

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
APRIL 18, 2023 AGENDA**

Subject:	Type:	Submitted By:
NEBRASKA MULTI-SPORT COMPLEX APPLICATION FOR PAYMENT – DISBURSEMENT OF EDP AWARD FUNDS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BRUCE FOUNTAIN COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

An application for payment of the Economic Development Program (EDP) Award funds has been submitted by Omaha Multi-Sport Complex, a Nebraska nonprofit d/b/a Nebraska Multi-Sport Complex for work completed to date on the multi-sport field complex in the amount of \$3,000,000. A resolution has been prepared to authorize and approve the disbursement of the EDP grant subject to the conditions outlined below.

FISCAL IMPACT

The FY23/FY24 Biennial Budget provides funding for the EDP award for the Nebraska Multi-Sport Complex project.

RECOMMENDATION

Approval.

BACKGROUND

On October 19, 2021 the City Council approved Ordinance 1429 authorizing an Economic Development Program grant to Nebraska Multi-Sports Complex of up to \$3,000,000 to be used in conjunction with other funding sources for constructing and equipping the 12 multi-sport artificial turf fields project.

Construction of the Nebraska Multi-Sport Complex is now more than 90% complete. The City has received a request for payment of EDP funds for the project in the amount of \$3,000,000.00. This would be a one-time payment disbursement for the full approved amount of the grant. Prior to the funds being disbursed the following conditions will have to be met:

- Execution, delivery and recording of the Economic Development Program Agreement between the City and NMSC
- Execution and delivery of a \$3.0 million promissory note
- Delivery of an irrevocable bank letter of credit in the amount of \$1.5 million

City staff have reviewed the documentation submitted with the pay request to assure compliance with the proposed agreement and have obtained copies of all documents required. The City Engineer and Chief Building Official have reviewed the pay request documentation and verified that it coincides with the construction progress they have observed on site. Copies of all documentation are on file in the office of the City Clerk.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN APPLICATION FOR DISBURSEMENT UNDER THE CITY'S ECONOMIC DEVELOPMENT PROGRAM FOR WORK COMPLETED TO DATE ON THE MULTISPORT COMPLEX IN THE VICINITY OF 120TH AND GILES ROAD

WHEREAS, the Mayor and City Council pursuant to Ordinance No. 1429 approved a \$3 million Economic Development Program award ("EDP Award") to Omaha Multi- Sport Complex d/b/a Nebraska Multisport ("NMS") to be used in conjunction with other funding to construct and equip twelve synthetic multisport playing fields and related parking, concession, and other amenities ("Fields Complex") in the vicinity of 120th and Eastport Parkway at a total estimated cost of \$34 million, representing the first phase of a multisport complex to be owned, operated and maintained by NMS at its cost, subject to conditions including execution and delivery of an economic development program agreement ("Agreement") between NSC and City, promissory note of NSC in the amount of \$3 million ("Promissory Note"), and an irrevocable standby letter credit issued by a bank in City's favor ("Letter of Credit") in the amount of \$3 million to secure the Agreement, Promissory Note and completion, operation and maintenance of the Fields Complex.

WHEREAS, though the parties initially contemplated periodic disbursements of the EDP Award with other funding during construction, the Fields Complex is nearing completion and the City received the first disbursement request for the full amount of the EDP Award ("Proposed Disbursement"). City staff reviewed the request and supporting documentation and recommends the Proposed Disbursement, subject to execution and delivery of the Agreement, Promissory Note, and Letter of Credit in the amount of \$1.5 million to secure the Agreement, Promissory Note, final completion and operation and maintenance of the Fields Complex in accordance with the Agreement. The Letter of Credit is reduced from \$3.0 million to \$1.5 million in recognition that the Project achieved a significant milestone upon completing an estimated 90% or more of Fields Complex improvements. The reduced \$1.5 million Letter of Credit will remain in effect to secure ongoing requirements.

NOW THEREFORE, BE IT RESOLVED, that the Proposed Disbursement is approved, subject to execution and delivery of the Agreement, Promissory Note, and Letter of Credit in the amount of \$1.5 million, in form and content on file with the City Clerk, 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.

BE IT FURTHER RESOLVED that the recitals above are incorporated into this resolution by reference, the Mayor is authorized to execute the Agreement, and the Mayor, City Administrator or his or her designee shall be authorized to take all steps or actions on behalf of the City as he or she determines necessary or appropriate to carry out the Agreement or actions approved in this Resolution.

PASSED AND APPROVED THIS 18TH DAY OF APRIL 2023

CITY OF LA VISTA

ATTEST

Kim J. Thomas, Acting Mayor

Pamela A. Buehe, MMC
City Clerk

APPLICATION FOR PAYMENT

Date: April 13, 2023

EDP Award \$3,000,000.00

Amount Requested \$ \$3,000,000.00

To: City of La Vista

Reference is hereby made to that certain Economic Development Program Agreement (the "Agreement") by and between OMAHA MULTI-SPORT COMPLEX, a Nebraska nonprofit corporation d/b/a NEBRASKA MULTISPORT COMPLEX ("Grantee") and the CITY OF LA VISTA, a Nebraska municipal corporation ("City"), to be executed by the parties prior to any disbursement pursuant to such Agreement, governing the award of three million dollars to Grantee under the City's economic development program ("EDP Award"). Capitalized terms used and not otherwise defined herein have the meanings set forth in the Agreement.

The undersigned hereby requests the disbursement of EDP Award funds in accordance with this request, and hereby certifies as follows:

1. The amounts requested either have been paid by the Grantee, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names are stated on Attachment I hereto and whose invoices are attached hereto, or whose names and invoices previously were provided to the City Engineer) in accordance with such invoice(s) who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Project.
2. All construction of the Project prior to the date hereof has been done in substantial accordance with the Project Documents ("Plans") and all funds previously disbursed by Grantee or a lender providing funding for the Project ("Lender") have been used for one or more purposes permitted under the Agreement or the financing agreements for such Lender ("Financing Agreements").
3. The funds herein requested from the EDP Award will be used for purposes permitted under the Agreement.
4. Attached hereto, submitted with this Application or previously provided to the City Engineer, is a completed AIA Document G702 or equivalent document, signed by the General Contractor or other reliable documentation, and a list or other documentation of the applicable payees if payment will be made to an entity or entities other than the General Contractor.
5. True and correct copies of the bills or invoices to be paid with the requested funds, or that previously were paid, are enclosed herewith or previously were provided to the City Engineer,

along with conditional lien waivers or other reliable documentation from all contractors, subcontractors and material suppliers to be paid with the requested funds.

6. Attached hereto is a certification by the Architect certifying, or other reliable documentation, that work has been completed and materials are in place as indicated by the requested payment.
7. The improvements constructed as part of the Project, as completed to date, do not and, if completed in substantial accordance with the Plans, will not, violate any laws.
8. Other than liens and encumbrances permitted by the terms of the Agreement or Financing Agreements, no liens of any kind have been filed or to Grantee's knowledge are likely to be filed against Grantee or the Project (and, to the knowledge of Grantee, no stop notice of any kind has been filed or served with respect to any construction work previously performed), or a payment or discharge bond sufficient to protect Lenders and their respective interests in the Project have been recorded as required by applicable Laws.
9. All governmental licenses and permits required for the Project, as completed to date, have been obtained and will be exhibited to Lenders or City upon request.
10. Grantee shall complete, and has sufficient funds and shall pay for, all remaining improvements and work connected with the Project, in accordance with the Agreement and applicable laws, rules, regulations and requirements.

OMAHA MULTI-SPORT COMPLEX, a Nebraska nonprofit corporation

By:  _____

Name: Craig W. Scriven

Title: President

ECONOMIC DEVELOPMENT PROGRAM – DISBURSEMENT REQUEST FORM



Date of Request: 4/10/23 Project Name: Nebraska Multi-Sport Complex

Project Address:

Request Amount: \$3,000,000

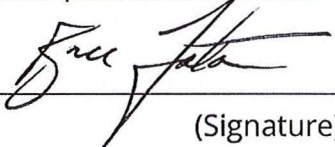
Request No.: 1

See attached for funding disbursement request details.

CITY OF LA VISTA APPROVALS

Community Development Director, Bruce Fountain

☐ No Comments ☒ Comments (see below):




(Signature)

4/13/23

(Date)

City Engineer, Pat Dowse

☐ No Comments ☐ Comments (see below):



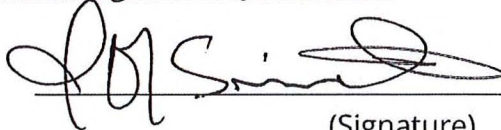
(Signature)

4/13/23

(Date)

Chief Building Official, Jeff Sinnett

☐ No Comments ☐ Comments (see below):



(Signature)

4/13/23

(Date)

Comments/Contingencies:

subject to execution, delivery and recording of the economic development program agreement between the City and NMSC, and NMSC execution and delivery of its \$3.0 million promissory note and delivery of an irrevocable bank letter of credit in the amount of \$1.5 million, in form and content and including such additions, subtractions or modifications as satisfactory to the Mayor or City Administrator or his or her designee, before the disbursement is made to NMSC

Approved by City Council?

☐ Yes: Date _____

☐ No