

## CITY COUNCIL PROCEEDINGS

May 26, 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 May 20, 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: Council President Tom Kobus, Council members Bruce Meysenburg, Pat Meysenburg, John Vandenberg and Jessica Miller, City Attorney Joanna Uden, City Administrator Clayton Keller and City Clerk Tami Comte. Mayor Alan Zavodny was absent. A vacancy exists in Ward 2.

Also present for the meeting were Special Projects Coordinator Dana Trowbridge, Park/Auditorium employee Nathan Styskal, Sheriff Tom Dion, and Banner-Press reporter Molly Hunter.

The meeting opened with the Pledge of Allegiance.

Council President Tom Kobus informed the public of the "Open Meetings Act" posted on the north wall of the meeting room and asked those present to please silence their cell phones.

Council member Pat Meysenburg made a motion to approve the minutes of the May 12, 2021 meeting as presented. Council Member Jessica Miller seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Absent Yea: 5, Nay: 0, Absent: 0

Council member Bruce Meysenburg introduced Resolution No. 8-2021 and moved for its passage and adoption. Council Member Pat Meysenburg seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Absent, Jessica Miller: Yea, John Vandenberg: Absent Yea: 5, Nay: 0, Absent: 0

### **RESOLUTION NO. 8-2021**

RESOLUTION AUTHORIZING THE PURCHASE OF THE BUILDINGS AT 490 E STREET and 593 5<sup>th</sup> STREET, DAVID CITY, NEBRASKA AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN CLOSING DOCUMENTS FOR SAID PURCHASE OF THE BUILDINGS AT 490 E STREET and 593 5<sup>th</sup> STREET.

WHEREAS, the City of David City, Nebraska, has previously entered into a purchase agreement and title insurance commitment in order to purchase the buildings at 490 E Street and 593 5<sup>th</sup> Street, David City, Nebraska; and,

WHEREAS, First American Title Insurance Company requires a proper resolution authorizing the proposed transaction and identifying the parties authorized to execute any instruments necessary to close the transaction;

WHEREAS, the City Administrator, Clayton Keller, was previously authorized to execute initial purchase instruments, including a purchase agreement, necessary for this transaction.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the purchase of the buildings at 490 E Street and 593 5<sup>th</sup> Street is authorized and the City Administrator, Clayton Keller, is authorized to execute any instruments necessary to close the said transaction.

PASSED AND APPROVED this 26<sup>th</sup> Day of May, 2021.

CITY OF DAVID CITY, NEBRASKA

By \_\_\_\_\_  
THOMAS KOBUS, Council President

ATTEST:

\_\_\_\_\_  
TAMI COMTE, City Clerk

Council member Jessica Miller made a motion to approve the reappointment of Judy Vanis to another 5-year term as a Commissioner on the David City Housing Authority – Board of Commissioners. (May, 2021 – May, 2026) Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

City Administrator Clayton Keller stated that Dave Ziska from Olsson provided a recap letter for the Highway 15 South Bound Turn Lane Project and recommended accepting the low bid submitted by M.E. Collins Contracting, Inc. in the amount of \$166,400.

Council member Pat Meysenburg made a motion to award the bid for the Highway 15 south bound turn lane project at Timpte Parkway to M.E. Collins Contracting, Inc. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0



May 19, 2021

Mayor and City Council  
City of David City, NE  
P.O. Box 191  
557 4<sup>th</sup> Street  
David City, NE 68632-0191

Re: N-15 & "S" Street Turn Lane Improvements  
David City, Nebraska  
Olsson Project 020-2875

Dear Mayor and Council,

Bids for the above referenced project were received and opened on May 19, 2021. A total of three (3) bids were submitted and have been reviewed. They were:

- |                              |              |
|------------------------------|--------------|
| 1. M.E. Collins Construction | \$166,400.00 |
| 2. Bauer Underground, Inc.   | \$202,632.00 |
| 3. Myers Construction, Inc.  | \$213,084.50 |

After review of the bids, and without reservation, it is our recommendation that Notice of Award be given to the apparent low bidder, M.E. Collins Construction, Wahoo, NE in the contract amount of \$166,400.00. Upon your approval, we will commence with the processing of the contract for the project.

Please do not hesitate to call with any questions, comments, or if any further information or documentation is required.

Sincerely,

A handwritten signature in black ink that reads "David D. Ziska".

David D. Ziska, PE

F:\2020\2501-3000\020-2875\02-Management\Contracts\Design & CAD Release Forms\RECOMMEND AWARD TO OWNER.docx

BID TABULATION  
 19-May-2021 Proj. #020-2875  
 2:00 p.m. Page 1 of 1

**N - 15 AND "S" STREET TURN LANE IMPROVEMENTS  
 DAVID CITY, NEBRASKA - 2021**



Item No.	CONTRACTOR ITEM	UNIT	QTY.	Myers Construction, Inc.		Bauer Underground, Inc.		M.E. Collins Contracting Co., Inc.	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
<b>Base Bid:</b>									
1	Earthwork	L.S.	1	\$8,500.00	\$8,500.00	\$35,000.00	\$35,000.00	\$40,000.00	\$40,000.00
2	Erosion Control	L.S.	1	9,500.00	\$9,500.00	4,000.00	\$4,000.00	4,520.00	\$4,520.00
3	6" Concrete Driveway/Pavement	S.Y.	187	70.00	\$13,050.00	75.00	\$14,025.00	68.00	\$13,256.00
4	8" Dowelled Concrete Pavement	S.Y.	750	75.00	\$56,250.00	125.00	\$9,375.00	76.00	\$57,000.00
5	Subgrade Prep	S.Y.	750	9.00	\$6,750.00	9.50	\$7,125.00	7.40	\$5,550.00
6	24" RCP	L.F.	45	85.00	\$3,825.00	175.00	\$14,875.00	85.00	\$7,225.00
7	Area Inlet	EA	1	13,500.00	\$13,500.00	7,300.00	\$7,300.00	6,710.00	\$6,710.00
8	Storm Sewer Manholes	EA	2	19,500.00	\$39,000.00	5,500.00	\$11,000.00	6,170.00	\$12,340.00
9	Barrier Gate Arm	EA	1	41,338.50	\$41,338.50	5,000.00	\$5,000.00	6,000.00	\$6,000.00
10	5" White Pavement Marking	L.F.	587	5.00	\$2,935.00	6.00	\$3,522.00	3.00	\$1,761.00
11	White Performed Plastic Arrow	EA	1	1,800.00	\$1,800.00	1,250.00	\$1,250.00	673.00	\$673.00
12	Remove Pavement	S.Y.	471	6.00	\$2,826.00	15.00	\$7,065.00	16.00	\$7,336.00
13	Remove Area Inlet	EA	1	1,500.00	\$1,500.00	500.00	\$500.00	945.00	\$945.00
14	Remove Curb	L.F.	68	15.00	\$1,020.00	15.00	\$1,020.00	17.00	\$1,156.00
15	Remove and Reset Mailbox	EA	1	150.00	\$150.00	500.00	\$500.00	300.00	\$300.00
16	Traffic Control	L.S.	1	19,500.00	\$19,500.00	5,000.00	\$5,000.00	6,728.00	\$6,728.00
<b>Total of All Unit Price Bid Items for Base Bid:</b>					\$213,084.50		\$302,632.00		\$166,450.00
Substantially Complete On or Before:					03/15/22	Irregularity/Opening completion of project			
Complete and Ready for Final Payment On or Before:					03/31/22	30 working days after commencing			
Assurances					None	None			
Bid Guarantee:					5%	5%			
Remarks:									

## BID FORM FOR CONSTRUCTION CONTRACT

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

### ARTICLE 1—OWNER AND BIDDER

- 1.01 This Bid is submitted to: **City of David City, 557 N. 4<sup>th</sup> Street, David City, Nebraska 68632.**
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

### ARTICLE 2—ATTACHMENTS TO THIS BID

- 2.01 The following documents are submitted with and made a condition of this Bid:
  - A. Required Bid security.

### ARTICLE 3—BASIS OF BID—UNIT PRICES

- 3.01 *Unit Price Bids*
  - A. Bidder will perform the following Work at the indicated unit prices:

**Base Bid**

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
1.	Earthwork	L.S.	1	\$ 40,000	\$ 40,000
2.	Erosion Control	L.S.	1	\$ 4,520	\$ 4,520
3.	6" Concrete Driveway/Pavement	S.Y.	167	\$ 68	\$ 11,356
4.	8" Doweled Concrete Pavement	S.Y.	750	\$ 76	\$ 57,000
5.	Subgrade Prep	S.Y.	750	\$ 7.40	\$ 5,550
6.	24" RCP	L.F.	45	\$ 85	\$ 3,825
7.	Area Inlet	EA.	1	\$ 6,710	\$ 6,710
8.	Storm Sewer Manhole	EA.	2	\$ 6,170	\$ 12,340
9.	Barrier Gate Arm	EA.	1	\$ 6,000	\$ 6,000

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
10.	5" White Pavement Marking	L.F.	587	\$ 3.-	\$ 1,761.-
11.	White Preformed Plastic Arrow	EA.	1	\$ 673.-	\$ 673.-
12.	Remove Pavement	S.Y.	471	\$ 16.-	\$ 7,536.-
13.	Remove Area Inlet	EA.	1	\$ 945.-	\$ 945.-
14.	Remove Curb	L.F.	68	\$ 17.-	\$ 1,156.-
15.	Remove and Reset Mailbox	EA.	1	\$ 300.-	\$ 300.-
16.	Traffic Control	L.S.	1	\$ 6,728.-	\$ 6,728.-
Total of All Unit Price Bid Items Base Bid					\$ 166,400.-

B. Bidder acknowledges that:

1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

**ARTICLE 4—TIME OF COMPLETION**

4.01 Note to Bidders: The Nebraska Department of Transportation (NDOT) will make improvements to NE - 15 through the southbound turn lane area during the spring/summer of 2021. It is anticipated that the construction will be completed in November 2021. The NDOT has requested that work on the proposed southbound turn lane not commence until the NDOT NE-15 project is complete.

4.02 Bidder agrees that the Work will be substantially complete on or before SEPTEMBER 15, 2021 and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before APRIL 15, 2022.

4.03 Bidder accepts the provisions of the Agreement as to liquidated damages.

**ARTICLE 5—BIDDER’S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA**

**5.01 Bid Acceptance Period**

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**5.02 Instructions to Bidders**

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

**5.03 Receipt of Addenda**

- A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date

**ARTICLE 6—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS**

**6.01 Bidder’s Representations**

- A. In submitting this Bid, Bidder represents the following:
  1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
  2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
  6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and

procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
  - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
  - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
  - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.
  - d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.



BIDDER hereby submits this Bid as set forth above:

Bidder: M.E. Collins Contracting Co., Inc.  
(typed or printed name of organization)

By: [Signature]  
(individual's signature)

Name: Michael E. Collins  
(typed or printed)

Title: CEO  
(typed or printed)

Date: May 19, 2021  
(typed or printed)

*If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.*

Attest: [Signature]  
(individual's signature)

Name: April Seemann  
(typed or printed)

Title: Project Coordinator  
(typed or printed)

Date: May 19, 2021  
(typed or printed)

Address for giving notices: P.O. Box 83  
Wahar, NE 68066

Bidder's Contact: Name: Jerry Kabaurek  
(typed or printed)

Title: Vice President  
(typed or printed)

Phone: 402-443-3663 x. 3

Email: jerry@me.collinscontracting.com

Address: P.O. Box 83  
Wahar, NE 68066

Bidder's Contractor License No.: (if applicable) 21303

Council member Jessica Miller made a motion to accept the application of Bryan C. Hein dba Holy Smokes Fireworks to sell permissible fireworks at 580 "I" Street. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea

Yea: 5, Nay: 0

Council member John Vandenberg made a motion to approving an additional area for the Class "C" liquor license of Northside, Inc for indoor area/walk-in cooler space. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea

Yea: 5, Nay: 0



Pete Ricketts  
Governor

**STATE OF NEBRASKA**  
NEBRASKA LIQUOR CONTROL COMMISSION  
**Robert B. Rupe**  
Executive Director  
301 Centennial Mall South 5<sup>th</sup> Floor  
P.O. Box 95046  
Lincoln, Nebraska 68509-5046  
Phone (402) 471-2571  
Fax (402) 471-2814 or (402) 471-2374  
TRS USER 800 833-7352 (TTY)

May 17, 2021 TB

David City Clerk  
557 4<sup>th</sup> St  
PO Box 191  
David City, Ne 68632-0191

Dear Clerk:

Please present the following application for **Addition** to your board and send us the results of that action.

ADDITION: INDOOR AREA/WALK IN COOLER

**LICENSE #: C-077045**  
**LICENSEE: NORTHSIDE INC**  
**TRADE NAME: NORTHSIDE**  
**ADDRESS: 1652 N 4<sup>TH</sup> ST**  
**CITY/COUNTY: DAVID CITY/BUTLER**  
**CONTACT NUMBER: 402-367-3251**  
**CONTACT PERSON: BOBBI SCHMID**  
**EMAIL: BSCHMID@NORTHSIDEDC.COM**

**REQUEST: ADDITION OF INDOOR WALK IN COOLER AREA APPROX 10 X 22**

**MAKING THE NEW DESCRIPTION READ: ONE STORY BLDG APPROX 75 X 138**  
**INCLUDING WALK IN COOLER AREA APPROX 10 X 22**

**APPROVED** \_\_\_\_\_ **DISAPPROVED** \_\_\_\_\_

Tracy Burmeister  
Licensing Division

City Clerk Tami Comte stated that the City purchases the insurance for the parade and the Butler County Parade Committee reimburses the City for the insurance. City Clerk Comte stated that this is something that happens on a yearly basis.

Council member Bruce Meysenburg introduced Resolution No. 9-2021 approving the Butler County Parade Committee's request for the parade to cross Highway 15 on "L" Street on Sunday, July 18, 2021 in accordance with LB589 and moved for its passage and adoption. Council Member Pat Meysenburg seconded the motion. The motion carried.  
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

### **RESOLUTION NO. 9 - 2021**

WHEREAS, the Butler County Fair's Annual parade is scheduled for July 18, 2021, and

WHEREAS, the Butler County Parade Committee has designated 2:00 p.m. to 7 p.m. to allow for set-up and clean-up, with the parade beginning at 5:00 p.m., and

WHEREAS, the Butler County Parade Committee has requested that Highway 15, at the intersection of "L" Street and Highway 15, be closed so the parade can cross Highway 15,

WHEREAS, the Mayor and Council acknowledge Revised Statutes Chapter 39-1359, Rights-of way; inviolate for state and Department of Roads purposes; temporary use for special events; conditions; notice; Political Subdivisions Tort Claims Act; applicable, which states:

- (1) The rights-of way acquired by the department shall be held inviolate for state highway and departmental purposes and no physical or functional encroachments, structures, or uses shall be permitted within such right-of-way limits, except by written consent of the department or as otherwise provided in subsections (2) and (3) of this section.
- (2) A temporary use of the state highway system, other than a freeway, by a city including full and partial lane closures, shall be allowed for special events, as designated by a city, under the following conditions:
  - (a) The roadway is located within the official corporate limits or zoning jurisdiction of the city;
  - (b) A city making use of the state highway system for a special event shall have the legal duty to protect the highway property from any damage that may occur arising out of the special event and the state shall not have any such duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
  - (c) Any existing statutory or common law duty of the state to protect the public from damage, injury, or death shall become the duty of the city making use of the state highway system for the special event, and the state shall not have such statutory or common law duty during the time the city is in control of the property as specified in the notice provided pursuant to subsection (3) of this section, and
  - (d) The city using the state highway system for a special event shall formally, by official governing body action, acknowledge that it accepts the duties set out in this subsection and, if a claim is made against the state, shall indemnify,

defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.

- (3) If a city has met the requirements of subsection (2) of this section for holding a special event and has provided thirty days' advance written notice of the special event to the department, the city may proceed with its temporary use of the state highway system. The notice shall specify the date and time the city will assume control of the state highway property and relinquish control of such state highway property to the state.
- (4) The Political Subdivisions Tort Claims Act shall apply to any claim arising during the time specified in a notice provided by a political subdivision pursuant to subsection (3) of this section.

WHEREAS, the City of David City wishes to support this annual event, and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the City Clerk is hereby authorized to forward this resolution to the State of Nebraska Department of Roads for the closing of Highway 15 and "L" Street, from 2:00 p.m. to 7:00 p.m. for the parade to be held on Sunday, July 18, 2021 in David City, Nebraska.

Passed and adopted this 26<sup>th</sup> day of May, 2021.

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Council President Thomas Kobus

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City Clerk Tami L. Comte

City Administrator Clayton Keller said, "This is an agreement with Kirkham Michael to act as our negotiators in a land purchase dealing with the airport. We have walked through the proper steps so that down the road we can be reimbursed by the FAA."

Council member Bruce Meysenburg made a motion to accept an agreement with Kirkham Michael for Airport Land Contract Services and authorize the City Administrator to sign. Council Member Jessica Miller seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

Airport Improvement Program (AIP) Project No. \_\_\_\_\_  
David City Municipal Airport  
David City, Nebraska

THIS CONTRACT is made and entered into by and between the consulting firm of Kirkham, Michael & Associates, Inc., hereinafter called the "Consultant" and the City of David City, Nebraska, hereinafter called the "Sponsor".

For and in consideration of the mutual agreements hereinafter contained, the parties hereto agree as follows:

**SECTION 1: GENERAL**

The Sponsor agrees to employ the Consultant to provide the services described in Sections 2 through 4 for the following project.

1. Land Acquisition of approximately 66.20 acres located in the SW¼ of Section 32-15N-3E for proposed widening and extending of Runway 32, including Runway Protection Zones (RPZ), Building Restriction Lines (BRL), and Part 77 surfaces.

Eric Johnson will represent the Consultant as Project Manager in the performance of this agreement. No one else will be assigned to act in this capacity without the Sponsor's prior written approval. The Project Manager shall be responsible for directing and coordinating all the activities necessary to complete this project.

The Consultant will provide all equipment and personnel necessary to do the tasks listed herein, except as otherwise provided. The Consultant shall be responsible for the quality, accuracy and coordination of the design, drawings, reports, surveys, and other items furnished as part of this agreement.

**SECTION 2: PRELIMINARY PHASE**

Under this phase, the Consultant agrees to coordinate with FAA to confirm areas of ultimate acquisitions as outlined in Section 1.

**SECTION 3: ACQUISITION PHASE**

Under this phase, the Consultant agrees to prepare the necessary acquisition services listed in Section 1.

- a. Project Management will be provided by Kirkham Michael.
- b. Conduct a kickoff meeting with the Sponsor and the Federal Aviation Administration (FAA) that the proposed parcels are identified on the current approved Airport Layout Plan and review other requirements as shown in AIP Sponsor Guide 1300 – Airport Land Acquisition Requirements. The Consultant shall prepare a summary of the meeting that highlights critical project issues. (Kirkham Michael)
- c. Conduct meeting with landowners. (Kirkham Michael)
- d. Conduct Public Hearings in accordance with public involvement requirements. (Kirkham Michael)
- e. Provide legal descriptions of the proposed acquisition project. (Kirkham Michael)

- f. Update Exhibit A property map. (Kirkham Michael)
- g. Complete Environmental Site Assessments per AIP Sponsor Guide 1320. (Kirkham Michael)
- h. Prepare the required grant applications as shown in AIP Sponsor Guide 700. (Kirkham Michael)
- i. Provide grant closeout documents as shown in AIP Sponsor Guide 1600. (Kirkham Michael)
- j. Services under the Uniform Act, FAA Order 5100.37A and FAA AC 150/5100-17 to be completed by Midwest Right of Way (ROW) Services: see attached letter agreement for further details.
  - Report of liens.
  - Appraisals and review appraisals.
    - All appraisals and review appraisals should be reviewed and accepted by FAA prior to the start of any negotiations.
  - Negotiation services.
  - Prepare purchase agreements.

Breakdown of Services

Task	Company	Fee
Section 2 Preliminary phase	Kirkham Michael	\$1,000.00
Section 3 (a) Project management	Kirkham Michael	\$5,000.00
Section 3 (b) Kick off meeting	Kirkham Michael	\$1,500.00
Section 3 (c) Landowner meeting	Kirkham Michael	\$1,000.00
Section 3 (d) Public hearings	Kirkham Michael	\$1,000.00
Section 3 (e) Surveys and legal	Kirkham Michael	\$5,000.00
Section 3 (f) Update Exhibit A	Kirkham Michael	\$2,000.00
Section 3 (g) ESA Phase 1	Kirkham Michael	\$4,000.00
Section 3 (h) Grant applications	Kirkham Michael	\$ 500.00
Section 3 (i) Project closeout	Kirkham Michael	\$4,000.00
Section 3 (j) Uniform Act, FAA Order 5100.37A includes appraisals	Midwest Right Of Way	\$9,475.00

The original documents, such as tracings, plans, specifications, maps, basic survey notes and sketches, charts, computations, and other data prepared or obtained under the terms of this contract are instruments of service and shall remain the Consultant's property. Reproducible copies of drawings and copies of other pertinent data will be made available to the sponsor upon request. Copies of disks containing all drawings will be furnished to the sponsor for their use. The Consultant will provide, without cost to the Sponsor and approving agencies, the necessary number of copies for review and approval.

This phase will be complete upon completion of all items listed above.



#### SECTION 4: SPECIAL SERVICES

Under this phase, the Consultant will provide the following services. Services not listed in Sections 2 through 3 can only be added by supplemental agreement to this contract. If Special Services are added during the course of this contract, the supplemental agreement will be executed to cover any added fees when the services are authorized. All supplemental agreements are subject to the same approvals as this agreement.

#### SECTION 5: FEES AND CHARGES

The Sponsor shall pay the Consultant for the services described in this agreement as follows:

Section 2: Preliminary Phase. Payment for this section shall be the lump sum of \$1,000.00.

Payment shall be due monthly for incurred charges and expenses based on detailed invoices.

Section 3: Acquisition Phase. Payment for this section shall be the lump sum of \$33,475.00.

Payment Provisions and Adjustments. All payments shall be made based on the lump sum amounts or unit charges and fixed fees, as provided. If the scope of consultant services changes, causing an increase or decrease to the Consultant's costs, this contract shall be adjusted to cover the increase or decrease in costs. If circumstances beyond the control of the Consultant require more than 18 months from the date of this agreement to complete the work specified herein, this contract may be adjusted to cover any increase in the Consultant's costs yet to be incurred. All adjustments shall be negotiated in the same manner as this contract and shall be executed as a Supplemental Agreement to the original contract. The Sponsor will not reduce the Consultant's final payment for any part of the project designed but not actually constructed.

Federal Contract Provisions dated November 19, 2019 are attached to this Agreement and shall be considered incorporated and be an integral part of this agreement.



**APPROVALS.**

It is understood and agreed that this contract and any subcontracts or supplemental agreements are subject to approval by the Sponsor and the Federal Aviation Administration before federal funds are obligated.

IN TESTIMONY WHEREOF, the parties hereto have caused this contract to be executed by their duly authorized representatives on this \_\_\_\_ day of \_\_\_\_\_, 2021, with copies to be filed with the Sponsor and the Federal Aviation Administration.

CONSULTING FIRM  
Kirkham, Michael & Associates, Inc.  
5621 NW 1st Street, Suite 400  
Lincoln, Nebraska 68521

  
\_\_\_\_\_

ATTEST

  
\_\_\_\_\_ Project Manager  
Title

AIRPORT SPONSOR  
City of David City, Nebraska  
P.O. BOX 191  
David City, Nebraska 68632-0191

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
\_\_\_\_\_  
Title



## FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO "CONTRACTOR", "PRIME CONTRACTOR", "BIDDER", "OFFEROR", AND "APPLICANT" SHALL PERTAIN TO THE ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO "SUBCONTRACTOR", "SUB-TIER CONTRACTOR" OR "LOWER TIER CONTRACTOR" SHALL PERTAIN TO ANY SUBCONSULTANT UNDER CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO "SPONSOR" AND "OWNER" SHALL PERTAIN TO THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING CONTRACTS WITH THE A/E.

### ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

The contractor must maintain an acceptable cost accounting system. The contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

### CIVIL RIGHTS – TITLE VI ASSURANCE

Reference: 49 USC § 47123 and FAA Order 1400.11

#### A) Title VI Solicitation Notice

The (City of David City, Nebraska), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**B) Title VI Clauses for Compliance with Nondiscrimination Requirements**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they maybe amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2) **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4) **Information and Reports:** The contractor will provide all information and reports required by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6) **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**C) Title VI List of Pertinent Nondiscrimination Authorities**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



#### DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR part 26

**Contract Assurance (§ 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carryout applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

#### CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (☐) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is ( ✓ ) is not ( ✓ ) a corporation that has 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.
- 2) The applicant represents that it is ( ✓ ) is not ( ✓ ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

#### ENERGY CONSERVATION REQUIREMENTS

Reference: 2 CFR § 200, Appendix II (H)

Contractor and each subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

#### FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

Reference: 20 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **RIGHT TO INVENTIONS**

Reference: 2 CFR § 200 Appendix II (F) and 37 CFR §401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

#### **SEISMIC SAFETY**

Reference: 49 CFR part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

#### **TAX DELINQUENCY AND FELONY CONVICTION**

Reference: Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) and DOT Order 4200.6

**Certification** - The applicant represents that it is not a corporation that has 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. A tax delinquency is 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.

**Certification** - The applicant represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes



conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

#### TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104 and 49 CFR part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

- a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c) has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- a) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

#### VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

#### PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

##### DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

##### TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II (B)

###### Termination for Convenience

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

###### Termination by Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating



the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
- 1) Perform the services within the time specified in this contract or by Owner approved extension;
  - 2) Make adequate progress so as to endanger satisfactory performance of the Project;
  - 3) Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
- 1) Defaults on its obligations under this Agreement;
  - 2) Fails to make payment to the Consultant in accordance with the terms of this Agreement;
  - 3) Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

**DEBARMENT AND SUSPENSION**

Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, and DOT Order 4200.5

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

- 1) Checking the System for Award Management at website: <https://www.sam.gov>.
- 2) Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- 3) Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

**CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

Reference: 2 CFR § 200 Appendix II (E)

1) Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3) Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any

other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4) Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

**LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

Reference: 31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR part 200, Appendix II (J); and 49 CFR part 20, Appendix A

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

**BREACH OF CONTRACT TERMS**

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

**CLEAN AIR AND WATER POLLUTION CONTROL**

Reference: 2 CFR § 200 Appendix II (G)

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

# MIDWEST

Right of Way Services, Inc.

[www.midwestrow.com](http://www.midwestrow.com)

April 29, 2021

Mr. Eric Johnson  
Kirkham Michael  
411 South 13th Street  
Suite 101  
Lincoln, Nebraska 68501-3328

RE: Proposal for Right of Way Services  
David City, Nebraska  
Airport Property Acquisition

Dear Mr. Johnson:

Midwest Right of Way Services, Inc. is pleased to provide this proposal for right of way services for the above referenced project.

## ***CONSULTANT AND KEY PERSONNEL***

***Consultant -*** Midwest Right of Way Services, Inc.  
13425 "A" Street  
Omaha, Nebraska 68144  
(402) 955-2900  
(402) 955-2903 FAX

***Key Personnel -*** Jack Borgmeyer – President  
John E. Borgmeyer – Chief Operating Officer

## ***PROJECT UNDERSTANDING***

This project involves the acquisition of land and improvements necessary runway expansion project for the airport in David City, Nebraska. Acquisition activities will be performed in accordance with the Uniform Act. The project will require partial acquisitions and avigation easements from One (1) property owner.

## ***PROJECT MANAGEMENT***

This task will involve coordination of all project elements so that work is initiated as it should be, appropriate progress is made, and schedules are met. Coordination and scheduling of the reports of liens, appraisals, and the acquisitions of land and easements will be the responsibility of the right of way project manager.

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### ***TITLE REPORTS***

Title reports will be obtained on all properties to be acquired in order to determine fee ownership and any liens and encumbrances which will affect the title. Midwest Right of Way Services will contract with a local Butler County, Nebraska abstractor and pass the cost through to the City with no additional fees. The reports of liens will be used in preparing the necessary right of way documents.

### ***APPRAISALS***

This task involves preparation of appraisal reports which will provide values for the land and easements to be acquired. Midwest Right of Way will contract with a local appraiser that is qualified providing appraisal reports and reviews for Federal-Aid Projects in accordance with the Uniform Act.

### ***APPRAISAL REVIEWS***

This task involves the review of the completed appraisal reports to verify they represent fair market value for the properties under consideration and a reasonable estimate of just compensation is due the property owners. Midwest Right of Way will contract with a local review appraiser that is qualified providing appraisal reports and reviews for Federal-Aid Projects in accordance with the Uniform Act.

### ***ACQUISITION***

The first step in the acquisition process is to gain an understanding of the project and its effects on the property owner. This is accomplished by field examination and meetings with Airport representatives. The necessary purchase documents will be provided by Midwest Right of Way Services. Title searches or commitments, appraisals, and purchase documents are then reviewed by the acquisition agents. A written offer will then be presented to the property owner. We will attempt to meet with the property owner at least three times, if necessary. During our visits, we will verify ownership information and ask if there are any tenants on the property. Each visit will be documented on a call report and kept in the tract file.

If necessary, recommendations for a negotiated settlement will be made to the City of David City, Nebraska and the Airport Commission. Midwest Right of Way Services, Inc. will submit an administrative settlement letter which will outline the reasons for recommending a settlement. When an agreement is reached, we will obtain the necessary signatures of all interested parties on the conveyance documents.

Our goal will be to acquire the necessary right of way through amicable negotiations. If condemnation is required, we will work with the City of David City, Nebraska and the Airport Commission's attorney to file the necessary documents and be available to assist them in trial preparation or court testimony.

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### ***PROJECT STATUS REPORTS***

Project status reports will be submitted to the City of David City, Nebraska as needed. Each report will detail the status of the acquisitions and relocation case, and any remarks which may need to be addressed.

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### ***EQUAL EMPLOYMENT OPPORTUNITY***

Midwest Right of Way Services, Inc. is an equal opportunity employers and comply with all applicable federal, state (Nebraska Fair Employment Practice Act, Neb.Rev.Stat. ss48-1122), and city laws prohibiting discrimination. It is the policy of Midwest Right of Way Services to recruit, hire, train, promote, discipline, and provide working conditions and benefits on a fair and nondiscriminatory basis to all employees without regard to sex, race, color, religion, nation of origin or ancestry, age, marital status, disability, or veteran status. In addition, no program or activity will exclude an individual or subject anyone to discrimination based on these grounds.

### ***DRUG FREE WORKPLACE***

The work place shall be free from the detrimental effects of illicit drugs. Midwest Right of Way Services, Inc. is committed to providing an employment environment that is safe and provides appropriate motivation to ensure a creative and productive work force. To ensure worker safety and work place integrity the illegal manufacture, possession, distribution or use of controlled substances in the work place by its employees or those who engage or seek to engage in business with Midwest Right of Way Services, Inc. is prohibited.

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### ***ECONOMIC EQUITY AND INCLUSION PROGRAM***

Midwest Right of Way Services, Inc. is a participant in the City of Omaha Economic Equity and Inclusion Program.

### ***SMALL EMERGING BUSINESS TIER II***

Midwest Right of Way Services, Inc. is certified by the City of Omaha as a Small Emerging Business Tier II.

### ***VETERAN-OWNED BUSINESS***

Midwest Right of Way Services is a veteran-owned business.

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#### **TEAM MEMBERS**

*Jack Borgmeyer, President, SR/WA*, - Jack is qualified to complete all aspects of the right of way process. His experience includes right of way title searches, land and easement acquisition, relocation, condemnation testimony, and project management. He has over 40 years of experience relating to real estate and right of way.

*John Borgmeyer, Chief Operating Officer, RAC-GN, Project Manager* - John has worked for Midwest Right of Way Services since June, 2014. He has performed acquisition negotiations for state, local and federally funded projects in Nebraska, Iowa, and Kansas, and relocation assistance for local and federally funded projects in Nebraska. His experience includes roadway, airport, utility, drainage and sewer projects, and project management.

*Stacey Kroeger, SR/WA, RW-RAC, Right of Way & Relocation Agent* - Stacey has worked for Midwest Right of Way Services for over eighteen years. She has performed acquisition negotiations and relocation assistance for a variety of projects including transportation, airport, aviation, roadway and water resources projects. Her experience includes residential and business property acquisitions and relocations.

*Maria Rodriguez, Right of Way & Relocation Agent* – Maria has worked for Midwest Right of Way Services since October, 2013. She performed several years of acquisition negotiations and relocation assistance in Phoenix, Arizona. Her experience includes right of way title searches, acquisition negotiations for airport, roadway, drainage, sewer, and utility projects, and relocation assistance for state, local, and federally funded projects.

*Denny Bliss, Right of Way Agent*, has worked for Midwest Right of Way Services since July of 2011. He has performed acquisition negotiations for airport, roadway, and drainage projects. His experience also includes preparation and review of legal descriptions, review of land title reports, as well as the ability to read, interpret and draw engineering plans. He is also an experienced CADD technician.

*Jim Abbott, Right of Way Agent*, has worked for Midwest Right of Way Services since January of 2017. He has performed acquisition negotiations for sewer and roadway projects in Omaha, Lincoln, Sarpy County, and Douglas County in Nebraska and roadway projects in Iowa. His experience includes twenty years of real estate management of commercial and investment properties in the Midwest working for a management company throughout Nebraska, Iowa, and South Dakota.

*Chris Wayne, Right of Way Agent*, is the newest member of the Midwest Right of Way Services team starting in May of 2020. His experience includes over 30 years of urban planning and redevelopment experience working for the City of Omaha. Chris has extensive knowledge in the real estate, right of way acquisition, and relocation assistance service field.

*Molly Frederickson, Administrative Assistant*, has worked with Midwest Right of Way Services since January 2019. She provides administrative support and document preparation for Midwest Right of Way's acquisition and relocation agents. She has experience as a document specialist for a local law firm, and has experience as an escrow assistant for a real estate title company.



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***PAYMENT FOR SERVICES***

Midwest Right of Way Services proposes the right of way services detailed above for the following hourly fees:

	<u>Hourly Salary Rates</u>
Project Manager	\$125.00
Right of Way Agent/Relocation Agent	\$115.00
Mileage at Standard IRS Rate	\$0.56 per mile

The maximum fees for each task will be as follows:

<u>Task</u>	<u>Maximum Fee</u>
Project Management – 1 owners @ \$1,000 each	\$ 1,000.00
Reports of Liens – 1 parcels @ \$150 each	\$ 1,200.00
Appraisals – 1 Appraisal Reports	\$ 1,750.00
Appraisal Reviews – 1 Reviews @ \$1,500 each	\$ 1,500.00
Acquisition Negotiations – 1 tracts @ \$4,025 each	<u>\$ 4,025.00</u>
<b>TOTAL MAXIMUM FEES</b>	<b>\$ 9,475.00</b>

\* Appraisal pricing is based off current limited information and is provided as an approximate cost. If additional costs are requested beyond the scope indicated in this proposal, we will contact you to discuss revising the contract amount before the additional work is started.

Closings - If necessary, the cost to close a parcel will be passed through to the City of David City, Nebraska in addition to the fees above.

Condemnation - If necessary, court testimony and consultation to be billed separately at our standard hourly salary rate plus expenses.

Hourly fees will be billed at our standard hourly salary rate plus expenses. If additional work or meetings are requested beyond the scope indicated in this proposal, we will contact you to discuss revising the contract amount before the additional work is started. Invoices will be sent on an approximate monthly basis for services rendered.

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If the above described items are satisfactory to you, please sign and date the original and duplicate original of this letter in the space provided. Keep one executed copy of this letter for your files and return the duplicated copy to us for our files. Receipt of this letter contract will be considered our formal notice to proceed with the work.

Sincerely,

**MIDWEST RIGHT OF WAY SERVICES, INC.**



John E. Borgmeyer  
Chief Operating Officer

**ACCEPTANCE OF PROPOSAL AND AUTHORIZATION TO PROCEED**

  
Eric Johnson - Kirkham Michael

Date: 5-25-21

Kelly Gentrup, Economic Development Specialist with Southeast Nebraska Development, Inc. (SEND, Inc.) introduced herself and said, "I want to thank you all for allowing me to come and speak to you this evening about rural workforce housing. Nebraska's Rural Workforce Housing Act was adopted in 2017 when LB 518 was passed. To date there have been two rounds of funding with the second round having eight hundred seventy-three thousand five hundred dollars remaining. SEND, Inc. is submitting a letter of intent to DED to apply for additional funds to grow our current one point seven-million-dollar fund. Through the application process we provide a one-to-one local cash match and would like to partner with communities who have identified housing needs, which is what brings me here tonight. To partner with SEND, Inc. would provide an advantage in attracting quality developers that would provide additional housing opportunities in your community. In order to submit a letter of intent, which is due by June 1<sup>st</sup>, we are asking that you, the Council, approve a letter of commitment to SEND, Inc. for the LB 518 grant application. I'm open to any questions that you may have."

Council member Bruce Meysenburg said, "So, you guys basically steer developers toward our community?"

Kelly Gentrup said, "Yeah. So, just a little more background, we've done about seven projects so far in five communities that have partnered with us in the first round. We've done purchase rehab resale projects, new construction and then we're also doing a multi-family restoration project of a vacant building, as well. So, there's a list of developers that we have and SEND, Inc. will hire SEND Contracting, which is another organization through our company that come and if there's a house that you have identified that you want to do some rehab work to, you can work with SEND Contracting to do that restoration work. We've seen a good return on investment from the first round and we hope to with the second round as well."

City Administrator Clayton Keller said, "If cities are a part of this, can they choose the developer that they work with?"

Kelly Gentrup said, "Yes. For the application itself, which is due the end of July, we'll want to identify a couple of projects for the communities, so if you already have a development in mind, or a developer in mind, we'll include that information in the application. But if you want more information about developers or what other communities are doing, we're happy to share that information as well."

Special Projects Coordinator Dana Trowbridge said, "In order to apply for workforce housing, which is what we're talking about here, DED grants those funds and they limit applicants to a 501C3, which we don't have yet. We're close but we're not there yet, for a recognized development concern, SEND, Inc. being one of the in the State of Nebraska"

Kelly Gentrup said, "Right. So, SEND, Inc. itself cannot apply, so that's where our NDO, Southeast Development, Inc., would apply for these funds."

Special Projects Coordinator Dana Trowbridge said, "This is one of the reasons that we wanted the county to join SEND, Inc., so that the City could, so we could at least have a shot at some of these funds. They are good programs and these people have certainly been very capable about winning some awards."

Council President Tom Kobus thanked Kelly Gentrup for attending the meeting and speaking on behalf of SEND, Inc.

Council member Pat Meysenburg made a motion to approve a letter of commitment to Southeast Nebraska Development, Inc. (SEND, Inc.) for the grant application to the Department of Economic Development (DED). Council Member Bruce Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

May 26, 2021

**Applicant Organization Information**

Organization Name: SEND, Inc.  
Street Address: 2100 Fletcher Ave, Suite 100  
City: Lincoln State: NE Zip: 68521-5862  
Contact Person: Tom Bliss, SENDD Executive Director  
Phone: (402) 475-2560 Email: [tbliss@sendd.org](mailto:tbliss@sendd.org)

**Commitment Entity Information**

Entity Name: City of David City, Nebraska  
Street Address: 557 N. 4<sup>th</sup> Street  
City: David City State: NE Zip: 68632  
Contact Person: Clayton Keller  
Phone: (402) 367-3135 Email: [ckeller@davidcityne.com](mailto:ckeller@davidcityne.com)

RE: Commitment Letter for LB 518 Match Application

The City of David City is committed to donating up to \$200,000 in resources for the Rural Workforce Housing Fund in order to access RWHF resources from the Nebraska Department of Economic Development, and to help in creating additional housing opportunities within our community and region. We look forward to partnering with SEND, Inc. in this regional approach to workforce housing development.

Sincerely,

Thomas Kobus  
City Council President



## Nebraska's Rural Workforce Housing Investment Act

### **Background**

- Established in 2017 with LB518. A second phase passed in 2020.
- The 2017 bill allowed \$7 million from the Nebraska Housing Trust Fund (HTF) to address rural workforce housing. (*Lancaster, Sarpy, and Douglas counties are not eligible.*) **The second bill funneled an additional \$10 million towards this program with \$873,500 remaining (\$9.1 million has already been allocated).**
- Potential uses include infrastructure, new construction, multifamily, second story development, rental, rehab, etc.
- New construction owner-occupied housing costing no more than \$275,000.
- New construction rental housing units costing no more than \$200,000.
- Single-family and rental housing are eligible for rehab but the cost to substantially rehabilitate must exceed 50% of a unit's assessed value. For example, if a house is assessed at \$50,000, then a minimum of \$25,000 (50% of assessed value) must be invested.
- As noted, there is an \$873,500 remaining balance.
- RWHF grants require a minimum one-to-one in matching funds. Requires local cash match.
- Matching funds can be dollars contributed by individuals, businesses, foundations, local and regional political subdivisions, or other non-profit organizations into a single investment fund, administered by the eligible nonprofit development organization (NDO).
- This is a competitive, points-driven grant process. Southeast Nebraska Development, Inc. (SEND, Inc.) is working to capture the maximum grant amount for our region.

### **Eligible Grantees**

Grantees must be an NDO that invests or intends to invest in workforce housing eligible activities, and have an active board of directors with expertise and a strong background in development, construction, and finance. SEND, Inc. is a recognized NDO.

### **How to be Competitive**

- Ongoing workforce housing needs as identified by a recent housing study (four years or newer).
- Difficulties filling employment positions or attracting workers in communities or regions with a low unemployment rate.
- A community's or region's commitment to growing its housing stock.
- A project's likelihood of occupancy in a period of 24 months.
- The ability to grow and manage an investment fund for rural workforce housing.

### **SEND Inc.'s Plan**

#### **Financial**

- Work with three to five communities. Each contribute an equal amount of up to \$175,000. The contributing communities serve as a sub-committee on SEND, Inc. (NDO). This group is the **investment club** and determines how funds are

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Lincoln, NE 68521-5862  
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PO Box 308  
Humboldt, NE 68376  
Office: 402-862-2201

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# SEND

Southwest Nebraska Development District

distributed/invested. Presently, this committee includes members from Geneva, Deshler, Fairbury, Auburn, Beatrice, and SENDD. Each of these communities contributed a minimum of \$133,800 with two overmatching in the previous funding cycle.

- SEND, Inc. currently has an existing RWHF pool of nearly \$1.7 million. Nearly all of this has revolved through the program since 2018 (see handout).
- The short-term (5 years) goal is to address local needs; long-term (10 years) goal is to grow the region's housing inventory, and increase the initial investment pool.
- This would be a revolving loan fund (RLF). If successful, the additional funds would be added to grow the pool.
- SEND, Inc. will serve as the fiscal agent for this project.

## Structure

- Based on information from the Nebraska Department of Economic Development (NDED), the department wants to see housing units being built/improved immediately. Therefore, the investment group would initially focus on multi-family, duplex/townhouses, rehabbing existing houses, second-story development, and new construction. While infrastructure is eligible, it is not a priority (this is based on comments from NDED staff).
- We would do our best to work with local contractors; however, the goal is to get the best price and the most housing from the program.
- Plan would focus on YOUR local demand and local needs. For example, second-story development might be priority for Nebraska City versus new construction in Syracuse.

## Benefits

- A regional application is stronger than an individual community's application. This approach speaks to the initial spirit of LB518.
- Access to a large development pool without having the reporting responsibilities.
- Investment club members always have priority over non-investing communities.
- SEND, Inc. and its partners have existing relationships with housing developers and contractors.
- SEND, Inc. continues to pursue other resources (Housing Trust Fund, tax credits, USDA, etc.) to grow the investment pool.
- SENDD staff and its partners will work with the investment club to identify ways to incentivize local development, i.e. lower land costs, Tax Increment Financing (TIF), infrastructure, and other ways to lower building cost. Why is this important? It is a mechanism to put your community on a housing developer's radar.

LINCOLN OFFICE  
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SEND, Inc. Rural Workforce Housing Fund Breakdown of Projects

Funding Source	Dollar Amount
Nebraska Department of Economic Development	\$639,000
Nebraska Investment Finance Authority	\$250,000
<b>Total</b>	<b>\$889,000</b>
<b>Matching Sources</b>	
Southeast Nebraska Development District	\$39,450
City of Deshler, NE	\$167,250
City of Geneva, NE	\$167,250
City of Beatrice, NE	\$133,800
City of Auburn, NE	\$133,800
City of Fairbury, NE	\$133,800
<b>Total Match</b>	<b>\$775,350</b>
<b>Total Amount</b>	<b>\$1,664,350</b>

Uses of Funds					
Project	Total Project Cost	NDED	NIFA	Local Match	Other
Beatrice 2019H001	\$ 208,300.00	\$ 124,785.00	\$ 22,715.00	\$ -	\$ 60,800.00
Geneva 2019M002	\$ 272,570.75	\$ 145,242.97	\$ 26,439.03	\$ -	\$ 100,888.75
Deshler 2019M003	\$ 80,000.00	\$ 80,000.00	\$ -	\$ -	\$ -
Geneva 2020M002	\$ 93,547.70	\$ -	\$ 93,547.70	\$ -	\$ -
Geneva 2020W003	\$ 68,997.38	\$ -	\$ 68,997.38	\$ -	\$ -
<b>Auburn 2021M001</b>	<b>\$ 950,000.00</b>	<b>\$ 288,972.03</b>	<b>\$ 586,027.97</b>	<b>\$ 75,000.00</b>	<b>\$ -</b>
Beatrice 2021A002	\$ 139,600.00	\$ -	\$ 38,300.89	\$ 62,299.11	\$ 39,000.00
<b>Total</b>		<b>\$ 639,000.00</b>	<b>\$ 250,000.00</b>	<b>\$ 648,327.08</b>	<b>\$ 275,688.75</b>

Remaining Funds not allocated	\$127,022.92
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## RURAL WORKFORCE HOUSING FUND: SEND, INC. FIRST ROUND SUCCESS

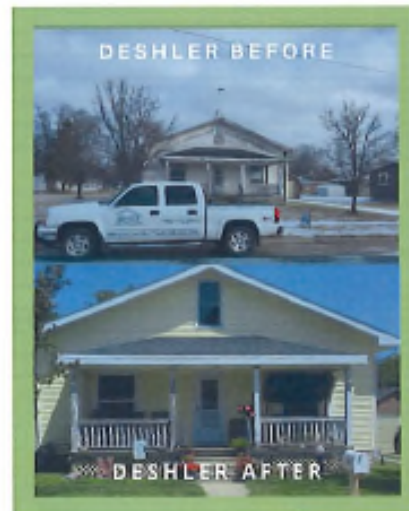
### BACKGROUND:

- SEND, Inc. was one of 14 applicants who were awarded funds in the first round
- Awarded \$639,000 from RWHF in 2018
- Total funds with the committed match equaled approximately \$1.6 million
- Five community investors: Geneva, Deshler, Beatrice, Fairbury and Auburn
- Completed five projects, consisting of new construction and purchase, rehab, and resell (PRR) in Beatrice, Geneva and Deshler. There are two projects that are currently under construction

### PURCHASE REHAB AND RESELL

The city of Deshler completed a PRR project by converting a dilapidated "two-bedroom, one-bathroom" home and renovated it into a "three-bedroom, two-bathroom" home

- Created a safe, decent and affordable housing option
- Incentivized a new family to relocate
- Before appraisal value - \$32,000
- After appraisal value - \$95,000



### NEW CONSTRUCTION

- The city of Geneva completed a new construction project in the Northeast part of their community
- Sale price - \$274,000
- Generated additional tax revenue for the community



For more information, visit [www.opportunity.nebraska.gov](http://www.opportunity.nebraska.gov) or contact our office. 402.475.2560 | [jwarrelmann@sendedd.org](mailto:jwarrelmann@sendedd.org) or [kgentrup@sendedd.org](mailto:kgentrup@sendedd.org) | [www.sendedd.org](http://www.sendedd.org) 2100 Fletcher Ave, Ste 100 | Lincoln, NE 68521



Council member Jessica Miller made a motion to accept the application of Scott Samek dba Samek Fireworks to sell permissible fireworks at 375 Nebraska Street. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

City Administrator Clayton Keller said, "I will defer to Dana Trowbridge to speak about the bricks. He and Chris Kroesing have masterminded a solution for us."

Special Projects Coordinator Dana Trowbridge said, "I've talked to Historical Bricks out of Iowa City, Iowa. There used to be a brick vendor out of Omaha who no longer answers the phone and the phone isn't in their name any longer. The best that I can find out is they are out of business. There is a brick vendor out of Indianapolis, Indiana, who I have had some contact with but it's been minimal and they haven't shown great interest. The fella from Iowa City drove out here. He had ten hours of windshield time to come and take a look at everything and he was excited about the opportunity to do business for those bricks. He said that it might be difficult because of the distance between the two places, but he will submit a bid, I know that. There's one other one and I can't remember exactly who that was. We'll have some activity. We'll have at least one bid and it will be a qualified bid. It probably won't be as much money as I once thought, but I've learned a lot since then about the cost—handling, cleaning, palleting, transporting—because these are eight to nine pounds apiece. So, you can put 5,500 on a semi and you're done. You've got about forty-eight thousand pounds behind you. I don't know, what does a rig weigh, Bruce?"

Council member Bruce Meysenburg said, "About thirty thousand."

Special Projects Coordinator Dana Trowbridge said, "So, you're pushing eighty with that load. Most of the money in bricks is handling them and it's extremely expensive to cart them across the country. There are a number of brick vendors in New Jersey and New York and they have a fair demand for them but there is also a large supply in that part of the world and they aren't interested in transporting them fifteen hundred miles. So, we'll see a bid and we'll grab some money from the deal. It's better than leaving them sit out there. Now, I visited with the vendor that came because we need to be sensitive to the people that live here. There's a tradition in the old street bricks. Some find it more dear than others. But I believe that there are people that would like to have one on the book shelf or they'd like to do a small patio with the bricks from David City and I think that we should give them the opportunity. The people that I've visited with in the brick industry agree. They said that each community is different in how they are with their traditional bricks. He suggested that we have a couple afternoons and we advertise them and we allow citizens the opportunity to buy bricks from us at the site. I think that we have them on inventory at \$1 a shot, am I right?"

City Administrator Clayton Keller said, "Yes, that's correct."

Special Projects Coordinator Dana Trowbridge said, "Why not? If we sell four or five thousand bricks at a buck a shot, that's not too bad. I suggest that we do a Friday or Saturday sometime in June, maybe the earlier part of the month and get it out of the way. We're going to have some overtime or some goodwill off-time for two or three of our people, probably. I think that we can do it without a lot of confusion if we get the street department with a bucket and make two or three piles out in the area and keep people from being mountain goats. We don't

want them climbing these mountains of bricks or we're going to have hurt folks. So, I would suggest taking a look at doing that sometime in June and letting the public have at it."

Council President Kobus said, "The City will take some out for their use?"

Special Projects Coordinator Dana Trowbridge said, "Christopher has accumulated what he sees as a need for the near term and into the future. I believe that they are already out at the wastewater treatment facility. We're nearing the end of the bricks."

The Council discussed only selling bricks to Butler County residents and checking driver's licenses, as appropriate. It was determined that the public brick offering would be June 11<sup>th</sup> and 12<sup>th</sup>, weather permitting. After the public brick offering, the City will advertise for bids for the remainder of the bricks.

Council member Bruce Meysenburg made a motion to approve advertising the remainder of the bricks from the downtown redevelopment project for sale to the Butler County public on June 11th and 12th, 2021 and to take bids for the remainder of the bricks. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

Council member Pat Meysenburg made a motion to adjourn. Council Member John Vandenberg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea  
Yea: 5, Nay: 0

The motion carried and Council President Tom Kobus declared the meeting adjourned at 7:31 p.m.

CERTIFICATION OF MINUTES

May 26, 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 May 26, 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.

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Tami L. Comte, City Clerk