

WEST POINT, NEBRASKA
CITY COUNCIL AGENDA – Monday, August 24, 2020
12:00 P.M.(Noon)

Nielsen Community Center, 200 Anna Stalp Ave.

All agenda items are for discussion and action will be taken as deemed appropriate. The City Council reserves the right to go into closed session on any agenda item in accordance with Nebraska Revised Statute 84-1410.

A. CALL TO ORDER

1. Call meeting to order.
2. Inform the public that the Open Meetings Act is posted on the back wall of the room.
3. Pledge of Allegiance to the flag of the United States of America.
4. Roll Call.

B. PUBLIC HEARING:

1. Amendments to the City's Economic Development Program, including an amended Economic Development Plan and directing that the amendments be submitted to the qualified electors of the City for their approval or disapproval at the 2020 General Election.

C. CURRENT BUSINESS:

1. Approve addendum to Purchase Agreement with Danny Johnson for removal of structure from property.

D. RESOLUTIONS AND ORDINANCES

1. Resolution: Adopting amendments to the City's Economic Development Program, including an amended Economic Development Plan, and directing that the amendments of the Economic Development Program be submitted to the qualified electors of the City for their approval or disapproval at the 2020 General Election.

E. ADJOURNMENT

CITY OF WEST POINT, NEBRASKA

RESOLUTION NO. ____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF WEST POINT, NEBRASKA, ADOPTING AMENDMENTS TO THE CITY'S ECONOMIC DEVELOPMENT PROGRAM, INCLUDING AN AMENDED ECONOMIC DEVELOPMENT PLAN, AND DIRECTING THAT THE AMENDMENTS OF THE ECONOMIC DEVELOPMENT PROGRAM BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY FOR THEIR APPROVAL OR DISAPPROVAL AT THE 2020 GENERAL ELECTION.

WHEREAS, in 2012, the qualified electors and the City Council of West Point, Nebraska, approved a ½ of 1% sales and use tax pursuant to the Local Option Revenue Act, Sections 77-27,142 to 77-27,148 of the Nebraska Revised Statutes;

WHEREAS, in 2012, the qualified electors and the City Council also approved an Economic Development Program, including an Economic Development Plan, pursuant to the Local Option Municipal Economic Development Act, Sections 18-2701 through 18-2738 of the Nebraska Revised Statutes, and allocated 50% of the collections from the ½ of 1% sales and use tax to fund eligible activities pursuant to the Economic Development Program;

WHEREAS, the City's Citizens Advisory Review Committee recommended certain changes to the Economic Development Program, including the adoption of an amended Economic Development Plan, at its meeting held July 30, 2020;

WHEREAS, a public hearing on amending the Economic Development Program, including the amended Economic Development Plan, was held at a special meeting of the Mayor and City Council on August 24, 2020; and

WHEREAS, the Mayor and the City Council have determined to adopt the amendments to the Economic Development Program, including the amended Economic Development Plan, and to direct the same for submission to the qualified electors of the City for their approval or disapproval at the 2020 Statewide General Election.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WEST POINT, NEBRASKA, THAT:

Section 1. An election is hereby called to be held in conjunction with the Statewide General Election on Tuesday, November 3, 2020, at which there shall be submitted to the qualified electors of the City of West Point, Nebraska, the following ballot question:

BALLOT QUESTION

OFFICIAL BALLOT

AMENDMENT OF ECONOMIC DEVELOPMENT PROGRAM

CITY OF WEST POINT, NEBRASKA

TUESDAY, NOVEMBER 3, 2020

BALLOT QUESTION NO. 1

Shall the governing body of the City of West Point, Nebraska, amend its Economic Development Program to reflect the terms, conditions, and goals described below?

Goals, Terms, and Conditions of the West Point Economic Development Program

- a. Goals. The goals of the Economic Development Program shall remain unchanged and shall continue to be to create jobs/generate employment opportunities; to expand labor markets; to broaden the tax base; to expand retail opportunities; to increase households in the City of West Point in Cuming County; to attract new capital investment to the community; and to establish stability and vitality for the community of West Point.
- b. Duration of the Program. The duration of the Program shall remain unchanged and the Program shall continue to be in existence from October 1, 2012 until September 30, 2027, fifteen years.
- c. Years of Collection of Funds. Years of collection of funds shall remain unchanged, and collection of funds for the Program shall continue to be for fifteen (15) years on all taxable sales, beginning on October 1, 2012 and ending on September 30, 2027.
- d. Source of Funds. The source of economic development funds shall remain unchanged and shall continue to be 50% of the one half of one percent (1/2 of 1%) City Sales and Use Tax approved by the qualified electors in 2012.
- e. Amount to be Collected. The estimate for the total amount to be collected from the City Sales and Use Tax over the remainder of the Program term (fiscal years 2021-2027) has been increased from \$941,500 to \$1,559,000 based on higher than projected collections of Sales and Use Tax for fiscal years 2012-2020 and revised projected collections for the remainder of the Program term. For fiscal years 2021 through 2027, the estimated amount of funds available for Program use has been increased from the original projected annual average of \$134,500 provided in the Economic Development Program adopted in 2012 to the current projected annual average of \$222,714.
- f. Annual Limitation. The \$134,500 annual cap on allocations provided in the Economic Development Program adopted in 2012 will be eliminated at the

end of fiscal year 2020. Beginning with fiscal year 2021, the full amount collected on the 50% of ½ of 1% Sales and Use Tax allocated to the Program will be available for Program use. The City shall retain the authority to issue bonds to provide funds to carry out the Program if a business opportunity or other economic development project requires initial funds which exceed the single year proceeds of the local option sales and use tax. Future local option sales and use revenues would be appropriated to retire these bonds.

- g. Adoption of Amended Economic Development Plan. The Economic Development Plan adopted by the City in 2012 shall be amended and restated in the form adopted by City Resolution 2020-__ and available for public inspection at City Offices during regular business hours.

☐ **FOR** amending said Economic Development Program

☐ **AGAINST** amending said Economic Development Program

If the majority of the votes cast upon such question shall be in favor of amending the Economic Development Program, then the governing body of the City of West Point shall be empowered as provided by Section 18-2714 and shall forthwith proceed to implement such amendments. If a majority of those voting on the question shall be opposed to amending the Economic Development Program, then the governing body of the City of West Point shall not implement such amendments and the Economic Development Program adopted in 2012 shall remain in force according to its terms.

The ballots to be voted upon and cast at said election shall have printed thereon the foregoing proposition followed by the words: "For said Amendments to the Economic Development Program and Against said Amendments to the Economic Development Program" following said proposition.

Section 2. The attached West Point, Nebraska Economic Development Plan (Amended 2020) January 1, 2021 – September 30, 2027 ("**Amended Plan**") is incorporated by this reference and is adopted by this Resolution. A copy of the Amended Plan has been filed with the City Clerk, who shall make it available for public review at City Offices during regular business hours and on the City's website (www.ci.west-point.ne.us).

Section 3. Notice of said election shall be given to the qualified electors of the City by publication as provided by law prior to such election and a copy of the sample ballot shall be published one time not more than ten days nor less than three days prior to the election, such notice and sample ballot to be published in the West Point News, a newspaper published and of general circulation in the City, and the City Clerk is hereby directed in cooperation with the County Clerk/Election Commission of Cuming County to cause such notice and sample ballot to be published.

Section 4. The City Clerk is hereby authorized and directed to certify a copy of this

Resolution to the County Clerk/Election Commission of Cuming County, who shall designate the polling places, appoint the election offices, and otherwise conduct the election as provided by law. The City does hereby agree to reimburse said County Clerk/Election Commission for the expenses of conducting the election. As required by Section 32-802 of the Nebraska Revised Statutes, the County Clerk shall provide for publication of the Notice of Election in a newspaper designed by the County Clerk no later than forty-two days prior to the day of said election and such notice shall be posted in the office of the County Clerk no later than forty-two days prior to such date of election.

Section 5. The form of ballot and form of notice of said election shall be substantially in the form submitted to this meeting, a copy of which forms shall be made a part of the minutes. The City Clerk is hereby authorized and directed, in conjunction with the County Clerk/Election Commissioner conducting the election, to arrange for the printing of the necessary ballots for said election and to do all other things and take all other action appropriate or necessary in order to cause said proposition to be submitted to the qualified electors of the City as above provided.

Passed and approved this 24th day of August, 2020.

CITY OF WEST POINT, NEBRASKA

Bruce A. Schlecht, Mayor

ATTEST:

Mary Kempf, City Clerk

[SEAL]

**WEST POINT, NEBRASKA
ECONOMIC DEVELOPMENT PLAN
(AMENDED 2020)
January 1, 2021 – September 30, 2027**

I. Preliminary Statement

The City of West Point, Nebraska (“City” or “West Point”) adopted its initial Economic Development Plan effective October 1, 2012 (“Initial Plan”), following voter and City Council approval of the City’s Economic Development Program (“Program”), including the Initial Plan, as required by the Nebraska Local Option Municipal Economic Development Act, Nebraska Revised Statutes Sections 18-2701 to 18-2738 (the “Act”). The Initial Plan was established to create jobs and generate employment opportunities within the labor market of West Point and Cuming County, to attract new retail businesses, to attract new capital investment to the community, to broaden the tax base, and to provide economic diversification to ensure economic stability and vitality for the community of West Point and the surrounding area. The Program is funded by the allocation of a 50% portion of the ½ of 1% sales tax approved by the voters and City Council in conjunction with the adoption of the Initial Plan. The Initial Plan included a \$134,500 limit on the amount of such sales tax collections which could be used for Program activities in any year.

Since the City adopted its Initial Plan in 2012, the Nebraska Legislature has made a number of changes to the Act, and the City has determined to amend the Initial Plan to reflect these changes, to increase the annual limit on funds available for Program use to the full amount of the 50% portion of the ½ of 1% sales tax collected in the applicable year, and to implement certain other revisions. This West Point, Nebraska Economic Development Plan (Amended 2020) January 1, 2021 – September 30, 2027 (“Plan”) incorporates such changes to the Initial Plan and, upon approval by the voters and City Council as required by the Act, shall constitute the City’s Economic Development Plan effective January 1, 2021.

II. Overview

Pursuant to the Act, Nebraska municipalities are authorized to appropriate and spend local sales tax revenues for certain economic development purposes when authorized by the voters of a municipality. This includes providing direct and indirect assistance to business endeavors in their communities, whether for expansion of existing operations or creation of new businesses, through an economic development program.

The Act is based on the premise that communities should use their tax dollars in ways that best meet local needs. While ongoing planning processes in many communities have identified development, job creation, and increased economic opportunity as their highest priorities for the future, a variety of constitutional and legislative prohibitions have kept some communities from investing local public funds in development programs. The removal of these limitations gives municipalities greater latitude in determining and acting upon local needs.

As communities have witnessed population declines and the movement of younger people to other communities and other employment opportunities, such communities have considered their

futures and the types of actions and investments needed to reverse these past trends. At the same time, smaller towns and cities are beginning to realize a period of significant opportunity. In a period of uncertainty, complexity and growing concern about the problems and quality of urban life, including cost and relative safety, the advantages perceived to be offered by smaller communities have become uniquely attractive. Concurrently, the revolution in information and communication technology as well as goods distribution has reduced the isolation of small towns. As a result, it is increasingly possible to operate a significant business in growth areas outside of major urban areas.

III. General Community and Economic Development Strategy

The community and economic development strategy for West Point involves building on our City's strengths to promote the expansion of existing industries and the accompanying creation and retention of jobs and to recruit new industries and new jobs to the community. The principal strategy is directed at maintaining a good quality of life, building a strong workforce, developing community resources, attracting new capital investment, broadening the community's tax base, and ensuring economic stability and viability for the City.

Economic diversification will continue to be a critical priority for the City. Diversification will be strengthened by the recruitment of new business from inside and development of new businesses from outside the City. An economic development program can establish the City as a nurturing environment for small and large businesses alike and provide economic opportunity. This atmosphere, in turn will encourage people with skills and ideas to move or return to the City to live and conduct business.

In addition to recruitment, the City can create job opportunities by helping existing businesses in the City to expand their markets and compete more successfully. The successful marketing of the City as a center for opportunity is important to the City's effort to expand its labor force and attract new residents.

The City recognizes that the attraction of new business and industry to a community, or the expansion of existing business or industry, takes place in a competitive marketplace. In order to keep the City as competitive as possible in that marketplace, the community will strive to use financial and human resources available in a partnership with federal, state, municipal and private sources.

IV. General Intent and Proposed Goals

It is the intent of the City to implement an economic development program with the purpose and goals as follows: (1) broaden the tax base; (2) create new jobs; (3) attract new capital investment; (4) generate employment opportunities; and (5) expand the labor market. In addition to soliciting input for this Plan, the City has endeavored to ensure consistency between and among this Plan and the other relevant plans and goals of the City. As such, the City's Comprehensive Plan has been reviewed and taken into consideration in the formulation of this Plan. The relevant objectives of the Comprehensive Plan are to promote the health, safety, and general welfare of the City by providing harmonious development with coordinating layouts for the subdivided area and

proper arrangements of streets and utilities; to ensure adequate sanitary facilities; and to reduce flood damage potential to the greatest extent possible.

V. Description of Eligible Activities and Businesses

A. Funds allocated to the Program shall be used primarily for the purpose of providing direct and indirect financial assistance for Qualifying Businesses (defined in Section VI below) and the payment of related costs and expenses. Subsection B below includes a non-exhaustive list of specific activities eligible for the Program. While the City intends the activities listed in Subsection B to be the priority activities for the use of Program funds, the City recognizes that economic development often occurs in a very competitive market place and, in order to keep the City as competitive as possible in that marketplace and to maximize job creation in the area, the City hereby expressly includes as eligible activities all such additional activities as may provide direct or indirect financial assistance to a Qualifying Business or provide for the payment of related costs and expenses to the fullest extent such activities are allowable under the Act, as amended from time-to-time by the Nebraska Legislature.

B. Activities eligible for the Program may include, but are not limited to, the following:

1. Direct loans or grants to Qualifying Business for fixed assets, working capital, or both.
2. Loan guarantees for Qualifying Businesses.
3. Grants for public works improvements essential to the location or expansion of, or the provision of new services by, Qualifying Business.
4. Grants or loans for job training.
5. The purchase of real estate, options for such purchases, and the renewal or extension of such options. If and when real estate is to be purchased or optioned by the City under the Program, the real estate will be identified based upon the need of a particular Qualifying Business or based upon potential needs of Qualifying Businesses not yet identified. Selection of sites will be based upon sound economic development location criteria or specifications for special projects. All such real estate should be properly zoned with no excessive easements, covenants, or other encumbrances, and the development of such real estate shall conform to the comprehensive plan of the City or Cuming County, as applicable. All purchases and options for purchase shall be approved by the City Council. Any proceeds received by the City from the future sale of such real estate shall be returned to the City's Economic Development Fund for reuse under the Program.
6. Grants or loans to Qualifying Business to provide relocation incentives for new residents.
7. Issuance of bonds as provided for in the Act and this Plan.
8. Payment of salaries and support to city staff to implement the economic development program or the contracting of such to an outside entity.

9. Provision of technical assistance to Qualifying Business, such as marketing assistance, management counseling, preparing financial packages, and engineering assistance.
10. Expenses for business recruitment activities.
11. Expenses for locating a Qualifying Business to the local area.
12. Small business development, including expansion of existing businesses.
13. Equity investment in a Qualifying Business.
14. Grants or loans for the construction or rehabilitation for sale or lease of housing as part of a Workforce Housing Plan.
15. Grants, loans, or funds for early childhood infrastructure.
16. Eligible projects or programs for businesses which are expanding or which are locating in West Point directly or indirectly.
17. Provision of infrastructure to sites for new or expanding businesses and may include, but shall not be limited to streets, storm drainage, water mains and lines, sewer mains, gas lines, electric facilities or railroad extensions. Such infrastructure improvements and costs may extend beyond the corporate limits of West Point.
18. Construction of facilities, structures, and/or appurtenance for new or proposed development or on a speculative basis to attract new business or industry. Such facilities, structures, and appurtenances shall not be required to be within the corporate limits of West Point.

VI. Eligible Businesses

A. A business shall be considered eligible for financial assistance under the Program, and shall be a "Qualifying Business" for the purposes of the Program, if such business is a corporation, partnership, limited liability company, or sole proprietorship that derives its principal source of income from any of the following:

1. The manufacturing of articles of commerce.
2. The conduct of research and development.
3. The processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce.
4. The sale of services in interstate commerce.
5. Telecommunication activities.
6. Tourism-related activities.
7. The production of films.
8. Headquarter facilities relating to eligible activities as listed in this subsection.
9. Retail, subject to the Program allocation caps set forth in Section 18-2709(2)(c) of the Act.
10. Grants or loans for the construction or rehabilitation for sale or lease of housing as part of a Workforce Housing Plan (as defined below).
11. Early childhood care and education programs.

B. The City Council may, from time-to-time and by approval of an amendment to this Plan first recommended by the Citizens Advisory Review Committee, add a type of qualifying business to the list of eligible businesses set forth in Subsection A above or remove a type of qualifying business from the list of eligible businesses set forth in Subsection A above.

C. A qualifying business does not have to be located within the territorial boundaries of the City if the City Council determines that there is a clear economic benefit to the City. Eligible qualifying businesses may apply more than once and receive program benefits more than once.

D. If a Qualifying Business employs people and carries on activities in more than one city in Nebraska, or will do so at any time during the first year after its application for participation in the Program, it shall only be a Qualifying Business if, in each such city, it maintains employment for the first two years after the date on which the business begins operations in the City as a participant in the Program at a level not less than its average employment level in the other city during the twelve months before participation in the Program.

VII. Workforce Housing Plan

A. As used in this Plan, “**Workforce Housing Plan**” means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the City to attract new businesses or impairs the ability of existing businesses to recruit new employees.

B. As used in this Plan, “**Housing Study**” means the “Community Housing Study with Strategies for Affordable Housing” completed by Hanna:Keelan Associates, P.C. for the City in 2018. The Housing Study was completed with the guidance and direction of the West Point Planning Commission and is a component of the 2018-2028 West Point Comprehensive Planning Program. The Housing Study includes a specific emphasis and analysis of “Workforce Housing Needs” and the future housing projects and activities recommended in its “10-Year Housing Action Plan” reflect such emphasis and analysis. The Housing Study also includes an assessment of the current housing stock in the City.

C. Each Workforce Housing Plan shall satisfy all requirements of this Plan and the Act and shall conform to the concepts, recommendations, and goals of the Housing Study. This Plan is intended to provide for all single-family housing and market rate multi-family housing, and no special provisions are provided for housing for persons of low or moderate income.

VIII. Funding and Preliminary Budget

A. The Program will continue to be primarily be funded by the 50% portion of the ½ of 1% sales tax revenue approved by the electorate in 2012. The annual limitation on the amount of such tax revenue available for use for Program activities in fiscal year 2020 shall remain \$134,500 as provided in the Initial Plan. Beginning in fiscal year 2021, the annual limitation on the amount of sales tax revenues available for use under the Program fund shall be increased to the full amount of the 50% portion of the ½ of 1% sales tax revenue collected for the applicable year.

Notwithstanding anything in this Plan to the contrary, in no event will the amount of sales tax revenues allocated to the Program exceed either the maximum amount approved by the electorate or the maximum amount permitted by the Act at the time of appropriation; provided, these limitations shall not apply to reappropriation of funds which were appropriated but not expended during the previous fiscal years, nor shall they apply to appropriation of funds received from other sources.. The Program can also accept funding from grants, from state or federal funds, or from donations.

B. It is important to note that the Program budget will be developed annually and may be modified from time-to-time by the City Council. In the field of economic development, it is impossible to anticipate every condition or requirement. The City should maintain the flexibility to respond to specific requirements and opportunities on a short-term basis. Except for administrative costs, the City intends to use the entire amount allocated to the Program to fund and otherwise facilitate eligible activities; further, the City intends to limit the administrative costs for the use of such funds to 3% .

i. The total amount proposed to be directly collected from local sources for fiscal year 2021 through 2027 is estimated as follows:

<u>Fiscal Year Ending</u>	<u>Estimated Collections</u>
September 30, 2021	\$192,000
September 30, 2022	\$201,000
September 30, 2023	\$211,000
September 30, 2024	\$221,000
September 30, 2025	\$233,000
September 30, 2026	\$245,000
September 30, 2027	\$256,000
Total:	\$1,559,000

ii. The basic preliminary budget for fiscal years 2021 through 2027 is:

Administration (3%)	\$46,770
Funding of eligible activities:	\$1,512,230
Total:	\$1,559,000

iii. This Plan shall expire September 30, 2027 unless extended by a vote of the electorate and, in any event, the City may continue to use uncommitted funds and revenues for Program activities pursuant to Subsection A above for an additional 10 year period at the expiration of the Plan.

C. Fund. The City established an Economic Development Fund when it adopted the Initial Plan, and the City shall continue to use and manage this Fund for Program activities in accordance with this Plan, the Act, and other applicable law.

D. Bond Authority. The City may have a business opportunity or other economic development projects that require initial funds that exceed the single year proceeds of the local option sales tax. In order to take advantage of such an opportunity, the City should have the ability to issue bonds. Future sales tax receipts will then retire these bonds. The City Council may authorize the issuance of bonds to carry out the Economic Development Program, following a public hearing and satisfaction of other requirements set forth in the Act.

IX. Application Process for Qualifying Businesses Requesting Financial Assistance

A. Application Requirements. To be considered for financial assistance through the Program, applicants must complete and submit a Local Option Municipal Economic Development Program application, must submit all other information required under this Plan or the Act, and must provide any additional information as may be requested by the Program Administrator or the City Council's Community Development Committee ("**Economic Development Committee**") pursuant to Subsections B and C below.

B. Preliminary Review. The Program Administrator shall review each application and make a preliminary determination as to whether (1) the application is complete; (2) the applicant is eligible to receive Program funds; and (3) the proposed activities are eligible for applicant's use of Program funds. The Program Administrator will work with the applicant to resolve any issues raised in such preliminary application review.

C. Final Review and Recommendation. Upon completion of the preliminary review, the Program Administrator will forward complete and eligible applications to the Economic Development Committee. The Economic Development Committee shall review the application and all relevant information furnished by the applicant. If the Economic Development Committee determines that additional information is required or that revisions are appropriate, the Economic Development Committee will advise the Program Administrator as to what additional information and/or revisions are warranted and the Program Administrator will negotiate the same with the applicant. Once the Economic Development Committee has completed its review, the Economic Development Committee shall make a recommendation to the City Council that the application be either approved or disapproved. The Economic Development Committee's recommendation will be based on project eligibility under this Plan and the Act; the feasibility of the project and the potential future economic benefit that the project will provide to the community; whether the type or level of assistance will unduly enrich the business or be unreasonable in relation to the public benefit to be achieved from the funding; and any other relevant criteria permitted by the Act or other applicable law. If the Economic Development Committee recommends disapproval, it shall provide the reasons for such recommendation.

D. Action by City Council. The City Council will consider each application forwarded to it by the Economic Development Committee. The decision of whether to allocate Program funds for use pursuant to an application is at the sole discretion of the City. If an application is approved, the Mayor shall be authorized to execute any agreements on behalf of the City which may be required to facilitate use Program funds for the purpose set forth in the approved application.

X. Administration

The Program will be administered as follows by the Program Administrator, the Citizens Advisory Review Committee (“**Advisory Committee**”), and the City Council.

A. Program Administrator.

1. The Program Administrator shall be responsible for (a) generally administering the Program; (b) recruiting potential applicants and assisting them with the application process; (c) monitoring any and all reports required from funded applicants; (d) serving as an ex-officio, non-voting member of the Advisory Committee; and (e) providing the Advisory Committee with all necessary advice and information.

2. The Program Administrator shall be the City Administrator unless either another city official is appointed by the City Council to serve as Program Administrator or the City, by action of the City Council, enters into a contract with a third party to serve as Program Administrator. In the event that the City contracts with a third party for the administration of the Program, then the City Council shall designate a City employee as “Program Liaison Officer” to serve as an ex-officio, non-voting member of the Application Committee and the Advisory Committee, and to keep the Council generally informed concerning the Program.

B. Citizens Advisory Review Committee.

1. Members. The Advisory Committee will be comprised of seven (7) residents from the City of West Point. The Mayor of West Point will appoint the committee members subject to approval from the West Point City Council. The Advisory Committee members may not be elected or appointed officials, employees of the City; participants in a decisionmaking position regarding expenditures of programs funds; officials or employee of any applicant receiving financial assistance under this Program; or officials or employees of any financial institution participating directly in this Program. The Advisory Committee will have at least one individual with expertise or experience in the field of business finance or accounting. The Advisory Committee will also have a West Point City Official serving as ex-officio member.

2. Meetings and Duties. The Advisory Committee will meet on a quarterly basis to review the progress of the Program and advise the City Council with regard to the Program. The Advisory Committee will present findings and suggestions to the City Council on a semi-annual basis. The Advisory Committee will establish procedures to ensure that the municipality and the qualifying business are meeting all applicable laws, regulations, and requirements. These procedures are subject to review and approval by the City Council.

C. City Council. The City Council shall have final authority (1) to approve any and all expenditures of funds in support of the Program; (2) to contract with a third party to serve as Program Administrator; (3) to approve the membership of the Advisory Review Committee; and (4) to otherwise administer the Program.

XI. Confidentiality

A. In the process of gathering information about an applicant or Qualifying Business, the City may receive information about the business which is confidential and, if released, could cause harm to the business or give unfair advantage to competitors. Nebraska law authorizes the City to maintain confidentiality of business and project records which come into its possession.

B. In order to protect the applicants, and to encourage them to make full and frank disclosures of information relevant and necessary for the application, the City may take the following steps to ensure the confidentiality of the information it receives:

1. The continuation of any resolution or ordinance which makes such information confidential and punishes disclosure;
2. A restriction on the number of people with access to confidential information, with the Program Administrator primarily responsible for their safekeeping and any distribution of confidential information; and
3. Requiring personnel reviewing the applications and other Program information to sign statements of confidentiality regarding all confidential information submitted by applicants and Qualified Businesses.

XII. Audit

The Economic Development Program shall be audited annually by an outside, independent, and qualified private auditing business. The auditing business shall not, at the time of the audit or for any period during the term subject to the audit, have any contractual or business relationship with any qualifying business receiving funds or assistance under the Economic Development Program or any financial institution directly involved with a qualifying business receiving funds or assistance under the Economic Development Program. The results of such audit shall be filed with the City Clerk and shall be available for public review during normal business hours.

XIII. Amendment

This Plan shall be amended only (A) to add or remove a Qualifying Business, to the extent recommended by the Citizen Advisory Committee, (B) to make corrective changes to comply with the Act; or (C) to make corrective changes to comply with other state or federal laws. Any such amendment shall first require notice and a public hearing and shall be approved by a 2/3 vote of the members of the City Council. No other amendment shall occur without submitting the proposed changes to a new vote of the registered voters of the City, except as otherwise permitted by law.

PURCHASE AGREEMENT ADDENDUM

THIS PURCHASE AGREEMENT ADDENDUM ("**Addendum**") is made and entered into August __, 2020 ("**Effective Date**"), by and between Danny J. Johnson, (hereinafter referred to as "**Seller**"), and the City of West Point (hereinafter referred to as "**Buyer**").

WHEREAS, the Seller and the Buyer entered into a Purchase Agreement dated July 23, 2020, for the purchase and sale of certain real estate legally described as **Part of Lot 2, Johnson's First Subdivision, an Addition to the City of West Point, Cuming County, Nebraska ("Real Estate")**;

WHEREAS, the Buyer is acquiring the Real Estate as part of its project with the United States Army Corps of Engineers and the Lower Elkhorn Natural Resources District to repair and improve the City's Elkhorn River levee system ("**Project**");

WHEREAS, the Buyer intends to demolish or otherwise remove all structures on the Real Estate to facilitate construction of the Project; and

WHEREAS, the Seller has requested to remove, and the Buyer has agreed to allow the Buyer to remove, a [DESCRIBE BUILDING] located on the Property ("**Building**") and to amend the Purchase Agreement to provide for such removal.

NOW THEREFORE, the Seller and the Buyer agree to amend the Purchase Agreement as follows:

1. Right to Remove Building and Access the Real Estate. The Buyer hereby authorizes the Seller to remove the Building during the period commencing the day after Closing (as defined in the Purchase Agreement) and ending _____, 2020 ("**Removal Deadline**"). At Closing, the Buyer shall grant the Seller a temporary license in the Real Estate as necessary for the Seller to remove the Building. Unless terminated sooner pursuant to Section 6 below, the Seller's right to remove the building and the Seller's temporary license shall expire at 5:00 p.m. local time on the Removal Deadline, and the Seller shall thereafter have no rights in the Real Estate or to the Building to the extent all or any portion of the Building remains on the Real Estate.

2. Condition of Building; Feasibility of Removal and Relocation. The Seller accepts the Building "As-Is". The Buyer makes no warranty or representation as to (a) the condition of the Building; (b) whether removal and relocation of the Building is structurally or technically feasible; or (c) whether the relocation of the Building to another site is permissible under the City of West Point's zoning, building, and other applicable regulations or any applicable state or federal law.

3. Costs of Removal and Relocation; Permits. The Seller shall be solely responsible for all costs associated with removing and relocating the Building from the Real Estate. The Seller shall be solely responsible for obtaining all permits and other approvals required for removing and relocating the Building from the Real Estate.

4. Indemnification. The Seller shall be responsible to the Buyer for its acts and omissions, and the acts and omissions of any contractors or other agents acting on the Seller's behalf, in moving and relocating the Building. The Seller shall defend, indemnify, and hold harmless the Buyer from all losses, expenses, and costs arising from or otherwise relating to the

acts or omissions of the Seller and its contractors and other agents in removing and relocating the Building from the Real Estate.

5. No Other Property Included. This Addendum does not grant any right to the Seller with respect to any other structure or personal property located on the Real Estate.

6. Risk of Loss. The Seller shall bear the risk of the loss of the Building from Closing until the Removal Deadline. In the event the Building is substantially damaged or destroyed at any time after the Closing and prior to the Removal Deadline, the Buyer may, in its sole discretion and without any liability to the Seller, terminate the Seller's right to remove the Building from the Real Estate and terminate Seller's temporary license granted hereunder.

7. Other Provisions. Except as expressly amended and modified by this Addendum, the Purchase Agreement is and shall continue to be in full force and effect in accordance with the terms thereof. The recitals are hereby incorporated by this reference as if set forth fully herein.

The Seller and the Buyer have executed this Purchase Addendum effective as of the Effective Date.

SELLER:

Date

Danny J. Johnson, Seller

BUYER:

Date

City of West Point, Buyer
By: Bruce A. Schlecht, Mayor