

CITY COUNCIL PROCEEDINGS

January 13, 2021

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the lower level of the David City Auditorium at 699 Kansas Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 7, 2021, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting. The meeting was held at the City Auditorium due to the COVID-19 pandemic so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.]

Present for the meeting were: Mayor Alan Zavodny, Council members John Vandenberg, Tom Kobus, Jessica Miller, Bruce Meysenburg, City Attorney Jim Egr, City Administrator Clayton Keller and City Clerk Tami Comte. Council member Hotovy arrived at 7:45 p.m. Council member Pat Meysenburg was absent.

Also present for the meeting were Street Supervisor Chris Kroesing, Recreation Coordinator Will Reiter, Building Inspector Michael Payne, Ethan Joy of JEO, Jon Mohr of JEO and Dave Henke of JEO, Mary Ann Long, Roger Montag, Christopher Janson of MSA, Planning Commission member Keith Marvin, Park/Auditorium employee Nathan Styskal, and Sheriff Tom Dion. Attending via Zoom were Interim Water Supervisor Aaron Gustin, Deputy Clerk Lori Matchett, Planning Commission member Janis Cameron, Allison Brockhaus of Schumacher, Smejkal, Herley and Elm, P.C., Roger Helgoth, and Banner-Press reporter Molly Hunter.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room asked those present to please silence their cell phones.

Council member Tom Kobus made a motion to approve the minutes of the December 9th, 2020 Council meeting as presented. Council Member Bruce Meysenburg seconded the motion. The motion carried. Kevin Hotovy: Absent, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 4, Nay: 0, Absent: 2

City Administrator Clayton Keller stated that the claim to Bierman for the downtown lighting was for ninety percent of the invoice. They are holding back the remaining ten percent until any issues are resolved.

Council member Tom Kobus made a motion to approve the claims as presented. Council Member Jessica Miller seconded the motion. The motion carried. Kevin Hotovy: Absent, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Bruce Meysenburg made a motion to approve the committee and officers reports as presented. Council Member Tom Kobus seconded the motion. The motion carried. Kevin Hotovy: Absent, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 4, Nay: 0, Absent: 2

City Administrator Clayton Keller introduced Chris Janson from MSA Professional Services, Inc., a planning firm. City Administrator Clayton Keller said, "We have asked him to put together a proposal for the City and the Council for what it would take to update our Comprehensive Plan. The Comprehensive Plan is the City's road map for how we would move forward into the future as far as growth, programs, pretty much anything that you want put in there, could be put in there, if we asked him to do so. The proposal has what he suggests that we would do and I'll turn the floor over to him to talk a little further about that."

Chris Janson from MSA said, "As Clayton said, a comp plan is your guidebook for future development and growth of the City. You have an existing one but it's going to be an overhaul, it's not a cut and paste job, that kind of thing. Given the times that we are in right now, we have certainly built in a lot of in-person sort of meetings and on-line engagement, so that people can participate in either way. I see that you guys are doing what we would call a hybrid meeting tonight. We do a lot of the same type of stuff now and it's been very successful. We've actually seen some of our meetings grow, in terms of public engagement, in doing the hybrid system. There are three components of the comp plan. The first one is public engagement. A big part of any comprehensive plan is public engagement, public review and ultimately, this is not just the Council's plan, it's the community's plan, so getting that buy-in from folks as they go through this process as the steering committee hears them, as we hear them, who are drafting the report. That gets built into it and then they help you implement it. So, a big piece of that is having public engagement and continuing that throughout the process. We've included steering committee meetings, which is pretty normal, about five of those, throughout the plan, at key points, to help move the plan forward, to provide guidance and get that to a product to go to the City Council and the Planning Commission for recommendation and adoption at the end. I want to say, right off the bat, many of you are obviously familiar, but this is not an ordinance, this is a guide book. As elected officials, you will still make final decisions. Hopefully, you will have great tools, once this plan is done, to make great decisions. We know that we went through that, we talked about how we're going to approach this, we got some public feedback, let's go ahead and move forward on that, let's take another look at it. We will come up with a future land use map, which a lot of people are familiar with as part of the comprehensive planning process. That map is not static. It gets changed, just like a zoning map as petitioners come forward and address new things over the next twenty years of this plan. It will provide the guidance for those decisions as well, the ones that I can't put in colors on the map right now that are going to happen two years from now, five years from now, ten years from now. The second part of it is coming up with a vision of a community profile, so that's looking at where you are at right now and then identifying where you want to be in the next twenty years of the plan and then the third part is the actual plan document itself which, again, will be vetted through public engagement and the steering committee and will meet Nebraska's regulations for what needs to be included in the comprehensive plan, in terms of elements, and finally it will go to the Planning Commission for a recommendation and the City Council for adoption. We anticipate about a ten-month schedule for this project and the fee for services would be a lump sum of \$48,500 to complete it. That's a lump sum and not extra pieces or any of that kind of thing. I'm certainly happy to answer any questions that anyone has about it. I've been in this business for thirteen years or so and have done comprehensive plans all over the Midwest, for the most part. I really

enjoy it. I did a lot of touring today. I had some really good food today and I'm excited to, hopefully, move forward with this process. I'm happy to answer any questions that you guys might have."

Mayor Zavodny said, "So, the due date on what we have in our packet, first of all, it's 2021."

Chris Janson from MSA said, "Yeah. Sorry about that. When we first started talking about this it was last spring. I was talking with Clayton and knowing that the City was going to be looking at doing a comprehensive plan and we're going to move forward with this. We've revised it since then. I met with Clayton in November, I think, to talk a little bit about what we wanted to do. One of the things that came out of that meeting was census data. We know that at the city level, sometime late in 2021, September, possibly later than that. What we've built into this, as well, is to come back and update some of those figures in here, once that data is released. Wherever we are at in that process, we can go back and update step two in that community profile, the existing conditions, and maybe that will modify some of the growth projections, that kind of thing and it may modify some of the land use, at that point, to reserve this many residential acres somewhere within the community but we may update that, at that time. That's built into here. That's one of the things that was added as well, another steering committee meeting. We had planned for a little less and added one of those to kind of break up that schedule a little bit and allow the steering committee to dig a little deeper on the future land use section. So, I apologize, that date is from when we first started discussing this. There is not a due date on this, necessarily, in terms of the proposal."

Mayor Zavodny said, "Alright. Lump sum but are we paying a percentage of how much of it you have done or how does the payment work?"

Chris Janson from MSA said, "So, we normally, in a lump sum contract, we would bill on a monthly basis or on a every other month basis, based on percentage of contract complete."

Mayor Zavodny said, "I'm sure that Keith warned you that I was very lukewarm on this. Lukewarm is probably unfair. I'm not a huge fan of this idea. However, I understand that I'm not the only person and it's been a while since we looked at it and we probably need to take a look. I'd be interested in hearing what the Council has to say. Are there any questions of Chris before I ask Keith to speak?"

Council member Jessica Miller said, "What did you add for steering committee? In the plan that I have it says four."

Chris Janson from MSA said, "Yes. We added four. We always do one at the beginning to kick things off right. You get the steering committee involved and you say, ok, here's the general roll out, here's the website we're going to use, here's a draft survey that we want to put out and that type of thing. Then, what I had was two meetings, numbers two and three were combined into one meeting. So, review of the feedback from the public engagement, after we do the online stuff and we have a public community workshop, which is basically going over that information and the future land use discussion all in one meeting. We broke that out into two meetings so that we can review the feedback, kind of process that, after that come back with some sort of future land use concept kind of stuff and then discuss that at a separate meeting with the steering committee by itself."

Council member Jessica Miller said, "So, on average, when you do this, how many additional meetings are usually needed, if you don't meet those four. If you meet all four of those and stuff is still not complete, how many additional meetings, on average, do you usually do?"

Chris Janson from MSA said, "Zero would be the correct answer to that. So, we will finish it in those four meetings. Now, there may be some emails. If we get to that third meeting, where we're discussing land use and from the steering committee, after we're there for an hour and a half, we'll probably be meeting on a week night and that type of thing so, after we meet for an hour and a half, the steering committee may say, ok, we'd really like to see this concept and this concept, and we would send those off by email. That would be my first preference to just continue it in that way and not have to call another meeting, because that's increasing the scope, in terms of the number of meetings and it's also using up another evening of people's time. I don't want the steering committee to feel like this is a burden. We'll be looking at like twelve to fifteen folks from across the community to be part of that steering committee."

Council member Jessica Miller said, "I was asking because, if I caught this right, it says additional meetings would cost \$500 - \$1,500 per meeting."

Chris Janson from MSA said, "Yes, that was another request that I added after our meeting in November. I don't anticipate that we'll need any additional meetings based on this schedule and my experience with comprehensive planning."

Council member Jessica Miller said, "When you are furthering on discussion with emails and such, then there's no additional charge even though it might take three or four days worth of emailing back and forth..."

Chris Janson from MSA said, "Nope. No additional cost for emails. It's just the meetings. They have to be noticed, they have an agenda, that type of thing. There's a lot more prep than just a couple of emails. Again, it's not a decision-making group, it's a steering committee so we're ok if the whole group has a discussion in that manner. You guys can't, obviously, have a whole discussion by email, as the City Council, it has to be in a meeting setting. The steering committee can go through some of that because they are a steering committee. I don't charge per email. For example, I have a project in a township in Minnesota, and the townships have zoning authority if they don't give it over to the counties. So, they are growing but they don't have any water or sewer or that type of thing. They have really bad internet access across the entire township and when COVID hit, we had to delay the process a little bit and it's that type of situation. I'm doing lots of emails back and forth now because we're trying to figure out when to start. But the cost to them has not increased because the scope of the work has not increased from 'we'll have these meetings and we'll put this product out'. The time-line has changed but everything else is within the boundaries."

Council member Bruce Meysenburg said, "Maybe I'm getting ahead of myself but I think that we really need to focus on getting more people in the community and I'm sure that you guys have thought about that. I think there's opportunity out there to do that."

Chris Janson from MSA said, "I'll address that a little bit. The steering committee is a really important part of this. Those people will commit to four meetings and then some review communication. I'm not going to ask them to write chapters of it, but I will ask that, here's

chapters one through three, can you take a look at them over the next two weeks, come to the meeting and be ready to give your comments on it. We do a website, we do surveys, we're doing stake holder interviews, which is another important part. Sometimes you have folks in the community who may not want to put aside the time to be on the steering committee, or small focus group type, two or three people. Real Estate professionals is one of the ones that I usually try to talk to as a small group for thirty minutes to an hour about what they are seeing in terms of market, what they are seeing in terms of growth, demand, that type of thing. They may not want to sit on the steering committee for four meetings, and they may not want to have whatever they are discussing thrown out at a giant public meeting that we will have as part of this, but we try to interact with them that way. We have the public meetings built in here that will be the normal notice. We also have a pop-up meeting in there, which is where we will come to some event that is in the community, hopefully, this coming spring or summer. I'll set up a booth and have materials out, and as people are at that already, they can come by and talk to me about the comprehensive plan and ask questions. That mix helps get a really good feedback from everybody. If you're a young family with kids, unless you absolutely have to go to a meeting at 6:30 p.m. on a Tuesday night, Wednesday night, you may not, but you'll take a survey online or go to a website and fill out a questionnaire or if you see a pop-up booth at a festival, you may drop by for a few minutes and look at things. We try to catch folks that way. If you're not online, we still have the community workshop meetings and that open house that are public open meetings that people will come to."

Mayor Zavodny said, "Alright. Do you want to go through my list?"

Chris Janson from MSA said, "Sure."

Mayor Zavodny said, "Given the timing, especially with Covid-19, and everything like it is, it's pretty hard to have a SWOT-type activity when we can't have get-togethers. In the past we have had pretty good community involvement when we've had planning for different things, so how do you do that in this kind of environment when people meeting in groups, probably isn't a good thing? The timing seems to be a scary thing, to me."

Chris Janson from MSA said, "We have planned within...we've had to switch gears on some things where we thought, you know, stuff that I started last spring, all of a sudden we had to switch gears. We've done online meetings, totally. We've done a Zoom SWOT analysis, put people into break-out rooms and had them discuss certain topics as we've done with a normal SWOT analysis. The thing that I've had the most success with is doing the hybrid meetings. We'll have someone moderating online and taking comments in on a big sticky wall. If I was in this room, I'd put the sticky wall up there and we'd separate people as they are now and we would do that same brainstorming of having people write down their ideas and writing them on the sticky wall as we go through it, but also having somebody moderate the online meeting portion of it and adding that input to the SWOT analysis. Is it what I'm used to a year ago? No. It's not. Is it effective? Yes. We have seen it be effective and we've gotten just as good of feedback. I would say that adding that online engagement piece of that is probably something that we will continue even after, just because we have been able to capture more folks that couldn't come to that one meeting that night but were able to sit at home while they were home with the kids or something like that, and were able to type in their thoughts every once in a while."

Mayor Zavodny said, 'Obviously, and I see that you do glaze over a little bit, some input from high school students. How are you going to engage them, because that's going to be pretty important because if this is going to be a twenty-year comprehensive plan, which I'm going to question you on here after this question. How are you going to get high school kids involved and what is your plan for that? You could have a meeting from six to eight and you won't have any of them show up. You're going to have to go to them. How do you do that?'

Chris Janson from MSA said, "The way that we have done that in the past that has been most effective is through the stakeholder interviews or the focus group is to meet with those kids in the morning. Usually, student government is usually one of the ones that is excited in participating in the process. If you can get student government officers in a 7:30 meeting, that has worked well. We do surveys for youth that are specifically targeted toward youth that are online mobile survey. Those surveys are a little different than the full one that we would do. We've done those in the past. The most engaging one is just to meet with them in a group. Usually when we do those stakeholder interviews and focus groups, I'm here for a couple days, that type of thing. So, if I can set aside time to go to a classroom and talk to a social studies class. I mean, getting the whole school the survey is probably the best way to do that in that engagement piece, but to have that discussion with a whole group of dedicated students that are interested because, like you said, they will be the ones that are here in twenty years. They may have stayed here, they may have moved off and then come back, whatever it is, but they want to see a better community, as well, and getting their input is important, I agree."

Mayor Zavodny said, "Ok. Let's talk about one of my pet peeves is that we pay money for surveys that then collect dust for the next fifteen to twenty years and sit in a very nicely bound book. You don't have a crystal ball. Somebody is going to come into a meeting and say, you know what, we need a laundromat, ok then your report tells us that we need a laundromat. Well, we know that. So, how does this work? Do you guess what our needs are going to be twenty years from now? Everybody needs high speed internet, so we're going to put that in. So, what does this look like and how do you assure me that we're not spending a lot of money for something that is going to sit there and do nothing?"

Chris Janson from MSA said, "Sure. A couple things. We focus on two big pieces of the comprehensive plan. The future land use plan and those goals and objectives that come out of them, which then get built into what we call an action plan or an implementation plan. An implementation plan is at the end and includes a matrix. Here's our priorities, here's the things that came out that we need to reach these goals and who needs to be responsible for them. Here's the funding that is available out there that could be gone after. The best thing that we've done is gone through with the steering committee at the end of the process and have them work with us to populate that, to say, you're right, we've had all of this come out of the plan, this is a priority for us, this is realistic, tweak those at the end. That's one way that we start the process of making sure that the plan is implementable, would be the best way to describe that. You're right, twenty years, I don't have a crystal ball. I can't tell you that you need a laundromat in twenty years. What I can do is to put in some very good goals that are vetted through the community that will help guide decisions from the Planning Commission, the community, the city staff and the City Council for the next twenty years. So, it may not be as specific as that thing. It will say the goals to the effect say that we want to build a strong housing market that is sustainable for future workforce needs. Workforce housing, workforce need is one of those things that tends to be a hot topic right now. So, I can write on a map and say that here is an area that there is infrastructure capacity where you can develop housing to some density and

here is how you can connect it transportation wise and you may talk to a landowner as part of this process. They may say “yes”, they are willing to sell, provided they can see a plan or they know what’s going on or when the time is right. We have to build this as a guidebook to handle all of those situations. So, we focus in on those goals and the future land use map, not just the map and not just that snapshot in time right now when you finish this project. We build a dynamic guidebook that can change even when dealing with decisions even two years from now that we wouldn’t have known because things change. You’re right. A survey done now is a spot in time. We try to build a plan that can serve as that guidebook for decision making throughout the lifetime of the plan.”

Mayor Zavodny said, “Other questions for Chris before we start with Keith?”

Council member Jessica Miller said, “So, I’m reading here, and it says, “Our funding experts assemble coordinating grants among applications through various agencies and help our clients turn ideas into reality”. So, your team will seek out these grants, seek out these loans and get the paperwork and stuff in order?”

Chris Janson from MSA said, “Not as part of this comprehensive plan, no. As a planner, I’m very excited to also be a funding specialist. I don’t want this plan to sit on the shelf, either. If I come up with a plan that has some ideas for funding some of these projects and the priorities that the community comes up with, they are more likely to happen. MSA is a multi-disciplinary firm, engineers, landscape architects, architects, all those types of folks who, if there is a project that spins out of this, and there is inevitably going to be things in the plan that you’re going to say that our city engineer is going to go after that. We have some of those capabilities as well, but what we do as part of the plan is to put together that matrix that I was talking about that has this is a two-year plan, this is five years, this is ten years and then we provide sources that could be available and should, probably, be sought after when that project gets to the Council, in that sense.”

Mayor Zavodny said, “We haven’t had the greatest luck with that. We’ve had promises made to us before, that there’s this grant available and we can go for this, this and this and we can fund this. It sounds like they are going to be coming into town with wheelbarrows full of money and we get none. We don’t qualify for this because of your score here or whatever so those things worry me when I hear them.”

Chris Janson from MSA said, “Not all of them are going to have that source. Some of them are just going to be ones that if the city finds that it’s a priority, it’s just going to have to be put into a capital improvement plan. We try to be very realistic. We were discussing bike trails today. Yes, it would be great if you had ten million dollars to dump into a bike trail, but that’s not feasible and it’s probably not realistic. So, what you do is that you come up with some method and some opportunities and some phasing and some development principles suggested in the plan that will help make that a reality but it’s going to take some time. Again, I’d love to say just find ten million dollars and do this. What’s the problem? But, that’s not how it works. I don’t want to create a plan that you guys don’t use. I would much rather have something that I can feel good about creating and that is useful and that people enjoy and that has bent corners and pages are falling out of it five years from now because it’s been used so much. That would be ideal for me and that’s what I shoot for.”

Mayor Zavodny said, “Keith, what do you have to say?”

Planning Commission member Keith Marvin said, "I'm going to build off your last question and add to what Chris said. A couple of things, when I look at a plan in doing what I do and the people that I do it for is you look out twenty years. That's what you're looking towards, but depending on the community and how fast dynamics are happening, that plan may need to be updated in five, ten or fifteen years down the road, like we're looking at right now. Our current plan is fifteen years old and it doesn't support where we are at on our zoning stuff and it needs to. The other thing that is important to keep in mind is that a comp plan is two percent inspiration and ninety-eight percent perspiration. Chris can make the best plan in the world but, it's up to the Planning Commission, the City Council and the people in this community to make it a reality. No consultant can come in and do a plan that is just going to work. It's got to have a broad base. Clayton and I have talked a lot about what we think a steering committee should look like and we've got a huge broad base of people that we want to put on so that we have input from key directions from this community. So, I will tell you, Chris has said that he's been at this for thirteen years and I've known Chris for eleven of those years. Chris and I have actually done work together. Chris knows the community a little bit from the mapping side because the blight studies that I've worked with, he's the one that's been doing the mapping for me. So, there's a familiarity to that whole thing to help us move forward. As I said in the BCD (Butler County Development) meetings, and talk to other people, a plan is what we need right now because we have too many people going too many directions and we need to get everybody in a row. Housing is a priority. I think that last housing study that I had the pleasure of working on, may get some feet and may do something, with talking to some people in the community. So, it's about what we can do also, the tools that he gives us in this document. Other questions?"

Planning Commission member Janis Cameron said via Zoom, "If I can comment. I was on the committee the last time and in answer to the mayor's comment about would the survey be used, the answer is that it was used, fifteen years ago. Did we refer to it at every meeting? Perhaps not, but if there was something mentioned in the survey like a campground, then we made sure that was included from the definition of what a campground is to where they could be allowed. So, yes the survey is used."

Planning Commission member Keith Marvin said, "I guess I don't know if Clayton put it in the report but he brought this to the Planning Commission and it was recommended unanimously by the Planning Commission to move forward with this."

Council member Jessica Miller said, "I, personally, think that this is needed for us to grow."

Council member Bruce Meysenburg asked where the funding would be coming from for this.

Mayor Zavodny said, "We have very limited options for that. The proprietary avenues that the city has available to us through the electric fund. Water and sewer aren't exactly flush with money especially with all of those projects going on, so you'd have to commit part of your proceeds from what your ratepayers pay."

Council member Bruce Meysenburg said, "Well, I do agree with Jessica. We need to start looking at something to draw people into the community and see how we can do that, as best we can."

City Administrator Clayton Keller said, "It was placed into the FY 20-21 budget and so we have that money set aside, at least apportioned, would be the right way to say it."

Council member Bruce Meysenburg made a motion to approve hiring MSA Professional Services, Inc. to provide a Comprehensive Plan Update. Council Member Jessica Miller seconded the motion. The motion carried. Kevin Hotovy: Absent, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 4, Nay: 0, Absent: 2



Professional Services Agreement

This AGREEMENT (Agreement) is made today 01.13.2021 by and between CITY OF DAVID CITY (OWNER) and MSA PROFESSIONAL SERVICES, INC. (MSA), which agree as follows:

Project Name: David City Comprehensive Plan Update

The scope of the work authorized is: See Attached from Proposal

The lump sum fee for the work is: \$48,500

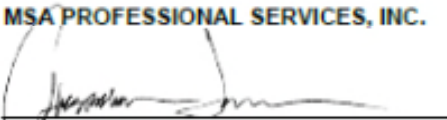
All services shall be performed in accordance with the General Terms and Conditions of MSA, which is attached and made part of this Agreement. Any attachments or exhibits referenced in this Agreement are made part of this Agreement. Payment for these services will be on a lump sum basis.

Approval: Authorization to proceed is acknowledged by signatures of the parties to this Agreement.

CITY OF DAVID CITY NE

MSA PROFESSIONAL SERVICES, INC.

Alan Zavodny
Mayor
Date: _____


Christopher Janson, AICP
Team Leader
Date: 01.13.2021

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PROPOSED SCOPE OF WORK

PROPOSED SCOPE OF SERVICES - DAVID CITY COMPREHENSIVE UPDATE

One of MSA's goals is to "create better places to live and work." It is our commitment to you to bring our expertise together with your needs and assist your community in developing the best and most appropriate solutions. We truly believe in making partners and not just completing projects.

YOUR NEEDS

The City Council has a goal of improving David City and attracting additional growth across the community. The City Council would like a consultant to assist them in updating a Comprehensive Plan for David City that involves traditional & online public engagement completed in an efficient timeline and a plan that is easy to read and implement.

MSA is prepared to provide David City with a readable and implementable plan that will be developed in about 8 months using a variety of online and traditional methods.

WORK ELEMENT #1 - COMMUNITY ENGAGEMENT STRATEGY

A transparent public participation process is the foundation to a successful plan. We will approach this work with diligence, creativity, open-mindedness and respect for the input of all participants. We believe that our role as your consultant is to work hard, introduce fresh ideas, listen carefully and deliver a plan that accurately represents the consensus of City Staff, the Steering Committee, Planning Commission, Council members, business owners and residents.

We understand the importance of a genuine, multi-faceted approach to engage stakeholders in this important planning process. MSA will facilitate a thorough, inclusive and effective community engagement process that will both improve the plan and build support for adoption and implementation. An effective Community Engagement Strategy will help residents envision and understand a good balance of physical, social, economic and aesthetic values. Our proposed approach includes the following elements:

CUSTOM PLAN WEBSITE

MSA will develop a project website for David City's Comprehensive Plan where we will post the project schedule, share draft materials and solicit comments throughout the planning process. A custom website is a critical tool for sharing information with stakeholders who are unable to attend meetings.

STEERING COMMITTEE MEETINGS

A Comprehensive Plan Steering Committee will be the primary review body throughout the planning process. We propose scheduling three two-hour Plan Steering Committee meetings during the planning process. Meeting presentation materials will be emailed prior to the meetings and posted on the project website for public access. After edits are received from the Steering Committee at their final meeting, edits will be made and the final Draft Plan will be sent by the Steering Committee to the Planning Commission and City Council for review and adoption.

FLYERS, PUBLIC NOTICES, AND SOCIAL MEDIA POSTINGS

MSA will utilize flyers, public notices and social media postings to make stakeholders aware of the process and direct them to the project website for more information. Examples include designing meeting flyers, providing the text for published notices of public meetings and working with the City's existing social media accounts to notify stakeholders about upcoming planning activities.

AERIAL SOLUTIONS

Shawn O'Shea is both an AICP certified planner and FAA licensed commercial unnamed aerial craft (drone) pilot. As a member of the project team, Shawn will provide David City's planning process and plan document with stunning and extremely useful aerial photos and videos.

POP-UP MEETING

An exciting method of public engagement that reaches people not likely to attend traditional meetings is for our team to facilitate a Pop-Up Meeting during a planning process to solicit public input at a planned community event. We have found that many individuals and families who may be too busy to attend a traditional evening meeting have a great opportunity to participate in the planning process by providing input by visiting with us at a Pop-Up Meeting. We will set up and manage a booth at a community event or popular high school sporting event and people can stop by the booth at their convenience. We have planned for one Pop-up Meeting as part of this process at an event chosen by the Steering Committee.

ONLINE COMMUNITY SURVEY

MSA will develop an online community survey with assistance from City Staff and the Steering Committee. The survey will be built, distributed and managed using Survey 123. Paper copies will also be available for those who would prefer to complete a printed survey. We will summarize the results of all surveys for the planning process and incorporate trends into the vision, goals and strategies of the David City Comprehensive Plan.

CROWDSOURCE MAPPING

Our project website will feature an online community map of David City and the surrounding region that can be used by the public to identify opportunities or areas of concern related to future land use. Users can contribute to the community map using a computer or mobile device, adding descriptions and photos to further explain their thoughts.

STAKEHOLDER INTERVIEWS

Stakeholder interviews and small group discussions allow us to obtain insight into the community from a diverse array of perspectives. MSA will work with City Staff and the Planning Commission to identify potential interviewees and schedule the interviews via zoom or conference call.

TRADITIONAL PUBLIC MEETINGS

Traditional public meetings are an important component of any municipal planning process. To bring the plan to the community and to make the best use of both time and resources, we propose holding two public meetings as part of the planning process.

Meeting #1 – Community Workshop

The first is a Community Workshop to identify, confirm and build on key issues, priorities, and land preferences that may have been identified in past planning processes. The workshop will include a brief discussion of planning basics, an overview of the existing conditions, and a SWOT (strengths, weaknesses, opportunities and threats) analysis activity.

Meeting #2 – Draft Plan Open House and Online Open House

The second traditional public meeting will be a Draft Plan Open House to review the plan near the end of the planning process. The Draft Plan Open House will begin with a period for open review of the plan, maps and exhibits. Next, there will be a short presentation of the updated plan facilitated by MSA followed by open discussion, exhibit review and surveys.

WORK ELEMENT #2 - COMMUNITY PROFILE, VISION, AND FRAMEWORK

This step will establish an overall "vision" for David City that will provide focus and direction for the creation of the Comprehensive Plan document and subsequent implementation activities. Based on the desired vision and previous steps in the planning process, preliminary goals and strategies will be prepared.

The majority of the information required to develop materials for Work Element #2 will be gathered by MSA from a thorough existing conditions analysis and feedback from the meeting activities outlined in Work Element #1 of the planning process.

Work Element #2 will include creating Appendix A: Community Profile. After MSA has completed the Community Profile, we will work with the City Council to review that material and then move into creating the plan document, Work Element #3.

WORK ELEMENT #3 - THE COMPREHENSIVE PLAN

MSA will lead the creation of the Comprehensive Plan update for David City. The created plan document will serve as a road map, guiding future development in David City. The plan and process will incorporate Nebraska comprehensive plan requirements. We propose the following outline for the plan:

- Chapter 1: Introduction & Overview
- Chapter 2: Engagement & Process
- Chapter 3: Community Elements - Goals & Strategies
 - Community Vision
 - Community Facilities
 - Housing
 - Transportation
 - Energy & Utilities
 - Parks & Recreation
 - Economic Development
 - Agricultural & Natural Resources
 - Hazards
 - Intergovernmental Collaboration
- Chapter 4: Land Use & Growth Management + Annexation
 - Existing Land Use
 - Goals & Strategies
 - Future Land Use Plan & Classifications
 - Development Concepts (School Campus, Hospital Campus, North Commerce District)
 - Design Recommendations
 - Design Guidelines for Buildings & Sites
 - Annexation Planning
- Chapter 5: Implementation & Action Plan
 - Guiding Daily Decisions
 - Guiding Annual Decisions
 - Summary of Suggested Zoning Amendments to Support Plan Implementation
 - Action Plan for Implementation Matrix
- Appendix A: Community Profile
 - *MSA will update Appendix A for no additional fee after 2020 Census data is available for David City*
- Appendix B: Survey Results

Chapter 5 of the plan will include an Action Plan for Implementation that translates the process, vision, goals and development principles into specific action steps for the community. The completed plan will serve as a guidebook for the community as it continues to grow over the next 20 years.

 PROPOSED SCHEDULE

MONTH (S)	TASKS AND MEETINGS
Month 1-2	Steering Committee Meeting #1 - SWOT and Expectations Launch Project Website Launch Online Community Survey Launch Crowdsourcing Mapping
Months 3-4	Community Workshop and Stakeholder Interviews Online Input Workshop Complete Draft of Appendix A - Community Profile
Months 5-6	Pop-Up Meeting Steering Committee Meeting #2 - Review Feedback, Discuss Vision and Goals Complete Chapters 1-3, Start Chapter 4
Months 7-8	Steering Committee Meeting #3 - Discuss Future Land Use and Growth Complete Chapter 4 - Land Use and Growth Management and Appendix B
Month 9	Comprehensive Plan Open House Online Open House Complete Chapter 5 - Implementation
Month 10	Steering Committee Meeting #4 - Review and Recommend Final Plan to Council Deliver Final Plan Documents and Map Data

ENGAGEMENT ACTIVITIES GUIDE

- Steering Committee Meetings
- Public Engagement Activity
- Online Engagement Activity

FINAL DELIVERABLES

MSA will provide PDF copies of all draft and final documents, including maps developed throughout the planning process. The final Comprehensive Plan document will be provided in digital format as detailed below:

- One color unbound complete final plan for reproductions
- Microsoft Word and Adobe PDF versions
- Digital mapping data and map files will be provided in ArcGIS format

FEE FOR SERVICES

Our team is very excited about the opportunity to work with the City of David City on your Comprehensive Plan update and we know we can provide the update you need and the public engagement that you desire within your budget. We look forward to working with you on developing a final scope of work, prior to contracting, that aligns our experience and efforts with your needs and desires. MSA estimates that we will be able to provide the scope of work outlined in this proposed scope for a cost of **\$48,500**.

NOTES:

- Services shall be billed monthly by percentage complete of lump sum contract.
- Lump sum fee includes all expected reimbursable expenses.
- Lump sum fee includes preparation of meeting materials, including any maps, boards, or handouts.
- All draft materials will be distributed electronically by PDF.
- Attendance at any requested meetings beyond those outlined in the above scope will require a contract amendment.
- MSA is happy to facilitate any requested additional Steering Committee meetings, either in-person or virtual, for an estimated cost of \$1,500/in-person meeting and \$500/virtual meeting.
- Attendance at any requested meetings beyond those outlined in the above scope will require a contract amendment.
- MSA cannot guarantee a specific number of meeting attendees or survey responses will be generated during the process and strives for quality in feedback over quantity.
- MSA will complete draft changes as directed by the Steering Committee in accordance with the schedule proposed in this scope and any changes to the plan document proposed outside the schedule/scope will require a contract amendment.

MSA PROFESSIONAL SERVICES, INC. (MSA) – GENERAL TERMS AND CONDITIONS OF SERVICES

1. The quoted fees and scope of services constitute the best estimate of the fees and tasks required to perform the services as defined. This agreement upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development service, activities often cannot be fully defined during initial planning. As the project progresses, facts uncovered may reveal a change in direction which may alter the scope. MSA will promptly inform the OWNER in writing of such situations so that changes in this agreement can be made as required.

2. MSA will bill the OWNER monthly with net payment due upon receipt. Past due balances shall be subject to an interest charge at a rate of 12% per year from said thirtieth day. In addition, MSA may, after giving seven days written notice, suspend service under any agreement until the OWNER has paid in full all amounts due for services rendered and expenses incurred, including the interest charge on past due invoices.

3. Costs and schedule commitments shall be subject to change for delays caused by the OWNER's failure to provide specified facilities or information or for delays caused by unpredictable occurrences including, without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults, by suppliers of materials or services, process shutdowns, acts of God or the public enemy, or acts of regulations of any governmental agency. Temporary delays of services caused by any of the above which result in additional costs beyond those outlined may require renegotiation of this agreement.

4. MSA intends to serve as the OWNER's professional representative for those services as defined in this agreement, and to provide advice and consultation to the OWNER as a professional. Any opinions of probable project costs, reviews and observations, and other decisions made by MSA for the OWNER are rendered on the basis of experience and qualifications and represents the professional judgment of MSA. However, MSA cannot and does not guarantee that proposals, bid or actual project or construction costs will not vary from the opinion of probable cost prepared by it.

5. This agreement shall not be construed as giving MSA, the responsibility or authority to direct or supervise construction means, methods, techniques, sequence, or procedures of construction selected by the contractors or subcontractors or the safety precautions and programs incident to the work of the contractors or subcontractors.

6. In conducting the services, MSA will apply present professional, engineering and/or scientific judgment, and use a level of effort consistent with current professional standards in the same or similar locality under similar circumstances in performing the Services. The OWNER acknowledges that "current professional standards" shall mean the standard for professional services, measured as of the time those services are rendered, and not according to later standards, if such later standards purport to impose a higher degree of care upon MSA.

MSA does not make any warranty or guarantee, expressed or implied, nor have any agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, MSA will not accept those terms and conditions offered by the OWNER in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt, or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

7. This Agreement shall commence upon execution and shall remain in effect until terminated by either party, at such party's discretion, on not less than thirty (30) days' advance written notice. The effective date of the termination is the thirtieth day after the non-terminating party's receipt of the notice of termination. If MSA terminates the Agreement, the OWNER may, at its option, extend the terms of this Agreement to the extent necessary for MSA to complete any services that were ordered prior to the effective date of termination. If OWNER terminates this Agreement, OWNER shall pay MSA for all services performed prior to MSA's receipt of the notice of termination and for all work performed and/or expenses incurred by MSA in terminating Services begun after MSA's receipt of the

termination notice. Termination hereunder shall operate to discharge only those obligations which are executory by either party on and after the effective date of termination. These General Terms and Conditions shall survive the completion of the services performed hereunder or the termination of this Agreement for any cause.

This agreement cannot be changed or terminated orally. No waiver of compliance with any provision or condition hereof should be effective unless agreed in writing and duly executed by the parties hereto.

8. The OWNER agrees to clarify and define project requirements and to provide such legal, accounting and insurance counseling services as may be required for the project.

9. MSA will maintain insurance coverage for: Worker's Compensation, General Liability, and Professional Liability. MSA will provide information as to specific limits upon written request. If the OWNER requires coverages or limits in addition to those in effect as of the date of the agreement, premiums for additional insurance shall be paid by the OWNER. The liability of MSA to the OWNER for any indemnity commitments, or for any damages arising in any way out of performance of this contract is limited to such insurance coverages and amount which MSA has in effect.

10. Reuse of any documents and/or services pertaining to this project by the OWNER or extensions of this project or on any other project shall be at the OWNER's sole risk. The OWNER agrees to defend, indemnify, and hold harmless MSA for all claims, damages, and expenses including attorneys' fees and costs arising out of such reuse of the documents and/or services by the OWNER or by others acting through the OWNER.

11. To the fullest extent permitted by law, MSA shall indemnify and hold harmless, OWNER, and OWNER's officers, directors, members, partners, agents, consultants, and employees (hereinafter "OWNER") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of MSA or MSA's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "MSA"). In no event shall this indemnity agreement apply to claims between the OWNER and MSA. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that MSA is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of MSA to defend the OWNER on any claim arising under this agreement.

To the fullest extent permitted by law, OWNER shall indemnify and hold harmless, MSA, and MSA's officers, directors, members, partners, agents, consultants, and employees (hereinafter "MSA") from reasonable claims, costs, losses, and damages arising out of or relating to the PROJECT, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of the OWNER or the OWNER's officers, directors, members, partners, agents, employees, or Consultants (hereinafter "OWNER"). In no event shall this indemnity agreement apply to claims between MSA and the OWNER. This indemnity agreement applies solely to claims of third parties. Furthermore, in no event shall this indemnity agreement apply to claims that the OWNER is responsible for attorneys' fees. This agreement does not give rise to any duty on the part of the OWNER to defend MSA on any claim arising under this agreement.

To the fullest extent permitted by law, MSA's total liability to OWNER and anyone claiming by, through, or under OWNER for any cost, loss or damages caused in part or by the negligence of MSA and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that MSA's negligence bears to the total negligence of OWNER, MSA, and all other negligent entities and individuals.

12. OWNER and MSA desire to resolve any disputes or areas of disagreement involving the subject matter of this Agreement by a mechanism that facilitates resolution of disputes by negotiation rather than by litigation. OWNER and MSA also acknowledge that issues and problems may arise after execution of this Agreement which were not anticipated or are not resolved by specific provisions in this Agreement. Accordingly, both OWNER and MSA will endeavor to settle all controversies, claims, counterclaims, disputes, and other matters in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, unless OWNER and MSA mutually agree otherwise. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. Neither demand for mediation nor any term of this Dispute Resolution clause shall prevent the filing of a legal action where failing to do so may bar the action because of the applicable statute of limitations. If despite the good faith efforts of OWNER and MSA any controversy, claim, counterclaim, dispute, or other matter is not resolved through negotiation or mediation, OWNER and MSA agree and consent that such matter may be resolved through legal action in any state or federal court having jurisdiction.

13. This agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.

14. OWNER hereby irrevocably submits to the jurisdiction of the state courts of the State of Wisconsin for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement. OWNER further consents that the venue for any legal proceedings related to this Agreement shall be, at MSA's option, Sauk County, Wisconsin, or any county in which MSA has an office.

15. This agreement contains the entire understanding between the parties on the subject matter hereof and no representations, inducements, promises or agreements not embodied herein (unless agreed in writing duly executed) shall be of any force or effect, and this agreement supersedes any other prior understanding entered into between the parties on the subject matter hereto.

Allison Brockhaus with Schumacher, Smejkal, Herley & Elm, P.C. was present via Zoom to present the audit findings from fiscal year 19-20. Allison Brockhaus said, "First off, I just wanted to say thank you for allowing us to do the audit the last couple of years. We really enjoyed working with you guys and I know everybody at the City Office has been extremely helpful in getting this done a lot quicker than it was last year. So, hopefully, we can keep on this road of getting your audit completed in a timely manner. I don't know whether everyone has a copy of the audit in front of them or not, but I'll just quickly go through some of the high points. On page two of our report, we issued an unmodified opinion, which is equivalent to a clean opinion. We weren't aware of anything that was materially misstated in the financial statements or cause them to be misleading in any way. Turn to page three, if you can, the balance sheet of the citywide funds, so I just did a little comparison as far as your assets go. As of September 30, 2019, your assets are about fourteen million. As of September 30, 2020, your assets are about sixteen point five million, so you have an increase of about one point eight million, which is about a twelve percent increase, which you like to see. If you want to turn to page four then, that is pretty much the income statement for the entire city. I do want to point out that it is unusual for you guys that in the governmental activities in the first section, you refinanced some bonds in 2020 and you have those principal payments of about seven million three hundred-thirty-five thousand dollars which, of that, six point nine seven five million was the refinancing and below are the business type activities, as well, you've got almost three point one million in debt service principal payments and, again, I believe that you did some refinancing there. So, without those two, your expenses for September 30, 2020 were about ten million dollars and was a decrease of almost two million dollars from the prior year. I'll skip through some of these pages. I'd like to reference you to page number fourteen. One thing that did change this year, in talking with Tami is that we increased your capital expenditures from five hundred dollars to two thousand dollars. Five hundred dollars seemed pretty low for a city of your size and two thousand dollars seemed like a step in the right direction and you might want to consider upping that a little more. I'd like to turn to page seventeen, note three has all of the deposits that the city has. That first little table has a break-down of your checking accounts, savings accounts and C.D.'s and then at the bottom, we have to state whether or not the city is collateralized as far as making sure that their deposits are. If they are in excess of that \$250,000 FDIC automatically given to you, but you are collateralized for fifty point one million dollars through pledging or securities of some sort. On page nineteen, I just wanted to point out note six, that details all of the outstanding debt, so the loans and the bonds that the city has as of September 30, 2020. The total outstanding, including the principal and interest payments for the city as of September 30th was about fourteen point one million and like I said earlier, you have about sixteen million dollars in assets, so you're definitely able to cover that debt, if anything were to happen in the near future. The amount that is due within the next year is about four hundred and sixty thousand dollars. You're definitely able to meet those needs. I'll direct you to page twenty-three, which is note fourteen, which details the cash balances of all of the accounts, you've got sales tax, keno, streets and whatnot and this will tie into the statements that we talked about. Page twenty-five is the monetary comparison schedule. I believe that we prepared the 2019-2020 budget for you guys and then we ended up amending it for some additional expenditures. So, after that the amended budget the final budget the expenditures were that twenty-two million and as you can see on that final column on page twenty-five, your total expenses for the year were about twenty point eight million, so you were well under the budgeted expenditures for the 2019-2020 year. There are two letters that are following page six. The first of the letters just explains what types of internal control deficiencies there are. We did not note any this year. Tami and the ladies in the City Office do a great job with the segregation of duties and making sure that they have the required signatures on checks and

whatnot, so we didn't have any issues there. The final letter, Adam always tells me whenever I accompany him on any audits for presentations, if you're going to read them anything, probably read them that final letter. It's just the highlight of how the entire audit went. It says if we had any issues with management or any findings, we would note that here in this letter. We did not have anything to note in this year's audit. I just want to thank you again for letting us do your audit. If you have any questions, you can go ahead and ask them or you can email me."

Mayor Zavodny thanked Allison Brockhaus and asked if there were any questions.

Mayor Zavodny said, "In looking at it, I feel pretty good about where we're at. We've made some really good progress on our balance sheets. As I shared with her and I'll share with the Council, one of my concerns always is separations of duties in such a small office and I think that we manage that the best that we can. I don't think that we are unique in comparison with other municipalities that you work with as far as size of cities. So, any questions of Allison?"

Council member Hotovy arrived at 7:45 p.m.

Council member Tom Kobus made a motion to accept the 2019-2020 audit as presented by Allison Brockhaus of Schumacher, Smejkal, Herley & Elm, P.C. for the fiscal year ended September 30, 2020. Council Member John Vandenberg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

A copy of the audit follows the minutes.

Council member Kevin Hotovy introduced Ordinance No. 1361. Mayor Zavodny read Ordinance No. 1361 by title.

Council member Kevin Hotovy made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Bruce Meysenburg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Kevin Hotovy made a motion to pass and adopt Ordinance No. 1361 renaming "S" Street to "Timppte Parkway" on third and final reading. Council Member Tom Kobus seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

ORDINANCE NO. 1361

AN ORDINANCE TO RENAME "S" STREET TO BE HENCEFORTH KNOWN AS "TIMPTE PARKWAY". REPEALING ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; PROVIDING AN EFFECTIVE DATE THEREOF; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, the Mayor and City Council of the City of David City, Nebraska, have authority by virtue of Section 6-202 of the Municipal Code of the City of David City, Nebraska, to rename any street, and,

WHEREAS, it is the desire of the Mayor and City Council of the City of David City, Nebraska, to rename the street heretofore known as "S" Street to be known henceforth as "Timppte Parkway".

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the street heretofore known as "S" Street be known henceforth as "Timppte Parkway", and,

BE IT FURTHER ORDAINED that any other ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 13th day of January, 2021.

Mayor Alan Zavodny

City Clerk Tami L. Comte

Mayor Zavodny declared the public hearing open at 7:51 p.m. to consider amending the Zoning Ordinance Article 8 Supplemental Regulations by incorporating Section 8.03.01.1 Residential Fence Regulations.

Planning Commission member Keith Marvin said, "This is taking the fencing ordinance back to before the prior building inspector. When he came in, he convinced everyone to change the way we were doing fences on corner lots. We had changed it about six months beforehand. It takes us back to what we had changed it to before he was hired. I will tell you that if this was in place, we wouldn't have had the issues that we had with Mr. Pelan's fence up on N Street with the variance and the Board of Adjustment and all of that. There are about thirty different properties that are in the city that meet the requirements that we are putting forth tonight, to go back to. This would allow, on a corner lot, to have a fence that from the back of the house, they could come four foot in toward the front and then go perpendicular to the street side yard to the property line and then run along the property line to the back lot line and then enclose their back yard that way. Where, I believe, that we currently have to go all the way back to a setback line. We had changed this about the time that Brian Hermelbracht had done his fence on his house

at 11th and N Street and at that time I had driven around and found twenty to thirty fences in town that met the same criteria and that's why we changed it."

City Clerk Tami Comte said, "I believe that the Building Inspector Michael Payne is in favor of this change? Am I correct Mike?"

Building Inspector Michael Payne said, "Yes."

Mayor Zavodny said, "This is the absolute right thing to do."

Hearing no further comment, Mayor Zavodny declared the public hearing closed at 7:55 p.m.

Council member Kevin Hotovy made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Bruce Meysenburg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Kevin Hotovy made a motion to pass and adopt Ordinance No. 1362 amending the Zoning Ordinance Article 8 Supplemental Regulations by incorporating Section 8.03.01.1 Residential Fence Regulations. Council Member John Vandenberg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

ORDINANCE NO. 1362

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY AMENDING ARTICLE 8: SUPPLEMENTAL REGULATIONS TO ADD SECTION 8.03.01.1 FENCES ON A CORNER LOT; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 8: SUPPLEMENTAL REGULATIONS

SECTION 8.03 FENCES

8.03.01.1 RESIDENTIAL FENCE REGULATIONS

- A. Fences along the Street Side Yard of a lot may be constructed along the property line.
- B. Fences along the Street Side Yard of a lot may construct a fence to a maximum of 72 inches above grade.
- C. Fences along a Street Side Yard shall not be constructed more than four feet past the rear of the primary structure.

- D. Fences constructed in the Street Side Yard shall not interfere with any required sight triangle.
- E. Fences constructed in the Street Side Yard shall be constructed with the good side of the fence facing the public way.
- F. Fences constructed in the Front yard of a corner lot shall be required to meet all normal regulations.

This Ordinance shall be in full force and effect from and after passage, approval and publication or posting as required by law.

PASSED AND APPROVED THIS 13th day of January, 2021.

Mayor Alan Zavodny

City Clerk Tami Comte

Council member Bruce Meysenburg made a motion to approve the certificate of release for the Industrial Development Refunding Revenue Bonds, Series 2004 (St. Joseph's Villa, Inc. Project) and authorized the mayor to sign. Council Member John Vandenberg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

CERTIFICATE OF RELEASE

WHEREAS, the CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA was the "conduit" in connection with the Series 2004 tax exempt bonds it issued for the benefit of SAINT JOSEPH'S VILLA; and,

WHEREAS, the said Series 2004 bonds have been paid off and the collateral pledged by Leaven International Corporation, an affiliate of ASCH in connection with the said Series 2004 bonds have been released; and,

WHEREAS, the Mayor of the City has been duly authorized to execute this Certificate of Release by the City Council of the City at a properly noticed meeting.

NOW, THEREFORE, the Mayor of the City hereby executes this CERTIFICATE OF RELEASE as conduit of the Series 2004 tax exempt bonds it issued for the benefit of SAINT JOSEPH'S VILLA; acknowledges the said bonds have been paid off; and the collateral pledged

by Leaven International Corporation, an affiliate of ASCH in connection with the said Series 2004 bonds has been released.

Dated: _____, 2021.

BY: _____
ALAN ZAVODNY, MAYOR

ATTEST:

TAMI COMTE
Clerk of the City of David City, Nebraska

(Seal)

PROOF OF AUTHORITY TO EXECUTE

THE FOREGOING CERTIFICATE OF RELEASE WAS AUTHORIZED BY THE UNANIMOUS VOTE OF THE CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA ON _____, 2021 AT A MEETING PROPERLY NOTICED AS PER NEBRASKA STATUTES.

DATED: _____, 2021

TAMI COMTE, City Clerk

(Seal)

Council member John Vandenberg made a motion to table consideration/discussion concerning the wastewater plant headworks safety evaluation and how to proceed. Council Member Bruce Meysenburg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda was the consideration/discussion of purchasing Zegers 1st Addition, Lots 1-16 (Owned by GDC Properties).

Mayor Zavodny said, "We're not going take action on this tonight but I do want to discuss this a little more and tell you what has happened since we talked about it last month. I talked to Cory about it a little bit and I received an email from John Obrist. They would have interest in that and obviously the curveball last meeting was housing. Since our last meeting there have been several moving parts and I'll try to cover them as efficiently as I can. There was some concern that housing was considered by Dana Point and they thought this probably wasn't the best location to consider housing. The other major development since then was when Butler

County Development met, they had very strong feelings that this property is absolutely suited to some commercial development. There is very strong-and since it was a public meeting, I feel that it's ok to talk about, pursuing a hotel/motel at that location-they feel that there is a strong need in the community for that especially with the new building out at the fairground's activity/convention center. Also, there's interest in maybe some other commercial entities that they think the community can benefit from. In talking with some of the businesses that are here, there are businesses that could supplement what they do, as well. So, what we have is a community where there are two schools of thought and maybe that's why the comprehensive plan makes sense. That's ok. That's why we discuss. I think what we're going to have to do is further develop the ideas around here and see what makes the most sense. I've also had some input from some people who said that their preference and the best thing would be not to have the city involved at all. I respect that position as well. That's kind of where we are. So, I'll open it up to anyone else who wants to discuss this."

Council member Bruce Meysenburg said, "That's kind of where I was coming from. I've got no problem with infrastructure and that out there but as far as the city owning the property, I just don't think that we should be in that position. That's just my opinion."

Council member Jessica Miller said, "I agree with you. After talking to people too, I don't think that we need to get involved in real estate and I think that needs to be developed as commercial."

Mayor Zavodny said, "I think the one thing that we're going to have to consider, as a municipality, however is how do we do infrastructure? That is why development gets very difficult because putting in a street, doing the water and sewer, we can do it more efficiently and cheaper than the developer can. But here's the problem we have, the people who have done it and paid for everything, even though it's a city benefit, how do you justify coming in and maybe we do some of the work. Because it's an open space of running water lines and those things and we have the capabilities to do it. So, it's a challenge insofar as, because again, sitting in these offices, people will say "I paid for all of mine". But I think we're going to have to look at it and just say that was then and maybe now if we want development to occur, we're probably going to have to make it affordable to develop property. I've probably come around to agreeing that it would be my preference that we don't own it either. If Butler County Development feels as strongly as they do and are willing to put the work in, which they have indicated to me, in between yelling at me, that they are. Because you can't wait around and let someone else do it. Somebody is going to have to step up. We've talked about this for ages in this community, getting an investment group together and ponying up like \$10,000 per person. Of course, \$10,000 won't do much anymore. At one point, years ago, John Klosterman was looking at that over the years have said get a group of people together as investors and try to do something in some of those regards. Someone is going to have to do it."

Council member Jessica Miller said, "If the city does some of the infrastructure, how long would it be before we saw a return on the investment?"

Mayor Zavodny said, "Well, that's a good question. It depends on the value that they bring to the property and how quickly they move on it. I will say this, of all the people involved in a project like that, the one that comes out OK is the city. Because, over time, eventually there are new rate payers, and there's valuation increase of property. One thing that we haven't done a good job with is planning as far as what does it take to run a block of water main. That property

also, we know, has some challenges because of how wastewater works, you need gravity, unless you put a lift station in and that's a swear word to me anymore after sitting in this spot because stuff goes wrong with those and if somebody puts the wrong thing into their sewer system it plugs it up and burns things up. If your brother was here, he would give you an ear full on those. Kevin ran into that over and over from the lift station in Kozisek's. If you do it in phases, then you just put the minimum that you need."

Council member Jessica Miller said, "At least you would have some control then."

Mayor Zavodny said, "Agreed. I think phasing is the way to go. We can't decide anything. I think that it's healthy to have the discussion. This is kind of where it has gone since we talked about it last."

City Administrator Clayton Keller said, "I just had one thing to add. The mayor was talking about the discussion about how involved the city is going to be is something that we have to figure out with the Council. I was digging through the subdivision regulations the other day and I found, towards the back, there was a spot that says the developer is responsible for at least eighty percent of the infrastructure costs. Which means that if they convince the Council, the Council can pony up twenty percent of the infrastructure costs. That's not saying that has to happen but it's a possibility, so that moving forward as a city we need to decide how involved we are going to be with paying for infrastructure and a lot of it is, what's our payback? So, that's something that we need to sit down and figure out."

Council member Bruce Meysenburg said, "You can't really put in infrastructure until you know what's actually going to be built there."

Mayor Zavodny said, "Yes. Because to size things depending on water needs, number of, I know it sounds crazy but, in this job, you have to count toilets and how much you're going to add to the system there."

Council member Jessica Miller said, "Is that something that you should get Aaron and Emmalyn involved in?"

Mayor Zavodny said, "It will be, but I think the bigger, I'm just going to lay it out here, I've told Clayton this, I've tried to tell Butler County Development this, if you have ideas on what this community needs, and now we're looking at a comprehensive plan, you're going to have to go recruit. If we sit here and wait, and I'll just throw out some things that have been discussed, a truck stop, they're not going to call you and say that they want to come here. You're going to have to do some work and woo them and show them that it's worth their time and money to come here and no one is doing that. Casey's looked and maybe that's not it. I've heard laundromats, how can a city this size not have a laundromat. There is the one in the Wolfe Building."

Council member Bruce Meysenburg said, "By the same token, you've got to put something in here that we aren't duplicating up on. As far as I'm concerned, a city of this size has adequate c-stores and one of the things that I said a while back was that we need more population if you're going to do something like that."

Mayor Zavodny said “I just want to be clear; I’m not advocating that it be a truck stop. Whatever it is, I think the best position for us is that we don’t pick winners and losers. If somebody wants to come here, like a motel, we have one but it’s almost turned into, at this point, more of a weekly rental type thing, where workers come through and use up the rooms as long as their project is local.”

Council member Jessica Miller said, “If we had a hotel, we could host softball tournaments. That’s the biggest thing, these teams won’t come to town because they have no place to stay. They are willing to pay and come to a tournament but where are you going to put them?”

Council member Kobus said, “But that’s not all the time.”

Mayor Zavodny said, “And that is an extremely valid point. Part of what goes into that discussion is what would the usage be. It’s funny, I learned this because I don’t know anything about motel management. They don’t want it full every night. What they are looking for is, and there is more need than I was aware of and I’ll be the first to admit it. The hospital brings in people all the time and they need rooms.”

Council member Jessica Miller said, “The nursing homes are bringing in traveling workers that need a place to stay.”

Mayor Zavodny said, “We brought that up when we had that discussion with the hotel people. They brought that up. I had never considered that, either. They talked about the hospital and Timpfe, Michael Foods and there is probably more. That’s one of the first things that you do. How many rooms do you need so you scale it and how much capacity would you have? They said that they make more money by being able to charge a reasonable room rate versus having it full every night. You don’t make money having it full every night, especially if you have to charge less. That was my crash course in hotel management.”

Council member Jessica Miller said, “I would even entertain the idea of having another youth center. A place where the kids can go and they don’t have to leave town. My kids are saying why don’t we have a movie theater, why don’t we have a bowling alley?”

Mayor Zavodny said, “Anything else that anybody wants to add to this discussion? So, that is that and we will move on.”

Council member Kevin Hotovy made a motion to approve the source water grant agreement with the Nebraska Department of Environment and Energy (NDEE) and authorize the City Administrator to sign. Council Member John Vandenberg seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

INTERGOVERNMENTAL AGREEMENT
Between the
Nebraska Department of Environment and Energy
and the
City of David City
regarding the implementation of the project
City of David City – Proactive Contaminant Source Management Project
Reference Number: 2021-107881197

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into by and between the Nebraska Department of Environmental Quality (hereinafter "NDEE") and the City of David City (hereinafter "Sponsor").

WHEREAS, the Sponsor agrees to utilize funds which have been made available to the NDEE from Region VII Office of the U.S. Environmental Protection Agency (hereinafter "EPA") through the Federal Safe Drinking Water Act section 1452(k) as amended in 1996 (CFDA #66.468), administered by Nebraska's Drinking Water State Revolving Fund; and

WHEREAS, funds are being awarded to units and subunits of government, educational institutions, and non-profit organizations to carry out projects that will protect the state's drinking water sources through conservation, education, and contamination prevention; and

NOW, THEREFORE, the parties do hereby agree to the terms and requirements of this Agreement as follows:

I. TERM OF AGREEMENT

This Agreement shall be effective on January 14, 2021, and will remain in effect until all identified tasks are completed for the Project, unless terminated under § IV(C)(14) of this Intergovernmental Agreement, but will not remain in effect past January 14, 2023, unless extended by amendment.

II. WORK DESCRIPTION

This Agreement encompasses the project commonly known as "City of David City – Proactive Contaminant Source Management Project" (hereinafter "Project"). The Project shall complete objectives and work items as described in the attached Work Plan. The attached Work Plan is hereby incorporated into this document in its entirety.

III. FINANCIAL REQUIREMENTS

- a. The NDEE shall pay the Sponsor up to a total amount of ninety percent (90%) of total project costs, not to exceed forty-four thousand seven hundred and fifty dollars (\$44,750) in grant funds for the activities in Attachment A and listed herein unless adjusted by amendment per IV(C)(1); and
- b. The Sponsor must contribute at least ten percent (10%) of total project costs in nonfederal match as cash and/or services in-kind for the activities in attached Work Plan and listed herein.
- c. **Statement of Costs**
 - i. The Sponsor will submit, no more often than monthly, a standard documented invoice and properly documented statement of costs for which reimbursement is sought and nonfederal match as claimed pursuant to the terms of this Agreement and the Work Plan. The statement of costs shall be signed by the Sponsor's authorized representative. For purposes of this agreement, reimbursable costs

City of David City

- and nonfederal match claims shall be related to budget items as described in the Work Plan, included as Attachment A.
- ii. Documentation of costs shall consist of documented paid invoices, receipts, signed time records, and/or similar verification of expenditures. A description of the activities performed, in relation to the reported match dollars, shall be included.
 - iii. The Sponsor must receive prior written approval from the NDEE for budget deviations, stated in the work plan budget, of more than ten percent (10%) of the total award amount.
- d. Disbursements:
- i. All requests for reimbursement of costs incurred by the Sponsor shall be reviewed by the NDEE for eligibility.
 - ii. No expenses incurred outside the terms of this Agreement are reimbursable unless amended per § IV(C)(1) of this agreement.
 - iii. Submitted requests for disbursement must be supported by proper invoices for Project Costs as listed in § III(C)(4). Reimbursements will be contingent on receipt of required reports.
 - iv. If required documents or reports are not up-to-date, the NDEE will withhold payments until all required documents or reports are submitted.
 - v. The total amount of payment by the NDEE under this Agreement, shall not exceed ninety percent (90%) per eligible reimbursement request.
 - vi. The NDEE shall withhold ten percent (10%) or \$2,000, whichever is greater, of final grant funds pending receipt and approval of the final project report.

IV. REQUIREMENTS

a. Program Requirements

- i. The Sponsor agrees to complete a detailed Work Plan outlining the project schedule, specific work items, and objectives and deliverables to be undertaken during the course of the project. This plan must be approved by the NDEE prior to initiation of work on the project.
- ii. No expenses or work incurred outside the terms of Agreement are reimbursable.
- iii. A Quality Assurance Project Plan (hereinafter "QAPP") must be approved by the NDEE prior to any collection of environmental data and subsequent reimbursement request of grant funds for monitoring activities. All environmental data collected under this agreement shall be provided to the NDEE.
- iv. The Sponsor agrees to submit semi-annual progress reports to the NDEE by April 5th and October 5th each year for the duration of the project agreement. These reports shall contain the following components:
 1. Progress to date;
 2. Percent of objectives and deliverables complete;
 3. Significant findings or events;
 4. Corrective actions taken to resolve any problems that are encountered;
 5. Activities planned for the next reporting period.
 6. Minority Business Enterprises and Woman Business Enterprises (hereinafter DBE) report submitted annually with Oct. 5th semi-annual report.
- v. A final project report must be submitted to the NDEE within 30 days after completion of project tasks, but no later than by February 6, 2023. This report shall contain the following components in addition to those outlined in the *Source Water Protection Final Report Guidelines* to be provided by the NDEE:

1. Significant findings or events;
 2. Percent of objectives and deliverables complete;
 3. Corrective actions taken to resolve any problems that were encountered;
 4. Final DBE report;
 5. Final budget with actual amounts of expenditures and matching listed as well as the source(s) of matching identified.
- vi. The Sponsor agrees that if indirect costs are authorized, as specified in the Work Plan, they will be charged at the approved indirect rate.
 - vii. The Sponsor agrees that any contract, inter-governmental or interagency agreement, sub-agreement and/or procurement of equipment under this grant, must receive written approval from the NDEE by the Project Manager prior to expenditure of funds associated with those transactions. Copies of all contracts, sub-agreements, and inter-governmental or interagency agreements will be provided to the NDEE.
 - viii. The Sponsor agrees that all information including, but not limited to, water quality data and all other information collected under this grant shall be provided to the NDEE.
 - ix. The Sponsor agrees to recognize the contributions and/or involvement of the Nebraska Drinking Water State Revolving Fund (hereinafter "DWSRF") and the NDEE in project publicity, reports, newsletters, and other materials. The Sponsor shall work with the NDEE to ensure that all necessary peer review requirements are met prior to publication. A minimum of one (1) copy of outreach material (printed or other media) produced under this grant shall be provided to the NDEE unless otherwise specified.
 - x. The Sponsor agrees to ensure that persons receiving cost-share assistance from DWSRF shall, where relevant, practice nutrient and best management on those portions of their operations that fall in the critical area of the project.
 - xi. The Sponsor agrees to maintain all practices or structural Best Management Practices (hereinafter "BMPs") developed or constructed under DWSRF, consistent with the operation and maintenance requirements for structures or practices as described in standard engineering design or as identified in the Natural Resources Conservation Service's Field Office Technical Guides or other appropriate federal/state/local standards.
- b. Federal Requirements**
- i. **General Terms and Conditions** The recipient agrees to comply with the current EPA general terms and conditions. These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited throughout the award. The EPA repository for the general terms and conditions by year (Grant Conditions) can be found at: <https://www.epa.gov/grants/policy-regulations-and-guidance-epa-grants>
 - ii. **Federal Tax Liability** With signature on this Agreement, the sponsor certifies that they: (1) are not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) have not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to protect the Government's interests.

- iii. **Subaward Policy** If there will be contractual services provided in association with this contract for \$3,000 or more, the Sponsor is required to get three written bids. If there will be contractual services provided in association with this contract exceeding \$150,000, the Sponsor is required to conduct a sealed bid Request for Proposals.
 - iv. **Civil Rights Statutes and EPA Regulations** This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 424B or Standard Form 424D, as applicable. The assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.
 - v. **Disadvantaged Business Enterprises** (Small Business Enterprise/Minority Business Enterprise/Women's Business Enterprise/Small Business Rural Area), including Historically Black Colleges and Universities (hereinafter "DBE"). The Borrower agrees that ten percent of the Loan Amount shall be the objective for proposed DBE/HBCU subagreement work under this Loan Agreement. The Borrower shall take affirmative steps to assure that small, minority, and women's businesses pursuant to 40 CFR 31.33 and small businesses rural areas pursuant to 13 CFR 121 are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following:
 - 1. Placing disadvantaged business enterprises, including minority, women's, small businesses and small businesses in a rural area and historically black colleges and universities on solicitation lists;
 - 2. Assuring that disadvantaged business enterprises, historically black colleges and universities are solicited whenever they are potential sources;
 - 3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by disadvantaged business enterprises;
 - 4. Establishing delivery schedules, where the requirement permits, which encourages participation by disadvantaged business enterprises;
 - 5. Using the services and assistance of the Small Business Administration and Minority Business Development Agency of the U. S. Department of Commerce; and Requiring the prime contractor to take the affirmative steps listed above.
- c. **State Requirements**
- i. **Amendments** This agreement may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law or requirements of the EPA or NDEE.
 - ii. **Forfeiture, Repayment, and Delays in Disbursement of Funds** Violation of any of the requirements of this Agreement by the Sponsor or failure of the Sponsor to complete and maintain the project in the manner described in the Work Plan, including any amendments thereto which have been properly approved, may result in the forfeiture of any funds not disbursed.
 - 1. The NDEE retains the right to hold and delay any and all funds if a potential violation or noncompliance has occurred and is being investigated. Funds can be withheld until the potential violation or noncompliance has been resolved.
 - 2. In addition, the NDEE may recover from the Sponsor any costs which result from violation of any of the conditions of this Agreement by the

- Sponsor or failure of the Sponsor to complete and maintain the project in the manner described in the Work Plan including any amendments thereto which have been properly approved.
- iii. **Remedies Not Exclusive** The use by either the Sponsor or the NDEE of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party from using such remedy, or limit the application of any other remedy provided by law.
 - iv. **Assignment** No assignment or transfer of this agreement or any part hereof, rights hereunder, or interest herein by the Sponsor shall be valid unless and until it is approved by the NDEE and made subject to such reasonable terms and conditions as the NDEE may impose.
 - v. **Purchasing of Equipment** All equipment purchased with Source Water Protection grant funds must be approved in advance by the NDEE. Any such purchased equipment shall be retained by the NDEE upon completion of the project; however,
 - 1. The Sponsor may retain the equipment as long as the following conditions are met:
 - a. The equipment is being used for the initial intended purpose(s) as stated in the Work Plan; and
 - b. The equipment is not being offered for resale.
 - 2. If the conditions listed in §IV(C)(5)(a) are not met, the NDEE shall retain the equipment.
 - vi. **Waiver of Rights** The Sponsor or the NDEE may from time to time waive any of their rights under this Agreement; however, any waiver of rights with respect to a default of any condition of this Agreement shall not be deemed to be a waiver with respect to any other default.
 - vii. **Applicable Rules and Regulations** Both parties shall abide by all applicable rules and regulations of the NDEE including any that may be adopted subsequent to the effective date of this Agreement except those that would invalidate or be inconsistent with the provisions of this Agreement.
 - viii. **Inspections** The Sponsor shall permit the EPA, NDEE, Nebraska Department of Health and Human Services, and any party designated by the NDEE to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the EPA, NDEE, and NDHHS may reasonably require in connection therewith.
 - ix. **Inspection of Books, Records, and Reports** The duly authorized representative of either party shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or related matters during regular office hours. Each party shall maintain and make available for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Agreement. A single audit is required if \$750,000 or more in total federal funds is expended in their fiscal year. Verification of completion of the single audit report shall be sent to the NDEE.
 - x. **Independent Contractor** The Sponsor is and shall perform this Agreement as an independent contractor and as such shall have and maintain exclusive control over all of its employees, agents, and operations. Neither the Sponsor nor any person employed by the Sponsor shall act, propose to act, or be deemed the NDEE's agent, representative, or employee. The Sponsor assumes full and

exclusive responsibility for the payment of all premiums, contributions, payroll taxes and other taxes now or hereafter required by any law or regulation and agrees to comply with all applicable laws, regulations, and orders relating to social security, unemployment compensation, OSHA, affirmative action, equal employment opportunity, and other laws, regulations, and orders of like nature. For any work hereunder subject to the Veterans Readjustment Assistance Act of 1974, or the Rehabilitation Act of 1973, the parties hereto shall comply with all provisions thereof, together with all applicable rules, regulations and orders of the Department of Labor, and the notices required pursuant to 41 CFR 60-1.4, 60-250.4 and 60-741.4, which are hereby incorporated by reference into this Agreement.

- xi. **Nondiscrimination** The Nebraska Fair Employment Practice Act prohibits contractors to the State of Nebraska and their subcontractors from discriminating against any employee, or applicant for employment in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin. The Sponsor's signature is a guarantee of compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of this Agreement. The Sponsor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Agreement.
- xii. **Drug Free Workplace** The Sponsor by executing this Agreement certifies and assures that it operates a drug free workplace as addressed in the State of Nebraska Drug Free Workplace Policy of July 7, 1989.
- xiii. **Publication Rights** All parties shall have publication and reproduction rights for all reports and materials, which are produced as a result of this Agreement.
- xiv. **Termination** This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party provided that no termination may be effected unless the other party is given:
 1. Not less than *ten (10) calendar days* written notice (delivered by certified mail, return receipt requested) of intent to terminate; and
 2. An opportunity for consultation with the terminating party prior to termination.
- xv. **New Employee Work Eligibility Status** The Sponsor is required and hereby agrees to use, and require sub-contractors to use, a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Sponsor or Contractor is an individual or sole proprietorship, the following applies:
 1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at: http://www.das.state.ne.us/lb403/attestation_form.pdf
 2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's

- lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.
 - xvi. **Hold Harmless** The Sponsor agrees to hold the NDEE harmless for loss or damage sustained by any person as a direct result of the negligent or willful acts by the Sponsor, its employees, sub-contractors, or agents in the performance of this agreement including all associated costs of any defending action.

V. PROJECT MANAGERS

The Project Manager for each party to this agreement shall be as follows. The Project Manager may be changed by any agency upon written notification.

NDEE

Tatiana Davila
Groundwater Geologist / Wellhead Protection Coordinator
PO Box 98922
Lincoln, NE 68509-8922
(402) 471-3376
tatiana.davila@nebraska.gov

Project Manager

Clayton Keller
City Administrator
P.O. Box 191
David City, NE 68632
402-367-3135
ckeller@davidcityne.com

VI. SIGNATORIES TO THIS INTER-GOVERNMENTAL AGREEMENT

NEBRASKA DEPARTMENT of
ENVIRONMENT AND ENERGY:

BY: Kevin Stoner

TITLE: Deputy Director

DocuSigned by:

(Signature) 38460375AA2C4C0...

DATE: 1/11/2021

SPONSOR:

By: Clayton Keller

TITLE: City Administrator, City of David City

(Signature)

DATE: _____

DUNS NUMBER: _____

DocuSign Envelope ID: 674022A6-81B6-4A5D-A958-8CD1BD044E4D

Source Water Protection Grant Number: 2021-107881197

ATTACHMENT A: WORK PLAN

A) Title Page

- a. *Project Title:***
City of David City – Proactive Contaminant Source Management Project
- b. *Project's Primary Sponsor:***
City of David City
557 N. 4th Street
P.O. Box 191
David City, NE 68632
Telephone: 4023673135
Fax: 4023673126
Web site: <https://www.davidcityne.com/>
DUNS Number: 109108472
- c. *Project Manager:***
Clayton Keller, City Administrator
Telephone: 4023673135
Email address: ckeller@davidcityne.com
- d. *Project Co-sponsors:***
Lower Platte North Natural Resources District (LPNNRD)
Upper Big Blue Natural Resources District (UBBNRD)
Nebraska Department of Environment and Energy (NDEE)
- e. *Funds Requested and Match Offered:***
- | | <u>Amount</u> | <u>Percentage</u> |
|----------------------|---------------|-------------------|
| Funds Requested: | \$ 44,750 | 63.0% |
| Local Match Offered: | \$ 20,000 | 28.0% |
| Total Project Cost: | \$ 70,500 | 100.0% |
- f. *Project Area:***
The City of David City Wellhead Protection Area and approximately two miles beyond.
- g. *Project Period:***
January 2021 to December 2022

B) Project Description

a. Introduction and Background

The City of David City (City) has growing concerns about potential pollutant sources and high water use agricultural operations infringing on its water supply. As a result, the City intends to utilize a groundwater model to accurately delineate a Wellhead Protection (WHP) Area utilizing Airborne Electromagnetic (AEM) data recently obtained by Lower Platte North Natural Resources District (LPNNRD). The City would also like to update its WHP Plan, decommission private abandoned wells, Municipal Well No. 8, and educate the community on source water protection. This project will enable the City's Planning Commission to ensure zoning and land use controls are being applied to the correct delineated area using the best available scientific data.

The new WHP Area map would then replace the 2010 official map and would become the basis for enforcement of the current WHP overlay zone. It is important to note that Butler County does not have zoning regulations; therefore, an accurate map is critical for David City as it will help the community provide a basis for application of its zoning outside of this current one-mile extraterritorial jurisdiction (ETJ) into the full extent of the WHP Area. The WHP overlay zone is a critical layer of protection that requires projects with any potential contaminant sources to obtain permits and observe special provisions that ensure actions do not threaten drinking water.

There has been debate about the correct direction of groundwater flow through the community and past WHP Area maps have been inconsistent compared to what locals believe the groundwater flow direction to be. This project will take advantage of the investment made by LPNNRD and Nebraska Department of Natural Resources (NeDNR) to collect AEM data and will also utilize NeDNR well logs and University of Nebraska Conservation and Survey Division (UNL CSD) test holes. This data will be collected and analyzed by a professional geologist to create a robust model and highly accurate WHP Area delineation. The modeling report, conceptual model, and GIS data provided as part of the delineation will also provide the City with information on where to site future wells. This information will also be shared with LPNNRD and UBBNRD to strengthen their efforts to manage groundwater resources around the David City area.

The City, estimated population 2,855, is in an intensive agriculture environment with heavy Agricultural usage. The City has a total of six municipal wells as part of its water supply system, all located east of Highway 15 within, or close to the city limits. The oldest well was built in 1966, with two newer wells built in 2009. The water system is based around a lime softening water treatment plant that utilizes four of the six locally based wells all within a mile radius of our water point-of-entry. The City has a 500,000-gallon clearwell, a 750,000-gallon water tower, and 27 miles of water main. The average finished water distribution capacity is approximately 850,000 gallons but can vary at times between 250,000 nonpeak to 1.2 million during peak demands. The City plans to decommission Municipal Well No. 8 as part of this project and rehabilitate another well soon, as part of a separate effort.

Currently, the David City Planning Commission is assigned the task, by City Council, of reviewing all well permits within the current WHP Area and the Planning Commission decides on if the permit should be approved or denied. The City Council has no role in the permit approval process. The Planning Commission currently uses the WHP Area as an overlay, which lies over our one-mile ETJ. Part of the reason for this project is to better understand where the community's source water is coming from within the aquifer. This may lead to an extended WHP Area and more use of the overlay zone. In the past, the City has used the WHP Area as the overlay because it can go out further than the zoning jurisdiction.

b. Project Objectives

The primary goal of the Project is to identify and protect the groundwater capture area to provide a safe and long-term water supply for the community and update the existing WHP Plan. The City's actions will go beyond the currently modeled WHP Area by using updated and more robust modeling software and through utilizing updated geologic data to map and assess the aquifer. Furthermore, this project will allow the City to take steps to better understand their source of drinking water by developing an updated WHP Plan, educating and involving stakeholders, and providing an opportunity to decommission private wells and one municipal well. The City will work with LPNNRD, UBBNRD, property owners, citizens.

- Objective #1:** Delineate the 20 and 50-year WHP Area
- Objective #2:** Decommission Private Wells and Well No. 8
- Objective #3:** Public Involvement
- Objective #4:** Update Wellhead Protection Plan

Project effectiveness will be measured by the production of useful maps and a written report from the WHP Area delineation, prepared by a state-licensed Geologist. Success will be achieved through state-approval of the WHP Area map and successful decommissioning of up to 10 abandoned wells and Well No. 8. The number of residents and producers who participate in the outreach efforts will be also tracked.

c. Project Tasks

Associated tasks to accomplish the objectives of the Project include:

Objective #1: Delineate the 20 and 50-year WHP Area

The City's current WHP Area map was produced using the WhAEM model in 2010 (over ten years ago) and will be updated. The new map will become the boundary for the zoning overlay. Upon review of the hydrogeologic data and information provided in the Lower Platte-Missouri River Tributaries Model (LPMT Model, <https://dnr.nebraska.gov/Lower-Platte-Missouri-Tributaries-Groundwater-Model>) and Blue Basin Model (<https://dnr.nebraska.gov/Blue-Basin-Groundwater-Model>), the consultant team will determine if a new model should be created or if the LPMT Model can be used and refined for the WHP delineation. Using a refined model, with smaller cell size around each pumping well (1/16 of a mile compared to one-mile grids of the LPMT model), provides additional accuracy within the modeled results, particularly related to the convergence of the flow pathlines near the pumping wells.

An updated WHP Area will be delineated based on the 20-year and 50-year time-of-travel using outputs of the hydrogeologic framework and/or as potentially refined from the LPMT Model. The new WHP Area delineation will be performed using the MODFLOW groundwater model. The City, LPNNRD, and UBBNRD will be asked to provide any available aquifer pumping test results for use in estimating model aquifer parameters and to assist in model calibration. The hydrogeologic framework is essential for use of MODFLOW which, given the complex geology of the underlying aquifer, will produce a map that gives the City higher confidence in its accuracy versus traditional methods of WHP delineation, especially using AEM data.

Task 1.1: Model Groundwater System: Based on the hydrogeologic framework, a model of the groundwater flow system will be built using USGS's MODFLOW. Available groundwater level and water table contour maps, as well as pumping test data (if available), will be used to calibrate the model before simulating the capture zones for the wells. The groundwater model will simulate steady state conditions for non-pumping and pumping conditions.

Task 1.2: Groundwater Travel Delineation: The outcome of this task will be a delineation of the 1-, 2-, 10-, 20-year, and 50-year time-of-travel flow paths of the existing wells.

Task 1.3: WHP Area Report: The model and documentation will be overseen by a state-licensed Geologist and will be submitted to NDEE for review and approval. Information within this report will also be utilized for siting future wells and other future data analysis. The Project team will work with NDEE to finalize the boundaries of the new WHP area.

Task 1.4: Adoption of WHP Area: The City will formally adopt the updated WHP Area map by ordinance, once the WHP Area map is finalized and published by NDEE.

Objective #2: Decommission Private Wells and Well No. 8

Using public and producer feedback, the City will locate and properly decommission up to ten abandoned private wells within the new WHP Area. A qualified contractor will be hired to abandon a group of wells at one time, thus saving costs. All wells will be closed by a licensed well driller according to Title 178, Chapter 12, of the Nebraska Health and Human Services. The LPNNRD and UBBNRD well abandonment programs will provide up to 75% of actual cost, with the remaining funded with source water protection grant funds. The City will also decommission Municipal Well No. 8.

Task 3.1 Identify Abandoned Wells: Abandoned wells will be identified by the City through conversations with the public and agricultural producers. Flyers and newspaper articles will be published to solicit additional participants from the area.

Task 3.2: Complete Well Decommissioning: Once wells are identified and landowners have received approval from the LPNNRD or UBBNRD for cost share assistance, the City will lead the effort to hire a contractor through a public bidding process to properly seal the abandoned well. By bundling all wells into one bid package, this will save time and money. After a well is sealed, the City will coordinate with NDEE and the respective NRD for reimbursement.

Task 3.3: Decommission Municipal Well No. 8: Includes decommissioning of an out of service municipal well, built in 1972, that is no longer utilized by the City. This well (G-27410) is 405 feet deep, with a 340-foot column, in a 12-inch casing.

Objective #3 - Public Involvement

This task includes hosting an open house style public meeting. The meeting will focus on the new WHP Area delineation, the importance of managing contaminants within the WHP Area, and discuss the how the City is currently utilizing a WHP Area overlay zoning to protect drinking water. The meeting will also provide an opportunity to locate private abandoned wells. A consultant will facilitate the meeting and will provide meeting materials: sign-in sheets, a presentation, handouts, public announcements, poster boards and other materials as deemed necessary. It is anticipated that the LPNNRD, UBBNRD, and NDEE will participate in the planning of the meeting and in preparation of the presentation or other meeting materials.

Objective #4 - Wellhead Protection Plan Update

Developing and implementing a NDEE approved WHP Plan will assist the City in the long-term protection and management of its drinking water system. This will help ensure that the City understands its source of water, potential threats, long-term supply options, and actions to maintain a safe and sustainable water supply for generations to come. JEO will develop a new plan, based off the existing plan, that will follow the steps outlined by NDEE's.

Task 4.1: Update the WHP Plan: Ensure that the WHP Plan and planning process meets the requirements of WHP criteria, as identified in NE Rev. Stat. 46-1501-46-1509. This will include identifying and providing strategies to protect future well locations, based on the

vulnerability assessment.

Task 4.2: Plan Adoption and Approval: The City will hold a public hearing and adopt the final WHP Plan after NDEE's approval. JEO will attend the public hearing and the City will be responsible for advertising the public hearing.

d. Partnerships

The City will partner with the following local, regional, and state partners to meet the tasks and objectives contained within this Source Water Protection Project proposal. Currently, these partners include:

- NDEE - NDEE will provide funding, technical assistance, intergovernmental coordination options, public awareness efforts, educational campaigns, and other tasks.
- LPNNRD – The LPNNRD brings local technical resources to this Project. They will be involved throughout the Project, particularly in providing cost-share for well decommissioning.
- UBBNRD – The UBBNRD will share data and support well decommissioning.
- JEO Consulting Group, Inc. (JEO) – JEO will provide the project management, facilitate public involvement, and complete the groundwater modeling and WHP Area map update. The firm will involve a professional Geologist, licensed in Nebraska.

Partnerships with other stakeholders such as schools, civic organizations, Butler County, and other groups will be explored during the Project.

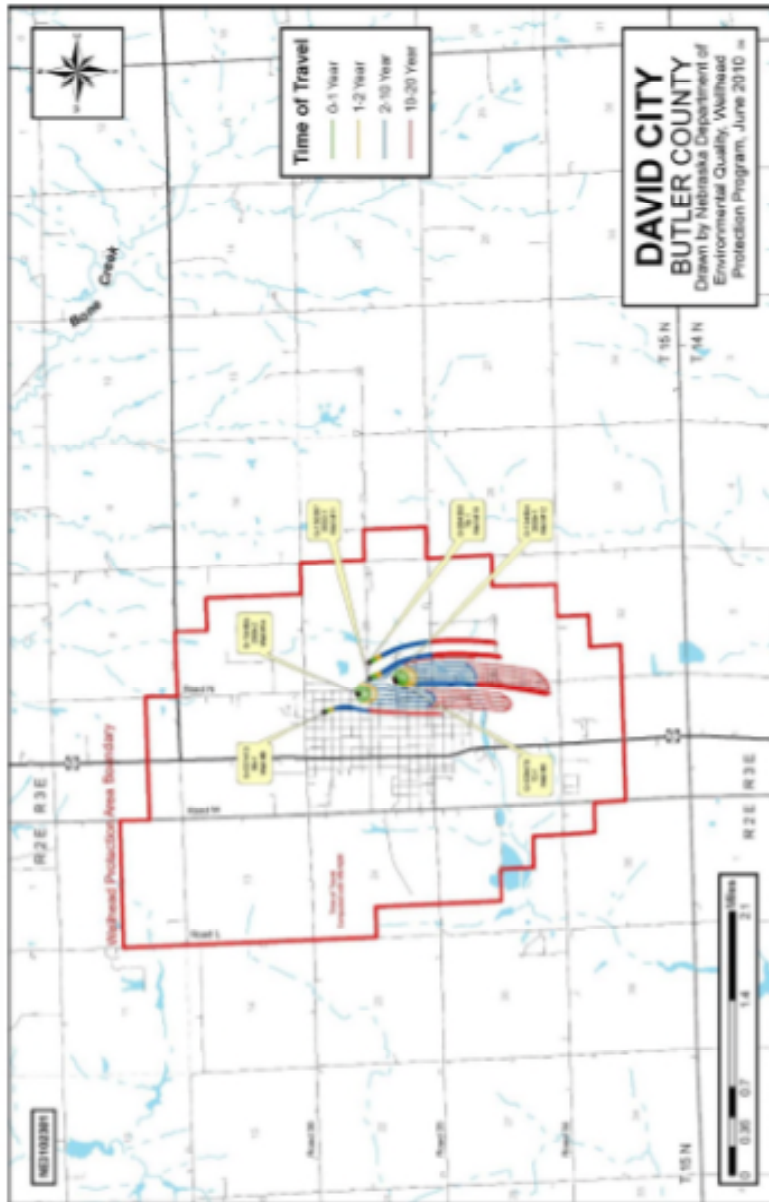
e. Project Costs/Funding Sources

Requested Source Water Protection funds, combined with matching cash/in-kind services, will enable the City to contract with a firm to undertake the project. LPNNRD, UBBNRD, and NDEE will be actively involved throughout the project.

Coordination with existing programs (City, LPNNRD, or UBBNRD) will ensure that duplication of efforts will not take place, as well as identifying areas where programs can work cooperatively. The City and LPNNRD will contribute approximately \$2,000 of in-kind each for administrative and staff time for providing data, attending meetings, and materials review. Both UBBNRD and LPNNRD are anticipated to contribute to well decommissioning, depending on the location of the abandoned wells.

A detailed budget is in Item D.

C) Project Area Map



D) Budget Summary Table

Table 1: Budget and Cost Summary

Budget Category	Grant Funds	DC Funds	LPN Contribution	Total
Personnel				
Admin/Staff (In-kind)	\$-	\$2,000	\$2,000	\$4,000
Travel				
n/a				\$-
Materials & Supplies				
n/a		\$-		\$-
Equipment				
n/a				\$-
Contractual				
WHPA Delineation	\$14,000	\$8,000		\$22,000
Muni. Well No. 9 Decommissioning	\$8,000	\$8,000		\$16,000
Education/Outreach	\$2,500	\$1,000		\$3,500
Well Siting/Coordination/Project Management	\$4,000	\$1,000		\$5,000
WHP Plan Update	\$15,000	\$-		\$15,000
Implementation				
Private Well Decommissioning	\$1,250	\$-	\$3,750	\$5,000
Other				
n/a				\$ -
TOTAL	\$44,750	\$20,000	\$5,750	\$70,500
Matching Percentage	63%	28%	8%	

Jon Mohr with JEO was present and said, "I've been working with Clayton at the request of Keith (Marvin) on a potential grant that would delineate your wellhead protection area. Since that time, as Clayton has mentioned, the grant was approved. Some of the numbers that I did break down that I wanted to share with the Council. The total grant was for \$44,750. We included in that fifty percent of a municipal well that you had already planned to decommission. We're also going to try to help decommission private wells, approximately ten of them. The grant pays twenty-five percent of that, the Natural Resource Districts will pick up the remainder. JEO has submitted a proposal that was qualification-based per the requirements of the grant, once it was received. The agreement that we presented to this point was for \$45,500. Of that, approximately half is for the wellhead protection area ground water model. The model that is going to be used is far more sophisticated. When I was at DEQ twenty years ago as a temp, I worked on your wellhead protection area with a very simplified model. Since that time there has been controversy on which direction your water is actually coming from. This model will help me to answer that question. The other half of that is a wellhead protection plan. That will include an update of the one that Lower Platte North did, I think in like 2003. The plan is fairly simple. There will be a committee, a small group, with at least two meetings and then what this ultimately will give you is confidence in where you enact your Ordinance that Keith has been working on for a number of years. That's pretty much what everything is about."

Council member Bruce Meysenburg made a motion to approve the agreement with JEO to complete the David City Source Water Protection Project and authorize the City Administrator to sign. Council Member Kevin Hotovy seconded the motion. The motion carried.

Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent,

Jessica Miller: Yea, John Vandenberg: Yea

Yea: 5, Nay: 0, Absent: 1



AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between City of David City (“Owner”) and JEO Consulting Group, Inc. (“Engineer”).

Owner’s project, of which Engineer’s services under this Agreement are a part, is generally identified as follows:

David City Wellhead Protection Delineation and Plan (“Project”).

JEO Project Number: 201288.00

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 - OWNER’S RESPONSIBILITIES

2.01 Owner Responsibilities

- A. Owner responsibilities are outlined in Section 3 of Exhibit B.

ARTICLE 3 - COMPENSATION

3.01 Compensation

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.
- B. The lump sum fee for the Project is \$45,500.00.
- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.1 Exhibits

Exhibit A – Scope of Services
Exhibit B – General Conditions

4.2 Total Agreement

- A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: City of David City

Engineer: JEO Consulting Group, Inc.

By: Clayton Keller

By: Kevin Kruse, PE

Title: City Administrator

Title: Water Resources Operations Manager

Date Signed: _____

Date Signed: _____

Address for giving notices:

Address for giving notices:

City of David City

JEO Consulting Group, Inc.

557 4th Street; PO Box 191

2700 Fletcher Ave.

David City, NE 68632

Lincoln, Nebraska 68504

Exhibit A

JEO Consulting Group, Inc.
SCOPE OF SERVICES

City of David City

David City Wellhead Protection Delineation and Plan

Project Description:

The primary goal of the Project is to identify and protect the groundwater capture area to provide a safe and long-term water supply for the community. The City's actions will update the current Wellhead Protection Area (WHPA) using a more robust modeling software and through utilizing updated geologic data to map and assess the aquifer. Furthermore, this project will allow the City to take steps to better understand their source of drinking water through the development of a wellhead protection plan, educate and involve stakeholders, and provide an opportunity to decommission private wells and one municipal well. JEO will assist the City to work with Lower Platte North Natural Resources District (LPNNRD), Upper Big Blue Natural Resources District (UBBNRD), Nebraska Department of Environment and Energy (NDEE), property owners, citizens, and other resource agencies on the following three main objectives:

Task 1 - Project Management and Public Involvement

Task 2 - Delineate the 20 and 50-year WHP Area

Task 3 - Wellhead Protection Plan Update

Scope of Services – (lump sum basis):

To meet the above objective, the following scope of services is proposed:

Task #1: Project Management, Public Involvement, Well Decommissioning

JEO will be the primary interface between the project partners and the work effort. This task includes project management, grant coordination, stakeholder group facilitation, and assisting with private well decommissioning.

Task 1.1: Project Management: The project manager will be responsible for maintaining the project schedule, budget, and work quality. Monthly progress reports and monthly invoices will be prepared and submitted to the City. It is anticipated that the phone calls, progress reports, virtual meetings, and email communications will be enough to facilitate most work efforts. Assistance will be available to the City for NDEE grant reporting purposes. Deliverables include technical review and direction, QA/QC of all project deliverables, coordination with sub-contractors, monthly invoices and progress reports, and grant reporting assistance.

Task 1.2: Stakeholder Group, Outreach, and Meetings: The City will identify 4-8 stakeholders within the existing WHP Area to help guide and oversee the development of the WHP Plan as an organized Stakeholder Group. The Stakeholder Group will be supported by a Technical Group comprised from NDEE, LPNNRD, UBBNRD, the consultant, and other resource agencies. A total of two meetings will be held, either in-person or virtually, and one Public Open House-style meeting will occur to allow for public input. JEO will assist with producing a project summary, meeting flyers, press releases, posters, etc., and presentations for all meetings.

Task 1.3 Identify and Decommission Abandoned Private Wells: Abandoned wells will be identified by the City through conversations with the public and agricultural producers through an outreach campaign. Flyers and newspaper articles will be published to solicit

Exhibit A

**JEO Consulting Group, Inc.
SCOPE OF SERVICES**

additional participants from the area. Once wells are identified and landowners have received approval from the LPNNRD or UBBNRD for cost share assistance, the City will lead the effort to hire a contractor through a public bidding process.

Task 1 Cost: \$8,500

Task #2: WHPA Delineation

The City's current WHP Area map was produced using the WhAEM model in 2010 (over ten years ago) and will be updated. The new map will become the boundary for the existing zoning overlay. Upon review of the hydrogeologic data and information provided in the Lower Platte-Missouri River Tributaries Model (LPMT Model, <https://dnr.nebraska.gov/Lower-Platte-Missouri-Tributaries-Groundwater-Model>) and Blue Basin Model (<https://dnr.nebraska.gov/Blue-Basin-Groundwater-Model>), JEO's sub-consultant will determine if a new model should be created or if the LPMT Model can be used and refined for the WHPA delineation.

An updated WHP Area will be delineated based on the 20-year and 50-year time-of-travel using outputs of the hydrogeologic framework and/or as potentially refined from the LPMT Model. The new WHPA delineation will be performed using the MODFLOW groundwater model. The City, LPNNRD, and UBBNRD will be asked to provide any available aquifer pumping test results for use in estimating model aquifer parameters and to assist in model calibration.

Task 2.1: Model Groundwater System: Based on the hydrogeologic framework, a model of the groundwater flow system will be built using USGS's MODFLOW. Available groundwater level and water table contour maps, as well as pumping test data (if available), will be used to calibrate the model before simulating the capture zones for the wells. The groundwater model will simulate steady state conditions for non-pumping and pumping conditions.

Task 2.2: WHPA Report: The model and documentation will be overseen by a state-licensed Geologist and will be submitted to NDEE for review and approval. Information within this report will also be utilized for siting future wells and other future data analysis. The Project team will work with NDEE to finalize the boundaries of the new WHP area.

Task 2 Cost: \$22,000

Task #3: Wellhead Protection Plan Update

Developing and implementing a NDEE approved WHP Plan will assist the City in the long-term protection and management of its drinking water system. This will help ensure that the City understands its source of water, potential threats, long-term supply options, and actions to maintain a safe and sustainable water supply for generations to come. JEO will develop a new plan, based off the existing plan, that will follow the steps outlined by NDEE's.

Task 3.1: Update the WHP Plan: Ensure that the WHP Plan and planning process meets the requirements of WHP criteria, as identified in NE Rev. Stat. 46-1501-46-1509. This will include identifying and providing strategies to protect future well locations, based on the vulnerability assessment.

Task 3.2: Plan Adoption and Approval: The City will hold a public hearing and adopt the final WHP

Exhibit A

JEO Consulting Group, Inc.
SCOPE OF SERVICES

Plan after NDEE's approval. JEO will attend the public hearing and the City will be responsible for advertising the public hearing.

Task 3 Cost: \$15,000

PROPOSED PROJECT FEE:

The consultant will provide the services described herein for fixed fee of \$45,500.00.

Task	Title	Fee
1	Project Management, Public Involvement, Well Decommissioning	\$8,500
2	WHPA Delineation	\$22,000
3	WHPA Update	\$15,000
Total		\$45,500

PROPOSED PROJECT SCHEDULE:

The overall project schedule will be contingent upon the review and approval timeframe of NDEE and contracting between the City and NDEE. The project will start immediately after the NDEE and City contract is signed.

- A. Notice to Proceed -----December 2020
- B. Task 1 – PM, Meetings, Wells -----December 2020 to January 2022
- C. Task 2 – WHPA Delineation -----January to April 2021
- D. Task 3 – Plan Development ----- February 2021 to September 2021
- E. NDEE Plan Review ----- October 2021 to December 2021
- F. Plan Approval and Project Completion ----- January 2022

PRIMARY POINT OF CONTACT:

Jonathan Mohr will serve as the City's project manager and primary point of contact and will assist with semi-annual and final report with NDEE. Contact information, 402-416-4667, jmohr@jeo.com.

SERVICES PROVIDED BY THE OWNER:

- Provide one point-of-contact to JEO.
- Distribution of invite letters, emails, etc. to key stakeholders for meetings, as needed.
- Lead procurement of a contractor for private well decommissioning.
- Provide feedback and review of the WHP Plan.

SERVICES NOT INCLUDED:

If necessary, a fee for these services can be negotiated, and added via contract amendment:

- Additional meetings not previously noted.
- Rewriting of the existing WHPA zoning ordinance.
- Any work related to the decommissioning of the municipal well, unless requested, where arrangements can be made through a scope amendment.

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1. SCOPE OF SERVICES: JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the owner for these services at the fee stated in Exhibit A.

2. ADDITIONAL SERVICES: JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

3. OWNER RESPONSIBILITIES: The owner shall provide all criteria and full information as to the owner's requirements for the project; designate and identify in writing a person to act with authority on the owner's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the owner observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the owner shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the owner shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the owner that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

4. TIMES FOR RENDERING SERVICES: JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

5. INVOICES: JEO shall submit invoices to the owner monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Owner agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the owner fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the owner, suspend services to the owner under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the

same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the owner shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in owner furnished information.

7. REUSE OF DOCUMENTS: Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the owner on a future extension of this project, or any other project without JEO's written authorization shall be at the owner's risk and the owner agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the owner.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The owner may make and retain copies of documents for information and reference in connection with use on the project by the owner.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the owner and JEO.

9. SUBCONSULTANTS: JEO may employ consultants as JEO deems necessary to assist in the performance of the services. JEO shall not be required to employ any consultant unacceptable to JEO.

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of

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engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

11. INSURANCE: JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
 - i. Each Accident: \$500,000
 - ii. Disease, Policy Limit: \$500,000
 - iii. Disease, Each Employee: \$500,000
- c. General Liability
 - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - ii. General Aggregate: \$2,000,000
- d. Auto Liability
 - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

12. TERMINATION: This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by owner for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

13. GOVERNING LAW: This agreement is to be governed by the law of the state in which the project is located.

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The owner and JEO each is hereby bound and the partners, successors,

executors, administrators and legal representatives of the owner and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

- a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.
- b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
- c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

16. SEVERABILITY: Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the owner and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

18. E-VERIFY: JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.

City Administrator Clayton Keller said, "So, we went through the bid process for people to submit proposals to redevelop the Chauncey S. Taylor house on 4th Street and the lot that sits right behind it. We did not receive any bids by the time that the bid window closed, so after discussing it with the legal counsel that we have been working with, they suggested opening the bid window back up. There were parties that were interested in submitting bids, they just didn't have enough time within the bid window that we had set. So, after discussing it with legal counsel, we decided to ask the Council to open that bid window back up. I will contact those interested parties again. They have now had an additional month to work on their proposals and what we have before you tonight would set the new bid due date for February 5th, which I think would give them enough time to get their proposals together to submit."

Council member Bruce Meysenburg said, "How many people do you have interested?"

City Administrator Clayton Keller said, "I have three interested parties."

Council member Kevin Hotovy said, "Is this more complicated than it needs to be?"

Mayor Zavodny said, "That is a fair question."

Council member Kevin Hotovy said, "There are some things on here, for instance, number two, financial information. I don't know that there's going to be very many people that want to let that information out. I don't think that there are very many businesses that are going to hand you a financial statement and say "we're in the black"."

City Administrator Clayton Keller said, "You are more than welcome to strike that from the publication, if you like."

Mayor Zavodny said, "My one caveat of concern is, I read the interest of one party that said, we don't have any money and we're hoping that we can get some grants. That's probably not the one that we want to go with."

Council member Kevin Hotovy said, "Can you check with the credit bureau, though? Can you do a background check on their credit?"

City Clerk Tami Comte said, "We would have to have them sign a release but then we could do that."

Council member Kevin Hotovy said, "Sure. I'm way more apt to do that than to share my balance sheet and financial statement."

Mayor Zavodny said, "One of the challenges and just bear with me on this, is some of the interest that happens with this house are really artsy people, which is great and I can say that because I have absolutely no artistic talent, whatsoever. But, sometimes with that comes, 'I don't have any money, but boy could I make this thing beautiful'. That's our problem. I will defend it to this day, I haven't loved this thing from the start, but what started out as a nuisance, now is protecting a building that, frankly, is known by people who have driven through this town for years and years. It is a historical landmark in this community and by the actions of this Council, it's been saved. We've taken some grief over it. People criticize you and tell you how

dumb you are for doing it, but knowing all the grief that we've had over this, I would do it again. But now, the challenge is, how do we get it....?"

Council member Hotovy said, "Another thing, the city is not going to be made whole on this, I don't believe. Do you have the \$110,000 number in the RFP because I don't think that we're going to get that?"

Mayor Zavodny said, "My position on that has changed a little bit. I was pretty staunch that we should be allowed to get our money back. I have come to the Council member Hotovy camp on this, insofar as, we're not going to hit that number, but I think, over the years, we could be made whole. If it gets renovated, and I admitted to Clayton the other day, I've not been in it and I have no desire to go in it. But we did our part to make sure that it has a chance. Someone else who has the resources, who has the knowledge and the connections to make it work and I've heard of ideas from a place to host small weddings to a bed and breakfast. It's got a multitude of possibilities. But that's for someone else to figure out. We are going to have to agree on a number less than I wish we could get."

Council member Kevin Hotovy said, "Probably, if you want to call it a diamond in the rough, regardless of the parties interested in it. The vacant lot has a pretty specific dollar amount that it is worth, no matter what. It's worth between \$25,000 and \$30,000."

Mayor Zavodny said, "That's the conversation that we had, too."

Council member Hotovy said, "That's a feather in our cap, there, but we're probably going to have to eat part of this house."

Council member Kobus said, "Are you going to have a starting place on the bid?"

Mayor Zavodny said, "What you do is you set that the city reserves the right to reject any and all bids, but if we feel that is the best bid and the city becomes whole, the return on investment won't be great on this in the short term, as far as making money, but if thirty years from now that house is still standing and the taxes have been paid for that amount of time and it's become an asset to the community again, we've done well."

Council member Kevin Hotovy said, "If the city would happen to get three bids, and the highest one is \$60,000, but we know that we can get \$30,000 out of the lot, too, that might be as close as we get."

Mayor Zavodny said, "I'd sign on that."

Council member Kevin Hotovy said, "Especially if the \$60,000 was from a vetted individual who was willing to spend some money on the house. I just don't want this to scare off any bidders."

Mayor Zavodny said, "Let's be honest, \$60,000, when you consider the amount of money that they are going to have to outlay to get it to the condition that it needs to get to, that's a pretty significant investment in just the right to try to do something with it. I think that your discussion makes a lot of sense."

Keith Marvin said, "Kevin, you were talking about the financial statement, but what about asking for a letter of credit from the bank?"

Council member Kevin Hotovy said, "That, I would think, would be ok."

Keith Marvin said, "I'm afraid that if you get somebody that doesn't have the finances to do what they are dreaming and bidding on, the city is going to be back to step one again."

Council member Kevin Hotovy said, "That is probably a great way around that. I know what happens in the real estate market. I know that from personal experience."

Mayor Zavodny said, "Well, my one question is are you confident that February 5th is enough time? From me, for people to do their due diligence, because it's not just going to be one contractor. It's going to be a plumber and an electrician. I think there's going to be some people that have to find some people to look at this for them and figure out what it's going to take."

City Administrator Clayton Keller said, "Do you want to push it out?"

Council member Kevin Hotovy said, "I don't think that you want to go very far, though."

Mayor Zavodny said, "Even if we pushed it to February 12th. That's almost exactly a month from today."

City Clerk Comte said, "The other thing is that the Planning Commission has to review all of the redevelopment plans before they come to the Council. That was one of the reasons that we set it for the 5th, because the Planning Commission meets on the 13th."

City Administrator Clayton Keller said, "We could have it on the agenda and still get the bids on the 12th."

Mayor Zavodny said, "We could always table it, if for some reason it wasn't ready. I think giving someone a month seems like the right thing to do."

Council member Bruce Meysenburg made a motion to approve republishing the request for proposals for the Chauncey S. Taylor house with recommended changes. Council Member Tom Kobus seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

**CITY OF DAVID CITY, NEBRASKA
REQUEST FOR PROPOSALS
FOR
PURCHASE AND REDEVELOPMENT / REHABILITATION
OF
PROPERTIES LOCATED AT
715 NORTH FOURTH STREET, DAVID CITY, NEBRASKA**

January 13, 2021

The City of David City, Nebraska ("City") is requesting proposals from qualified and interested persons and companies (collectively, "Respondents") for the purchase and redevelopment of the properties located at 715 North Fourth Street, David City, Nebraska (the "Properties"). The Properties are two adjacent parcels (#120000245 and #120000238) near the center of David City, Nebraska. One parcel is occupied by a single-family home that is listed on the National Register of Historic Places as the Chauncey S. Taylor House and in need of substantial repair and renovation (the "Taylor House"). The second parcel is an adjacent, vacant parcel, which could be incorporated with the other parcel or developed separately.

Proposals Sought

The successful bidder must propose and undertake a project or projects that maintain and enhance the historic nature and context of the Properties, and particularly the Taylor House. The City will enforce these requirements through deed restrictions and other means.

The successful Respondent must finance the purchase and redevelopment themselves. The City will review proposed financing for suitability and feasibility. The City will also use its reasonable best efforts to support financing options at no cost to itself and with no obligation for the Planning Commission or City Council to vote any certain way.

The City desires to see the Properties developed and redeveloped for commercial use that will benefit the City and its residents through increased activity and tax revenue. A Respondent may seek to purchase only one of the two parcels, but a proposal to purchase both is strongly preferred.

Proposal Information

To be considered, a Respondent shall provide three (3) copies of the proposal to the City offices, c/o Mr. Clayton Keller, City Administrator, 557 4th Street, P.O. Box 191, David City, Nebraska, 68632 on or before 4:00 p.m. Central Standard Time on February 12, 2021. Respondents shall submit all proposals in opaque sealed envelopes marked on the exterior with the following legend: "Proposal to Purchase 715 Fourth Street Properties."

City personnel and City consultants will evaluate the proposals. The City reserves the right to choose the bid that is most advantageous to the City and can reject any and all responses for any reason at its sole and absolute discretion, without obligation of any kind to any Respondent(s).

Upon completion of the evaluation, the City will attempt to negotiate a purchase with the selected Respondent. In making that determination, the evaluation committee will consider the following criteria:

- Experience in redeveloping historic properties;
- Financial resources and financing proposal;
- Reuse and renovation proposal;
- References; and
- Other criteria as the evaluation committee may determine at its sole discretion.

If the City, in its sole and absolute discretion, is unable to negotiate a purchase with the selected Respondent, or if it determines no responses are satisfactory in the first instance, it may proceed in any manner it sees fit.

Site Visit

Qualified Respondents who intend to submit a proposal shall be allowed to tour the Properties prior to submitting a proposal. Respondents may schedule one tour by contacting Mr. Keller at the City offices during regular business hours. City representatives will be available to answer questions about the Properties, but any questions and answers will be available to other potential Respondents and the public.

Requirements for Proposals

All proposals shall contain at least the following information. Please organize the information in the order below to assist in review of the proposals. Please present the proposals in binder or other format that allows for easily removing pages for photocopying. Respondents may include other information that would be helpful to the evaluation committee, but photocopies of large volumes of generic information are strongly discouraged. Failure to provide the requested information or submission of an incomplete or nonresponsive proposal may result in the rejection of the proposal.

1. Respondent Profile. Include Respondent name, address, contact person, telephone and facsimile numbers and e-mail addresses. Provide the type of entity (e.g., individual, corporation, limited liability company) and state where organized. Provide a brief description of the relevant history of the Respondent, number of years in business, business location, number of employees and other background information regarding the Respondent that would be helpful in evaluating the ability of the Respondent to successfully redevelop the Properties.
2. Financial Information. Furnish evidence of the Respondent's financial ability to complete Respondent's proposed project on the Properties. Such evidence may include, but is not limited to, financial statements, loan commitments or letters of credit from a bank or other financial institution and commitments from investors. The City may destroy proposals at its sole and absolute discretion on or after July 1, 2021.
3. Resumes. Furnish resumes or other similar declarations of relevant education and experience of the principal(s) of the Respondent.
4. Historic Property Redevelopment Experience. Please set forth a detailed description of the plans for redevelopment and reuse of the Properties. Describe how the Respondent plans to redevelop and rehabilitate the Properties, including a reasonably detailed timeline and financing proposal. Describe how the Respondent plans to use the Properties after redevelopment and rehabilitation. Please state whether the Respondent has ever redeveloped a historic property, and if so, provide details regarding such project(s).
5. References. Please provide at least three references. One reference should be from a bank or financial institution. The other references may include people associated with previous relevant projects the Respondent has completed.

6. Purchase Proposal. Please state the purchase price and terms under which the Respondent proposes to purchase the Properties. The City will not and cannot directly finance the purchase. For reference, the City has spent approximately \$110,000 to acquire the Properties. This number is not a mandatory minimum bid, but the City is unlikely to look favorably on proposals to purchase the Properties for significantly less than this amount.
7. Timeline and Schedule. Include a detailed proposed timeline and schedule for the proposed redevelopment and rehabilitation project. This timeline and schedule should include all necessary steps to finance, entitle and construct the project. The City understands real estate development involves uncertainties and delays, and the proposed timeline and schedule may therefore include appropriate caveats and contingencies.

Additional Considerations

Proposals should provide straightforward and concise descriptions of the Respondent's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may cause the City to reject a proposal, in the City's sole and absolute discretion. The City may reject a proposal if it is conditional or incomplete, or if it contains alterations of forms or other irregularities, or for any other reason.

Non-Disclosure and Disclosure of Proposals

The City will hold proposals in confidence as protected from disclosure as confidential business information during the evaluation process until City staff issues a Notice of Intent to Award the selected proposal. Thereafter, all proposals will be treated as documents subject to disclosure under the Nebraska Public Records Law (Neb. Rev. Stats. §§ 84-712, et seq.).

If a Respondent believes any portion of its proposal contains confidential or proprietary information, exempt from public disclosure under law, the Respondent must submit that information with its proposal in a separate sealed envelope labeled "Confidential Information." Except as compelled by court process, the City will not release any such documentation claimed to be exempt from disclosure that is submitted in said manner without prior written notice to the Respondent.

In exchange, the Respondent agrees to indemnify, defend and hold harmless the City, and its officials, employees, representatives, and agents, from any and all claims or actions related to the Respondent's proposal and this RFP.

Selection

The City will rank each proposal based on the merit of the entire proposal. City staff presently anticipates making a contract award recommendation to the City Council at a regularly scheduled meeting in February, 2021. Notice of Intent to Award the contract will be issued at least ten (10) calendar days prior to the City Council meeting at which contract award is considered. Actual award of the contract is contingent upon City Council approval and successful negotiation of an appropriate purchase and sale agreement and supporting and related documents.

Reservation of Rights

Notwithstanding anything to the contrary in this RFP, the City reserves the right to reject any or all proposals and to re-issue this RFP in its sole and absolute discretion. The City may waive any minor informalities or irregularities in any proposal that are immaterial and inconsequential in nature. The City reserves the right to request additional written or oral information from a Respondent to clarify its proposal.

All proposals become the property of the City once submitted. All costs associated with development of the proposal shall be the sole responsibility of the Respondent and shall not be charged or chargeable in any manner to the City.

The City acquired the Properties by eminent domain, pursuant to, among other things, Nebraska Revised Statutes section 76-710.04(3)(g), which allows a party acquiring property by eminent domain to use such property for economic development purposes, including conveying it to a private party for redevelopment as a private, property tax generating use, if the party acquiring such property has made a finding of blighted and substandard conditions pursuant to the Community Development Law (Neb. Rev. Stats. §§ 18-2101, et seq.). The City made such findings prior to acquiring the Properties. Respondents acknowledge these facts and waive any rights or remedies against the City in the event of any challenge to the validity of the City's acquisition, ownership or disposition of the Properties.

Council member Kevin Hotovy made a motion to table consideration/discussion of the water treatment plant committee's recommendation and the authority to proceed. Council Member John Vandenberg seconded the motion. The motion carried.
Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Kevin Hotovy made a motion to enter into executive session to discuss possible litigation regarding parquet trees and Clayton Keller's performance review. Council Member Tom Kobus seconded the motion. The motion carried.
Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated, "Now at 8:45 p.m. we are going into executive session to discuss possible litigation regarding parquet trees and Clayton Keller's performance review." Mayor Zavodny, all of the Council members, City Administrator Keller, City Attorney Egr, Street Supervisor Chris Kroesing and City Clerk Tami Comte went into executive session at 8:45 p.m.

At 9:15 p.m. Street Supervisor Chris Kroesing and City Clerk Tami Comte were excused so that the Council could discuss City Administrator Clayton Keller's performance review.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:40 p.m.

There being no further business to come before the Council, Council member John Vandenberg made a motion to adjourn. Council Member Kevin Hotovy seconded the motion. The motion carried. Kevin Hotovy: Yea, Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0, Absent: 1

CERTIFICATION OF MINUTES

January 13, 2021

I, Tami Comte, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of January 13, 2021; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami Comte, City Clerk