and determined that the Applicant under the Application demonstrated the following to the satisfaction of the Application Review Committee:
  - The Applicant's eligibility for funding under the La Vista Economic Development Program;

- That the type and amount of assistance requested is appropriate and desirable for the City;
- A desirable level, type and quality of public benefit to the City or its residents from the Applicant's proposed use of the funding; and
- That the timing, type, magnitude and probability of public benefit that the Committee determines is likely to be achieved from the funding is reasonable and efficient in relation to the cost of funding provided.

The Application Review Committee recommended that the Application and \$3.0 million Award be approved and funded; and that said Application be submitted to the La Vista City Council for consideration of approval and funding ("Application Review Committee Recommendation"); subject to the following conditions to the satisfaction of the Program Administrator or her designee:

- a. Submittal, satisfaction, or waiver of any additional information or requirements as Program Administrator determines advisable to the satisfaction of the Program Administrator;
- b. Applicant indicated in the Application that Applicant will directly pay or finance through a third-party lender all costs of constructing and acquiring the facilities, except as provided by the proposed City Award under the Program. The Program Administrator or the Program Administrator's designee shall confirm appropriate documentation evidencing negotiations with one or more primary lenders for financing construction of the Fields Complex and the terms on which said financing will be provided. Applicant shall update said documentation from time to time for any material changes or as otherwise required by the Program Administrator;
- c. Such further due diligence, information, assurances, certifications, or requirements of or from Applicant as Program Administrator from time to time may determine necessary or appropriate; and
- d. Satisfaction of any conditions specified in the Program Administrator Preliminary Determination.

12. The Citizen Advisory Review Committee subsequently ratified and adopted the Program Administrator Preliminary Determination and Application Review Committee Recommendation and recommended to the Mayor and City Council that the Application and \$3.0 million Award be approved and funded, subject to satisfaction of any conditions specified in the Program Administrator Preliminary Determination or Application Review Committee Recommendation, or any other terms or conditions as the Mayor, City Council, or Program Administrator, or any designee of the Mayor, City Council, or Program Administrator, determines necessary or appropriate.
13. The City Council agrees with the findings, determinations, conclusions and recommendations of the Program Administrator, Application Review Committee, and Citizen Advisory Review Committee with respect to the Application.
14. The City Council finds and determines that the Application and the Applicant thereunder, have satisfied all applicable requirements, including requirements of the La Vista Economic Development Program.
15. The City Council desires to accept and approve the recommendations of the Program Administrator, Application Review Committee, and Citizen Advisory Review Committee and take and authorize further actions with respect to the Application, subject to such conditions as set forth below.

**SECTION 2. Approval.** The Mayor and City Council hereby approve the following, subject to the conditions specified in this Section or Section 3 below:

1. All findings, determinations, conclusions, proceedings, documents, actions and recommendations of the Program Administrator, Application Review Committee, or Citizen Advisory Review Committee with respect to the Application are hereby ratified, affirmed, adopted and approved;
2. All Application Review Committee and Citizen Advisory Review Committee recommendations of approval of the Application and \$3.0 million Award are hereby accepted, adopted and approved; and
3. The Application and \$3.0 million Award are approved and shall be funded.

SECTION 3. Conditions. Actions and approvals of this Ordinance, including, but not limited to, approval and disbursements of the Award, shall be subject to the following conditions to the satisfaction of the Program Administrator:

1. City Right of Use of the Fields Complex in perpetuity;
2. Any conditions set forth in Section 1 or 2 above, or in any findings, recommendations, actions, or conditions of the Program Administrator, Application Review Committee, or Citizen Advisory Review Committee;
3. Commitment and funding of a third party lender and private funds in sufficient amounts and on satisfactory terms for Applicant to acquire, develop, construct, equip, and complete the Fields Complex;
4. Approval, closing, issuance and availability of proceeds of any City bond or other financing to provide the Award;
5. Commencement and diligently proceeding to completion of construction and equipping of the Fields Complex in accordance with applicable requirements;
6. Execution or delivery of an Award Agreement, Promissory Note, and Letter of Credit, initial drafts of which as presented and on file with the City Clerk at this meeting are approved subject to any additions, subtractions or modifications, or additional, different, or other documents or instruments, as the Program Administrator or Program Administrator's designee determines necessary or appropriate;
7. Performance of applicable terms, conditions, and requirements of all agreements, documents, and instruments of the City to which Applicant or any affiliated entity or person is a party or bound; and
8. Such further information, assurances, certifications, or requirements as the Program Administrator or Program Administrator's designee from time to time may determine necessary or appropriate.

SECTION 4. Authorization of Further Actions. The Mayor, City Administrator, City Engineer, or City Clerk, or any designee of any such City official, each shall be authorized to take all actions, including without limitation approving, executing or delivering documents or instruments, as he or she determines necessary or appropriate to carry out the Award or actions approved in this Ordinance.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the constitutionality or validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 6. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in accordance with applicable law.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE ISSUANCE OF ECONOMIC DEVELOPMENT FUND BONDS OF THE CITY OF LA VISTA, NEBRASKA, IN THE PRINCIPAL AMOUNT OF UP TO THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) FOR THE PURPOSE OF FUNDING THE LA VISTA ECONOMIC DEVELOPMENT PROGRAM AS ESTABLISHED BY ORDINANCE OF THE CITY; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE PLEDGING OF SALES TAX COLLECTIONS RECEIVED FOR SAID PROGRAM INTO THE ECONOMIC DEVELOPMENT FUND OF THE CITY OF LA VISTA FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON SAID BONDS; PROVIDING FOR THE RIGHT OF THE CITY TO MAKE PAYMENT FROM OTHER SOURCES IN THE ECONOMIC DEVELOPMENT FUND; PROVIDING FOR PAYMENT FROM PROPERTY TAXES IN THE EVENT THAT PLEDGED SALES TAXES AND FUNDS FROM OTHER SOURCES ARE INSUFFICIENT; PROVIDING FOR THE HOLDING AND APPLICATION OF PROCEEDS; PROVIDING FOR THE SALE OF THE BONDS; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SAID BONDS; AND AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER.

BE IT RESOLVED by the Mayor and Council of the City of La Vista, Nebraska, as follows:

Section 1. The Mayor and Council of the City of La Vista, Nebraska, hereby find and determine that (a) pursuant to the provisions of the Local Option Municipal Economic Development Act (Sections 18-2701 to 18-2738, R.R.S. Neb., as amended, the "Act"), the Mayor and Council have previously passed and approved Ordinance No. 921 (the "Program Ordinance") establishing an economic development program for the City of La Vista (the "Program") and providing funding for such program through the application of funds from the City's 1% sales tax (the "Sales Tax") previously adopted under the Local Option Revenue Act (Sections 77-27,142 to 77-27,148, R.R.S. Neb., as amended) (the "Special Tax Portion"); (b) the Program was approved by the voters of the City at an election held on September 30, 2003; (c) the Sales Tax has been imposed under the terms of Ordinance No. 363 passed and approved on November 20, 1984 (the "Sales Tax Ordinance") and the levying of such tax was approved by the voters of the City at an election held on November 6, 1984 and is to remain in effect indefinitely; (d) under the terms of the Program the City has received an application from Omaha Multi-Sport Complex, a Nebraska nonprofit corporation, doing business as Nebraska Multisport Complex ("Nebraska Multisport") for the development of a multisport complex and related facilities which is expected to provide substantial economic development benefits for the City in the form of (i) significant employment opportunities, (ii) an increase in recreational activity opportunities and a regional draw for sporting events and tournaments, (iii) increased sales taxes and occupation taxes from events at the complex and nearby retail shopping and hotels, (iv) increased incentives for other private interests to further develop in adjacent commercial areas and (v) multiple sports venues within the City; (e) under the terms of the Program, the application submitted by Nebraska Multisport has been recommended for approval and the City has approved the application pursuant to an ordinance passed and approved by the City approving an award under the Program to Nebraska Multisport (the "Award Ordinance"); (f) the City has agreed to provide an award in the amount of \$3,000,000 to assist Nebraska Multisport, subject to the terms and conditions of the Award Ordinance, (the "EDP Award"); (g) under the terms of the Program the City may issue bonds to provide funding for the Program and the Mayor and Council hereby declare it necessary and advisable for the City to issue its economic development fund bonds in the maximum principal amount of Three Million Five Hundred Thousand Dollars (\$3,500,000) for the purpose of funding the EDP Award; and (h) all

conditions, acts and things required by law to exist or to be done precedent to the issuance of such bonds do exist and have been done as required by law.

Section 2. To provide funds for the Program, including the funding of the EDP Award, there shall be and there are hereby ordered issued negotiable bonds of the City of La Vista, Nebraska, to be designated as "Economic Development Fund Bonds, Series 2021B" (the "2021B Bonds" or the "Bonds") in the aggregate principal amount of not to exceed Three Million Five Hundred Thousand Dollars (\$3,500,000). The Bonds or any portion thereof are hereby authorized to be sold pursuant to a negotiated sale with D.A. Davidson & Co., as initial purchaser (the "Underwriter"). In connection with such sale, the Mayor, City Administrator or Director of Administrative Services (each, an "Authorized Officer") are hereby authorized to specify, determine, designate, establish and appoint, as the case may be, in one or more written designations which may be included in a bond purchase agreement (each, a "Designation"), (i) the aggregate purchase price of the Bonds (including any original issue discount or premium) and the underwriting discount which shall not exceed 0.75% of the aggregate stated principal amount thereof, (ii) the form and contents of any bond purchase agreement in connection with such sale, (iii) the title (including series designation), dated date, aggregate principal amount (including the aggregate principal amounts of serial Bonds and term Bonds, if any), which aggregate stated principal amount shall not exceed \$3,500,000, and the final maturity date, which shall not be later than October 15, 2029, (iv) the principal amounts maturing in each year, (v) the rate or rates of interest to be borne by each principal maturity of the Bonds, provided that the true interest cost of the Bonds shall not exceed 3.0%, (vi) the principal payment dates and interest payment dates, (vii) whether the Bonds will be subject to redemption prior to their stated maturity, and if subject to such optional redemption, the provisions governing such redemption, including a redemption price not to exceed 104% of the principal amount then being redeemed plus accrued interest to the date of redemption, (viii) the amount and due date of each sinking fund installment for any of the Bonds issued as term Bonds, (ix) the designation of the Bond Registrar and Paying Agent (defined herein) and the form and content of any agreement between the City and such entity and (x) all other terms and provisions of the Bonds not otherwise specified or fixed by this Ordinance.

The 2021B Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue of the 2021B Bonds shall be the date of delivery thereof. Interest on the 2021B Bonds, at the respective rate for each maturity, shall be payable on April 15 and October 15 of each year, commencing on such date as provided in the Designation (each an "Interest Payment Date"), and the 2021B Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day (whether or not a business day) immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The 2021B Bonds shall be numbered from 1 upwards in the order of their issuance. No 2021B 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 2021B Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the 2021B Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar as designated pursuant to Section 3 hereof (the "Paying Agent and Registrar"), by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each 2021B Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity together with any unpaid interest accrued thereon shall be made by the Paying Agent and Registrar to the registered owners upon presentation and surrender of the 2021B Bonds to the Paying Agent and Registrar. The City and

the Paying Agent and Registrar may treat the registered owner of any 2021B Bond as the absolute owner of such 2021B Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such 2021B 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 2021B Bond in accordance with the terms of this Resolution shall be valid and effectual and shall be a discharge of the City and the Paying Agent and Registrar, in respect of the liability upon the 2021B Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The Authorized Officers, or any one or more of them, are hereby authorized to appoint a Bond Registrar and Paying Agent (the "Paying Agent and Registrar" or the "Registrar") for the Bonds, which Registrar may be a bank or trust company, or the City Treasurer. The Registrar shall keep the books for the registration and transfer of Bonds at its office. If the Registrar is a bank or trust company, the Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and the Registrar, the form of which shall be approved by an Authorized Officer. The Mayor and Clerk are hereby authorized to execute said agreement. The Registrar shall keep and maintain for the City books for the registration and transfer of the 2021B Bonds at the Registrar's designated office. The names and registered addresses of the registered owner or owners of the 2021B Bonds shall at all times be recorded in such books. Any 2021B Bond may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar by surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent and thereupon the Paying Agent and Registrar on behalf of the City will register such transfer and will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new 2021B Bond or 2021B Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the 2021B Bonds by this Resolution, one 2021B Bond may be transferred for several such 2021B Bonds of the same interest rate and maturity and for a like aggregate principal amount, and several such 2021B Bonds may be transferred for one or several such 2021B Bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a 2021B Bond, the surrendered 2021B Bond or 2021B Bonds shall be cancelled and destroyed. All 2021B Bonds issued upon transfer of the 2021B Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the 2021B Bonds surrendered and shall be entitled to all the benefits and protection of this Resolution to the same extent as the 2021B Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any 2021B Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any 2021B Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the 2021B 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 2021B Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. The 2021B Bonds shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of the date of original issuance of the 2020 Bonds at a price equal to 100%, plus accrued interest on the principal amount redeemed to the date fixed for redemption, or upon such other terms as provided in the Designation. 2021B Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Any 2021B Bond redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a

new 2021B Bond evidencing the unredeemed principal thereof. Notice of redemption of any 2021B Bond called for redemption shall be given, at the direction of the City in the case of optional redemption and without further direction in the case of mandatory sinking fund redemption, by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such 2021B Bond at said owner's registered address. Such notice shall designate the 2021B Bond or 2021B Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such 2021B Bond or 2021B Bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any 2021B Bond partially redeemed, such notice shall specify the portion of the principal amount of such 2021B Bond to be redeemed. No defect in the mailing of notice for any 2021B Bond shall affect the sufficiency of the proceedings of the City designating the 2021B Bonds called for redemption or the effectiveness of such call for the 2021B Bonds for which notice by mail has been properly given and the City shall have the right to direct further notice of redemption for any such 2021B Bond for which defective notice has been given.

Section 6. If the date for payment of the principal of or interest on the 2021B Bonds shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City of La Vista, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

Section 7. The 2021B Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF SARPY

CITY OF LA VISTA

ECONOMIC DEVELOPMENT FUND BOND  
SERIES 2021B

No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP NUMBER</u>
_____ %	October 15, 20_____	_____ , 2021	

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of La Vista, in the County of Sarpy, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay, but only from the special sources hereinafter described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable semiannually on April 15 and October 15 of each year, commencing \_\_\_\_\_, 20\_\_\_\_ (each, an "Interest Payment Date"). Such interest shall be computed on the basis of a 360-day year consisting of twelve 30 day months. The principal of this bond together with interest thereon unpaid and accrued at maturity (or earlier redemption) is payable upon presentation and surrender of this bond at the office of the City Treasurer of the City of La Vista, Nebraska, as Paying Agent and Registrar, at such City's offices in La Vista, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

This bond is one of an issue of fully registered bonds of the total principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) of even date and like tenor, except as to date of maturity, rate of interest and denomination, which were issued by the City for the purpose of providing funds for the economic development program of the City of La Vista as established pursuant to Ordinance No. 921 of the City and has been duly authorized by resolution duly adopted (the "Resolution") and by proceedings duly had by the Mayor and Council of the City of La Vista, Nebraska, pursuant to Sections 18-2701 to 18-2738, R.R.S. Neb., as amended.

Any or all of the bonds of said issue are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of the date of original issue at a price equal to 100% plus accrued interest on the principal amount redeemed to the date fixed for redemption. Notice of redemption shall be given by mail to the registered owner of any bond called for redemption in the manner specified in the Resolution authorizing said issue of bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof.

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 Resolution, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all other purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

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

Under the Resolution, the City has pledged all revenues of the City received for its Economic Development Fund from a designated portion of that tax upon sales within the City of La Vista, Nebraska, provided for pursuant to Ordinance No. 363 of the City of La Vista, passed and approved, after the approving vote of a majority of the electors of said City voting at an election held on November 6, 1984, in accordance with the provisions of Sections 77-27,142 to 77-27,148, R.R.S. Neb., as amended. The City has further agreed that in each fiscal year funds from such sales tax or other sources as deposited to such fund, subject to a limitation of \$2,000,000 per fiscal year, shall be applied to pay principal and interest on the bonds of this issue as the same fall due. **The bonds of this issue are limited obligations of the City payable from amounts in the City's Economic Development Fund as so pledged and not from any other fund or source and are not general obligations of the City of La Vista, Nebraska.**

The Resolution sets forth the covenants and obligations of the City with respect to its Economic Development Fund and certain revenues therein and the application of such revenues which are by the terms of the Resolution to be disbursed to make payments of principal and interest on the bonds of this issue. The City also reserves the right to provide for payments of the bonds of this issue from other available revenues in its Economic Development Fund and to issue bonds junior in lien to the bonds of this issue, the principal and interest of which are payable from such revenues on a subordinate basis as described in the Resolution. The Resolution also designates the terms and conditions upon which this bond shall cease to be entitled to any lien, benefit or security under the Resolution and all covenants, agreements and obligations of the City under the Resolution may be discharged and satisfied at or prior to the maturity or redemption of this bond if monies or certain specified securities shall have been deposited with a trustee bank. The Resolution constitutes a contract with the holders of the bonds and cannot be modified except as provided in the Resolution.

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 provided by law.

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

AS PROVIDED IN THE RESOLUTION 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 RESOLUTION, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE RESOLUTION TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE 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 RESOLUTION.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREOF 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.

IN WITNESS WHEREOF, the Mayor and Council of the City of La Vista, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and City Clerk of the City, all as of the Date of Original Issue shown above.

## CITY OF LA VISTA, NEBRASKA

(facsimile signature)

Mayor

**ATTEST:**

(facsimile signature)

## City Clerk

## CERTIFICATE OF AUTHENTICATION

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

## Paying Agent and Registrar

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### Authorized Signature

## (FORM OF ASSIGNMENT)

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

Date: \_\_\_\_\_

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**Registered Owner(s)**

Signature Guaranteed

By \_\_\_\_\_

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**Authorized Officer**

Note: The signature(s) on this assignment MUST CORRESPOND with the name(s) 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. Each of the 2021B Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The 2021B Bonds shall be issued initially as "book-entry only" bonds under 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 (the "Letter of Representations") in the form required by the Depository (which may be in the form of a blanket letter previously executed and delivered by the City), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the 2021B Bonds. Upon issuance of the 2021B 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 2021B Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a 2021B Bond from a Bond Participant while the 2021B 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 2021B 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 2021B 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 2021B Bonds. The Paying Agent and Registrar shall make payments with respect to the 2021B 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 2021B 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 or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange 2021B 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 2021B Bonds or (ii) to make available 2021B Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such 2021B Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the 2021B Bonds be delivered to the ultimate Beneficial Owners of the 2021B 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 2021B Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the 2021B Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Resolution to the contrary, so long as any 2021B Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such 2021B Bond and all notices with respect to such 2021B Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the 2021B Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the 2021B 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.

(f) In the event of any partial redemption of a 2021B Bond unless and until such partially redeemed 2021B Bond has been replaced in accordance with the provisions of this Resolution, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such 2021B Bond as is then outstanding and all of the 2021B 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 2021B Bond shall cease to be such officer before the delivery of such 2021B 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 2021B Bond. The 2021B Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The 2021B Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the 2021B Bonds, they shall be delivered to the City's Treasurer, acting on behalf of the City, who is authorized to deliver them to the Underwriter in exchange for the purchase price thereof plus accrued interest on the stated principal amount of the 2021B Bonds to date of delivery of the 2021B Bonds. Said initial purchasers shall have the right to direct the registration of the 2021B Bonds and the denominations thereof within each maturity, subject to the restrictions of this Resolution. Such purchaser and its agents, representatives and counsel (including the City's 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 2021B Bonds,

including, without limitation, authorizing the release of the 2021B Bonds by the Depository at closing. The City Clerk shall make and certify a transcript of the proceedings of the Mayor and Council with respect to the 2021B Bonds which shall be delivered to said purchaser.

Section 9. The City has issued and outstanding its \$5,610,000 Economic Development Fund Bonds (Federally Taxable Interest), Series 2021, date of original issue – July 1, 2021, (the “Outstanding Bonds”), which are payable from the Program. Pursuant to the terms of the Program (as approved by the voters of the City and as set forth in Ordinance No. 921), the City hereby agrees to appropriate and deposit into the Economic Development Fund in each budget/fiscal year (the period commencing October 1 of each year and ending September 30 of the following year) commencing with the City’s budget/fiscal year beginning October 1, 2021, so long as the Outstanding Bonds and 2021B Bonds remain outstanding and until and including the budget/fiscal year ending September 30, 2029, an amount from collections received with respect to the Special Tax Portion or other sources sufficient to pay the principal and interest on the Outstanding Bonds and 2021B Bonds as the same fall due, subject to the limitation set forth in Ordinance No. 921 that such deposited amount shall not exceed \$2,000,000 in any such budget/fiscal year. The City hereby covenants and agrees that there shall be set up within the Economic Development Fund a separate special account in the Economic Development Fund designated as the “Economic Development Fund Bond Payment Account” (the “Bond Payment Account”) which shall constitute a separate and special account held by the City Treasurer of the City of La Vista for the benefit of the registered owners of the Outstanding Bonds and 2021B Bonds. In each budget/fiscal year, the City further hereby covenants and agrees that it shall deposit to the Bond Payment Account from amounts attributable to the Special Tax Portion an amount sufficient to pay principal of and interest on the Outstanding Bonds and 2021B Bonds as the same fall due, after taking into consideration any other amounts available for such purposes in the Bond Payment Account. The City reserves the right to make deposit to the Bond Payment Account in any budget/fiscal year from any other amounts in the Economic Development Fund to satisfy its obligation under the terms of this Resolution to make deposit of amounts from the Special Tax Portion. Receipts from the Special Tax Portion required to be deposited to the Bond Payment Account and any such other amounts deposited to the Bond Payment Account are hereby pledged for the payment of the Outstanding Bonds and 2021B Bonds as the same fall due. The pledge and hypothecation provided for the Outstanding Bonds and the 2021B Bonds in this Resolution is intended to and shall provide for a first and prior pledge or lien upon and security interest on amounts held in the Bond Payment Account superior to any pledge, lien or security interest made or given with respect to any other indebtedness of the City and is intended as an exercise of the powers of the City provided for in Sections 18-2701 to 18-2738, R.R.S. Neb., as now or hereafter amended, with respect to such deposited amounts. In the event of default of any of the provisions of the Outstanding Bonds or 2021B Bonds, the bondholders (or any receiver appointed for their protection) shall have the right at any time while such default continues to apply or require the application of receipts from the Special Tax Portion to the indebtedness evidenced by the Outstanding Bonds and 2021B Bonds, equally and ratably, subject to the limitation set forth in Ordinance No. 921. For purposes of holding, allocating and applying the receipts from the Economic Development Fund, the City hereby agrees to establish and maintain under this Resolution the Bond Payment Account in accordance with the following terms and conditions:

BOND PAYMENT ACCOUNT - In each budget/fiscal year, as and when received, revenues from the Special Tax Portion or allocated from other available funds in the Economic Development Fund shall be deposited to the Bond Payment Account until such account has credited thereto an amount equal to the amount of principal and interest falling due on the Outstanding Bonds and 2021B Bonds in such budget/fiscal year. The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond

Payment Account in an amount sufficient to pay, when due, the principal of and interest on the Outstanding Bonds and 2021B Bonds (including amounts necessary for any mandatory sinking fund redemptions as set forth in Section 5 of this Resolution) and to transfer such amounts to the Paying Agent and Registrar for the Outstanding Bonds and 2021B Bonds on or before each principal and interest payment date (including any mandatory sinking fund redemption date). Amounts required to make payments on the Outstanding Bonds and 2021B Bonds falling due on October 15, 2029 shall be deposited to the Bond Payment Account on or before September 30, 2029.

The provisions of this Section 9 shall require the City to maintain a set of books and records in accordance with such accounting methods and procedures as are generally applicable to municipal funds and accounts, which books and records shall show credits to and expenditures from the separate account required by this Section. Monies credited to the account described in this Section 9 shall be deposited or invested separate and apart from other City funds. The City shall not be required to establish separate bank or investment accounts within its separate and segregated Economic Development Fund, for the account described in this Section 9. In any fiscal year collections from Special Tax Portion appropriated to or budgeted for the Economic Development Fund, after satisfying the requirements for the Bond Payment Account may be applied to any other purposes of the Program determined appropriate by the Mayor and Council. The City hereby acknowledges and agrees (a) that the provisions of the Program and Ordinance No. 921 both provide for the levying of taxes on all the taxable property in the City of La Vista to provide funding for the Program; (b) that the Program as presented to the voters of the City indicated that property taxes as authorized under the terms of the Program were not expected to be required to be applied to the funding of the Program; (c) that if, for any reason, including but not limited to changes in law or changes in economic conditions, receipts for the Special Tax Portion or other sources are not sufficient to make the deposits to the Bond Payment Account and payments on the Outstanding Bonds and 2021B Bonds as provided for in this Section 9, the City shall cause to be levied and collected annually a tax on all the taxable property in the City sufficient in rate or amount (within the limitation to \$2,000,000 per budget/fiscal year as set forth in the Program) to pay the principal of and interest on the Outstanding Bonds and 2021B Bonds as the same fall due, after application of all other available resources.

Section 10. The City reserves the right to incur additional indebtedness payable from the Program on a parity with the Outstanding Bonds and 2021B Bonds so long as the annual obligations of the Program do not exceed an aggregate amount of \$2,000,000 per budget/fiscal year as set forth in the Program and are within other applicable limitations under Nebraska law.

Section 11. So long as any of the 2021B Bonds remain outstanding, the City agrees that it shall not amend the terms of the Program or Ordinance No. 921 or Ordinance No. 363 in any manner to reduce the rate of tax provided for therein or reduce the anticipated revenues from such tax available for deposit to the Economic Development Fund.

Section 12. The City's obligations under this Resolution and the liens, pledges, covenants and agreements of the City herein made or provided for, shall be fully discharged and satisfied as to the 2021B Bonds issued pursuant to this Resolution and any such bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and cancelled by the City, or when payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided for by depositing with a national or state bank having trust powers or trust company, in trust solely for such payment, (i) sufficient money to make such payment and/or (ii) Deposit Securities in such amount and bearing interest payable and maturing

or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that, with respect to any 2021B Bond to be paid prior to maturity, the City shall have duly given notice of redemption of such bond as provided by law or made irrevocable provisions for the giving of such notice. Any such money so deposited with a bank or trust company may be invested and reinvested in Deposit Securities and all interest and income from such Deposit Securities in the hands of such bank or trust company, in excess of the amount required to pay principal of and interest on the bonds for which such monies were deposited, shall be paid over to the City as and when collected. The term "Deposit Securities" as used in this Section shall mean direct obligations of or obligations the principal and interest which are unconditionally guaranteed by the United States of America, including obligations issued in book-entry form.

Section 13. The terms and provisions of this Resolution do and shall constitute a contract between the City and the registered owner or owners of the 2021B Bonds and no changes, variations or alterations of any kind, except for changes necessary to cure any ambiguity, formal defect or omission, shall be made to this Resolution without the written consent of the registered owners of two-thirds (2/3rds) in principal amount of the 2021B Bonds then outstanding, provided, however, that neither the principal and interest to be paid upon any 2021B Bond nor the maturity date of any 2021B Bond shall be changed without the written consent of the registered owners of all such bonds then outstanding. Any registered owner of a 2021B Bond may by mandamus or other appropriate action or proceedings at law or in equity in any court of competent jurisdiction enforce and compel performance of this Resolution and every provision and covenant hereof, including without limiting the generality of the foregoing, the enforcement of the performance of all duties required of the City by this Resolution and the applicable laws of the State of Nebraska, including in such duties the collecting of revenues pursuant to the provisions of the Program and Ordinance No. 921 and the segregation of such revenues in the Bond Payment Account of the City's Economic Development Fund for the 2021B Bonds as described in Section 9 of this Resolution. Any and all actions brought by any registered owner or owners of the 2021B Bonds shall be maintained for the equal and ratable benefit of all registered owners of the 2021B Bonds then outstanding and no registered owners of any of the 2021B Bonds shall have any right in any manner whatsoever by any action or proceedings to affect, disturb or prejudice the pledge created by this Resolution.

Section 14. The proceeds of the 2021B Bonds shall be deposited with the City Treasurer and shall be held and applied in accordance with the terms of the Program Ordinance and the Award Ordinance. The Mayor and Council may designate any depository bank or banks and may contract for disbursing agent services as may be determined appropriate by subsequent resolution. Investment earnings related to the proceeds of the 2021B Bonds shall be transferred to the Economic Development Fund and shall be deposited to the Bond Payment Account within such fund as established by this Resolution.

Section 15. The Mayor and City Clerk and City Treasurer of the City are hereby authorized to do all things and execute all documents as may by them be deemed necessary and proper to complete the issuance and sale of the 2021B Bonds contemplated by this Resolution. The Authorized Officers or any one or more of them is authorized to approve, deem final and deliver a Preliminary Official Statement and a final Official Statement for and on behalf of the City with respect to the 2021B Bonds, all in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 16. Pursuant to the provisions of Section 18-2736 of the Act, the Mayor and Council hereby declare the 2021B Bonds to be issued for an essential public and governmental purpose and determine, under the terms of such section, that the 2021B Bonds, together with interest thereon and income therefrom, are exempt from all Nebraska state taxes.

Section 17. The net principal proceeds of the 2021B Bonds, after payment of issuance expenses, shall be held in a separate account in the Economic Development Fund of the

City of La Vista and shall be applied to make the EDP Award in accordance with the terms of the Award Ordinance.

Section 18. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

Section 19. All documents, agreements, certificates, and instruments related to the Bonds shall be valid, binding, and enforceable against the City when executed and delivered by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by electronic signatures laws, including any relevant provisions of the Uniform Commercial Code, in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each document, agreement, certificate, and instrument related to the Bonds may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same document, agreement, certificate, or instrument, as applicable.

Section 20. This Resolution shall be in force and take effect from and after its adoption, as provided by law.

PASSED AND APPROVED THIS 19th DAY OF OCTOBER 2021.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk