

CITY COUNCIL PROCEEDINGS

March 9, 2022

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the meeting room of the City Office at 557 N. 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on March 3, 2022, 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.

Present for the meeting were: Mayor Alan Zavodny, Council members Pat Meysenburg, Tom Kobus, Bruce Meysenburg, Jessica Miller, Kevin Woita, City Attorney Joanna Uden, and City Clerk-Treasurer Tami Comte. Council member John Vandenberg was absent.

Also present for the meeting were: Street Supervisor Chris Kroesing, Electric Supervisor Pat Hoeft, Water Supervisor Aaron Gustin, Water Operator Dan Sobota, Building Inspector Gary Meister, Special Projects Coordinator Dana Trowbridge, Deputy Clerk Lori Matchett, City Employees Nathan Styskal, Mat Asche, William Fiala, Mick Shipley and Jeremiah Lentz, Roger Nadrachal, Quelbin Izaguirre, Rena Beran of NeighborWorks Northeast Nebraska, Doug Romshek and Sheriff Tom Dion. Matt Kalin, PE, Project Manager for JEO Consulting Group was present via Zoom.

The meeting opened with the Pledge of Allegiance.

Mayor Alan Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and asked those present to please silence their cell phones. He also reminded the public that if they speak tonight in front of the Council that they must state their name and address for the record.

Council member Pat Meysenburg made a motion to approve the minutes of the February 23, 2022 City Council meeting as presented. Council Member Kevin Woita seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to approve payment of the claims as presented. Council Member Kevin Woita seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda was Committee and Officers Reports.

Water Supervisor Aaron Gustin introduced himself and said, "Pat brought up something after the last meeting that I feel has been overlooked in regard to new staff and so I brought William Fiala, III to introduce to the Council members. I also wanted to touch base on a couple of items that occurred just within the last week that I wanted to have the Council keep in the back of their minds and maybe seek a little advice on as we move forward. In regard to wastewater, we had been doing quite a few ammonia tests on the basins and so the ammonia tests from basin number one were sitting steady at .024 and this is in my department head report and just the other day we pulled a sample from basin two. We had to reseed from basin one and we are measuring in at .020 milligrams per liter of ammonia. These are both within compliance limits so I am seriously giving thought to direct discharging from the basins as opposed to from the lagoons, given that we know for sure that the discharge from the basins will put us in ammonia compliance with DEE. The circulators that were purchased last year, I'm going to speak with Hank Raft about this and see what we can do. On the day that we had 70 mph plus winds, all but one has broken or collapsed. That was our last hope effort to salvage the use of those vacillative lagoons and our discharge process. So, I'm going to see since those were recently purchased if there is any sort of warranty or anything that we can do in regard to the amount that we spent because I think it was well over thirty thousand dollars."

Mayor Alan Zavodny said, "A couple things on that. One, certainly check on that but what about LARM? Have we talked to them?"

City Clerk Tami Comte said, "No, I haven't."

Water Supervisor Aaron Gustin said, "No, I'm just bringing it up now."

Mayor Alan Zavodny said, "We will want to check with insurance. Let's see what our options are."

City Clerk Tami Comte said, "Could you check with the warranty first? If they are under warranty, then we won't need to do anything with insurance."

Water Supervisor Aaron Gustin said, "Okay. If we move forward with those system changes, we will have to address something in the irrigation source that those provide to the farmers. I don't know that anyone is aware of an agreement. I spoke with Tami, and we were not aware of an agreement, and I spoke with Pat as well. I think it was just a matter of accessing and they had the ability to use it at the time so they hooked up pumps and pivots, but if we are direct discharging, we're going to have to address that the farmers will not have an irrigation source."

Mayor Alan Zavodny said, "You picked a great time to do that."

Water Supervisor Aaron Gustin said, "Bryan Sharp, the engineer with AGP, had sent me the loading information in regard to the discharge and that was forwarded to Bob Veenstra of Veenstra and Kimm. After receiving that information, he should have the wastewater treatment plant evaluation finalized within a couple weeks and be able to present to the Council, hopefully, within a month. He does request that there is a preliminary meeting before that Council meeting with individuals that would like to be in the loop. He will be addressing the anaerobic lagoon in that as well. There were questions about where we were at with that, and we were just waiting on the AGP loading information before he could finalize his evaluation."

Mayor Alan Zavodny said, "How did we share that because I was under the impression that they weren't one hundred percent sure of what their loading numbers were. There were a couple different options for them."

Water Supervisor Aaron Gustin said, "The loading is derived from the closest processing facility that they have and the layout that they want to put here and that is the Aberdeen, South Dakota location. So, the lab values that were assessed from them were then sent to me."

Mayor Alan Zavodny said, "It sounded to me, from a lay person's perspective, that they can adjust, to some extent, what they send to you."

Water Supervisor Aaron Gustin said, "They can. Plan for the worst, hope for the best. If their loading, if they have to discharge for a period of time without any sort of pre-treatment coming to me, I want to be able to handle it."

Mayor Alan Zavodny said, "Are you coordinating that with Michael Foods?"

Water Supervisor Aaron Gustin said, "So, the BOD loadings coming from Michael Foods have been consistent since December. Before December it was a little inconsistent. There were some extreme highs in their BOD loadings but since we received confirmation that they were not breaking."

Mayor Alan Zavodny said, "I just want them to be very clear that we can't afford surprises."

Water Supervisor Aaron Gustin said, "Yes. Also, the Vac truck arrived. Olsson's, for the engineering specs for the building that we were looking at, they sent their cost estimate to engineer and spec it out so we can properly go out to bid, and it was a little bit of sticker shock on that, and we did already receive a bid from B-D Construction for what we had discussed as a necessity for that building. That is all that I have."

Council member Bruce Meysenburg made a motion to approve the Committee and Officer's reports as presented. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda was a presentation by NeighborWorks Northeast Nebraska on Workforce Housing.

Roger Nadrachal of NeighborWorks Northeast Nebraska introduced himself and presented the following power point presentation. After the presentation Roger Nadrachal stated that he would take questions.

Mayor Zavodny said, "First of all, the whole program sounds like a really good idea. You need County Board approval if you are going to go countywide. Is that right?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "No. We don't need any approval from you we just need..."

Mayor Zavodny said, "I'm not worried about us, but if it's a countywide program...How do you get paid?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "We apply for grant funds on an ongoing basis. Quelbin is our grant writer and he's constantly writing grants. Some of the developments that we're doing, we generate some development fees and cash from partners. Some of the communities do provide us with an annual contribution. There's a variety of sources, foundations. We are a non-profit, 501C3. We are open to any dollars that could come our way to help support our organization."

Mayor Zavodny said, "So, some is built into the work that you do, and some is if someone is willing to do a foundation or something? Do you know a specific LB number or is that in the governor's appropriation or the appropriation committee's appropriation? Where is that potential to move to \$325,000 going to come from?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "LB 1069 by Senator Williams. There is also LB 1070 and LB 1071. One is to fund it through the general fund, and one is to fund it through ARPA funds. Senator Williams has been the leader of the Rural Workforce Housing Fund since its inception. There are other bills to use ARPA funds for, like for infrastructure and things like that but I understand that ARPA budget is going to be released later this week. Senator Mike Flood told us this morning that the appropriations committee would be putting that out this week."

Mayor Zavodny said, "So, the minimum requirements, where I start to get worried a little bit and I think it's a good idea to have minimum requirements, but \$2,000 to \$25,000, furnaces and stuff with the cost of everything now, is that working out for you when you do some of the rehabs?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "There are some homes that we have to walk away from because the rehab is too much. A big part of that is that we limit it to \$25,000 because of regulations mostly dealing with lead-based paint. If the rehab budget is over \$25,000, we have to abate lead, which actually removes the lead source from the home. If it's under \$25,000 then we can do remediation, where you can scrape the paint on the windows and things like that. That's why the \$25,000 is the max amount that we work with."

Mayor Zavodny said, "Some of the older ones you get asbestos, and it can get pretty costly."

Council member Bruce Meysenburg said, "The criteria that people have to meet, like four people are at \$85,000, is that when they get the loan for the house? So, if their income goes up after that, then what happens?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "It doesn't matter. At the time of purchasing it, they have to meet the income threshold. Some people think that sounds too good to be true, but it works. Like I said, we've done close to eight hundred of them like that in various communities. The main thing is that they are purchasing a home that they can get financed through a lender and then also with the grant funds, the down payment reduces their monthly payment. Before I started this job I was a mortgage lender and when I started working with this organization there was no program set up and when I was working with the consultant and they said 'what do you see as the biggest need is for people to buy a home' and at that time, that was in 1995 and homes were in disrepair and the lender would not provide the mortgage loan unless those repairs were made. So, then who did that? The seller had to do

that, or the buyer had to put up money and that was a hassle. So, we designed this program so that we can take care of that so that the home is mortgage ready for those lenders to purchase and finance. That's when we became experts in that program. The program has been modeled many times in other communities based on how we started ours back in 1995."

Mayor Zavodny said, "So, you collect your down payment up front when it is resold? Do you have an average amount of time that you are waiting to get that back?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "I think the average of the ones that we received over the last year or two is about seven- or eight-years turnaround time."

Mayor Zavodny said, "Fairly short. I was envisioning that you're waiting a long time to get your down payment money back."

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "The average of the ones that we have received has been seven or eight years. We have it set up so that the money that we receive does come back to us so that we can put it back out the door for another home buyer. Some programs forgive that but why? We have a little over eight million dollars of outstanding loans like that. Last year we recaptured about five hundred thousand dollars of that for people from either selling or refinancing to cause them to not keep that loan. So, that helps us bring the dollars back into our pool so we can add that to the new grant funds that we have to work with."

Mayor Zavodny said, "I can't find any reason why we wouldn't look at this. Listening to how it's structured, it makes a lot of sense. I think that the next move would be getting together with Skip and the small group and figuring out our next step. Any other questions?"

Council member Bruce Meysenburg said, "I just want to say that at this time we need to explore anything and everything that we can to get something going and moving in the community."

Mayor Zavodny said, "We are a little behind on that piece."

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "Every community is behind. They think they were ahead of it and then it snowballs and snowballs. The two things are the workforce fund to help with some new construction, subdivisions, builders, and developers and then that purchase rehab to help to...I'm sure you don't have many homes on the market, like any other community but some of those homes that do pass ownership, there is probably a need to have them updated and that's where we would be able to work with lenders and buyers."

Mayor Zavodny said, "Have you done some evaluations of our community?"

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "Very little. I've just been visiting with Skip and things like that."

Mayor Zavodny said, "I'm sure they can share with you a pretty good idea of where we're at."

Dana Trowbridge introduced himself and said, "The Nebraska Housing Trust Fund is owner-occupied rehabilitation, and it is a much larger number than \$25,000. Again, using federal money and I'm not trying to bounce one against the other because they are two

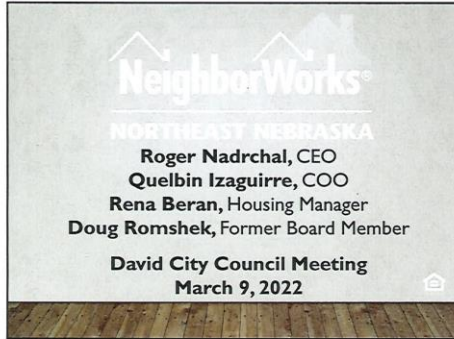
separate programs and two different ways. There are ways to get to where you want to go. We are at an interesting point in the history of David City, Nebraska. The stars have lined up. There are good things happening to the point that if we can find places for people to live, we can grow and prosper. If we don't, we will suffer the consequences. We don't have the skills that Roger and his group have because we've not learned them, and we've not owned them. They've had success for years. These people hold the key to our success as we move forward with two things here today: workforce housing and rehab and resale being the first part of this discussion, both are needs in our community. They are two different income levels and two different housing types. But I really believe that we're going to get to the \$325,000 on workforce housing because in the initial bill from 2017 it is described how it escalates annually and the escalator this year is nine-point seven percent. So, we're going to go past \$300,000 and you can build a house for \$325,000, if you don't have to spend \$85,000 to buy a lot and that's where we're going to come in. Thank you."

Mayor Zavodny said, "I think that this is really important and something that we need to be working on as quickly as we can. I travel a lot and it's funny how we've been in the news so much. People say, 'you've got so much going on and it's a great time to be in David City.' It's a great time if you can find a place to live. Right now, that's a really big problem for us."

Roger Nadrachal of NeighborWorks Northeast Nebraska said, "You might ask why do we want to do this as NeighborWorks? There are resources out there that could benefit your community and so if there's a way that we can bring some of those resources and help you with your housing needs, our mission is to work with communities and provide housing opportunities."

Mayor Zavodny said, "We need to partner with someone, so we don't have to reinvent the wheel and who knows what the next steps are and know how to do this and that isn't us. Thank you for your presentation."

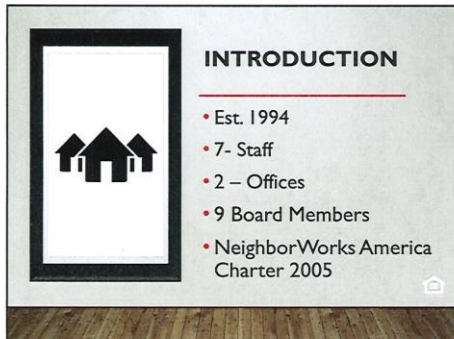
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NeighborWorks
 NORTHWEST NEBRASKA

STEPS OF THE PURCHASE-REHAB-RESELL PROGRAM

- Homebuyers must be income eligible
- Must complete 8 hours of Homebuyer Education
- Client shops for a house with a Realtor or For Sale by Owner (FSBO)
- NWNEN inspects house to bring up to Rehabilitation Standards
- NWNEN prepare Rehabilitation Worksheet
- NWNEN submits offer to purchase house "as is" condition
- Homebuyer signs offer to purchase house from NWNEN

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NeighborWorks
 NORTHWEST NEBRASKA

STEPS OF THE PURCHASE-REHAB-RESELL PROGRAM

- NWNEN purchases house
- NWNEN arranges for rehabilitation to be completed by local contractors
- NWNEN oversees rehabilitation work
- NWNEN sells house to homebuyer (usually within 50 days)
- Mortgage lender provides funds for closing
- NWNEN provides Down Payment Closing Cost Assistance
- Homeowner is the proud owner of their "own" home

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NeighborWorks
 NORTHWEST NEBRASKA

HOUSEHOLD MAXIMUM LIMITS SAMPLING

Butler County Incomes

Household Size	80% AMI (Federal Funds)	120% AMI% (State Funds)
1 Person	\$39,850	\$59,775
2 Persons	\$45,500	\$68,250
3 Persons	\$51,250	\$76,875
4 Persons	\$56,900	\$85,350
5 Persons	\$61,500	\$92,250
6 Persons	\$66,050	\$99,075


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NeighborWorks
 NORTHWEST NEBRASKA

REHABILITATION

- Minor to Major Repairs
- \$2,000 - \$25,000
- Rehab included in sales price
- Managed by NWNEN Housing Managers

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HOMEBUYER FINANCING

- Mortgage Loan
- Homebuyer Cash
- Down Payment Closing Cost Assistance

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**PURCHASE/REHAB/RESELL
 SAMPLE TRANSACTION**

PURCHASE PRICE OF HOME	\$150,000
Rehab Costs	+ \$15,000
PURCHASE PRICE FOR HOMEBUYER	\$165,000
Lender's Closing Costs	\$5,000
TOTAL COSTS TO BE PAID BY HOMEBUYER	\$170,000
Down Payment Assistance	- 20,000
Homebuyer's Cash	- 1,000
TOTAL CASH AVAILABLE:	\$ 21,000
ESTIMATED MORTGAGE LOAN NEEDED:	
(\$170,000 - \$21,000)	
\$149,000.00	

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SALES TRANSACTION

Purchase Price	\$150,000
Rehabilitation Costs	+ \$15,000
Purchase Price for Homebuyer	\$165,000
Lenders Closing Costs	+ \$5,000
Total Costs to Homebuyer	\$170,000
Down Payment Assistance Loan	- \$20,000
Homebuyer Cash	- \$1,000
Estimated Mortgage Loan	\$149,000

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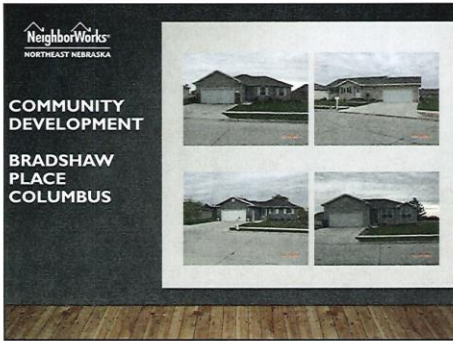
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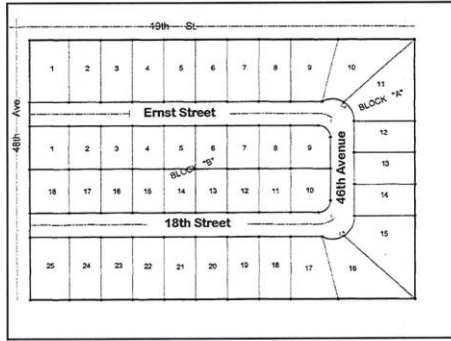
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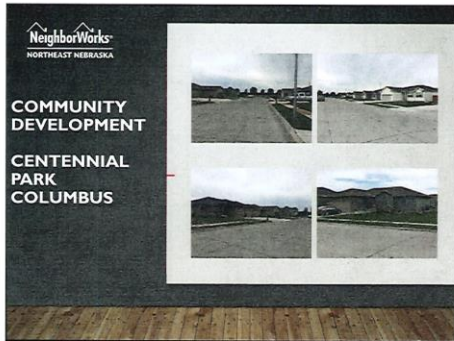
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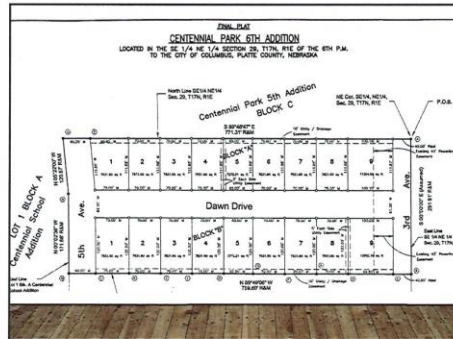
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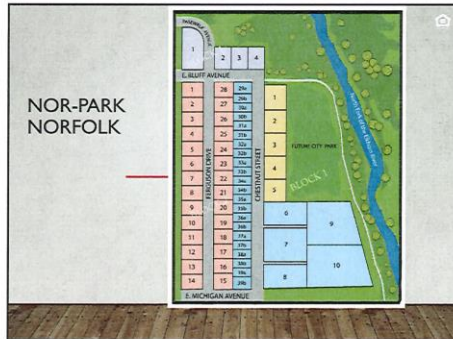
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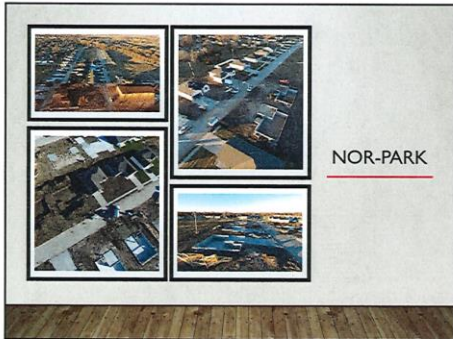
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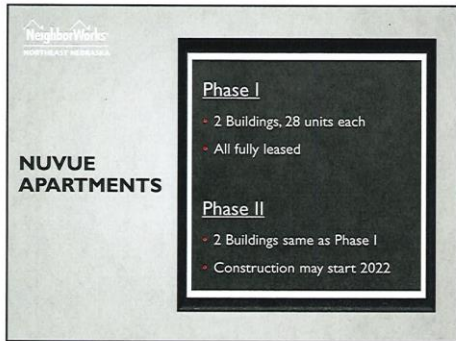
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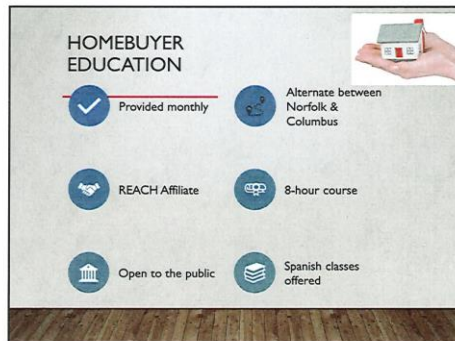
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HOMEBUYER EDUCATION

TOPICS: PREPARING FOR HOMEOWNERSHIP
HOW TO OBTAIN A MORTGAGE LOAN
DOWN PAYMENT ASSISTANCE PROGRAMS
SHOPPING FOR THE RIGHT HOME
CLOSING THE SALE
LIFE AS A HOMEOWNER

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MONEY MANAGEMENT

- Focus on budgeting and credit
- Gain basic skills through brief sessions
- Monthly sessions
- Open to the public

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NeighborWorks
NORTHEAST WISCONSINA

RURAL WORKFORCE HOUSING FUND

- 2017 started \$7 million
- 2020 additional \$10 million
- Proposed new legislation
 - Extend through 2027
 - \$20 million from General Fund
 - \$30 million for American Recovery Plan Act (ARPA)
 - Adjust maximum valuations


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NeighborWorks
NORTHEAST WISCONSINA

RURAL WORKFORCE HOUSING FUND (Continued)

- Revolving Loan Funds for Developers
- Community can tailor the program to its local needs
- Not income restricted, but restriction on values
 - \$215,000 – Rental
 - \$285,000 – Homeownership
 - New Legislation (if passed)
 - \$250,000 – Rental
 - \$325,000 - Homeownership


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NORTHWEST NEBRASKA

RURAL WORKFORCE HOUSING FUND
(Continued)

- Matching funds from community required
 - Past 1:1 match
 - New legislation proposes 50% match
 - Donation to the revolving fund
 - Donors do not get their money back
- Applicant must be a non-profit


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NORTHWEST NEBRASKA

RURAL WORKFORCE HOUSING FUND
(Continued)

- NeighborWorks Northeast Nebraska can be applicant for David City
 - Experienced in applying and administering
 - Applied 2017 for Columbus & Schuyler
 - Both funded
 - Applied again in 2020 for Columbus & Schuyler
 - Both funded


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NORTHWEST NEBRASKA

RURAL WORKFORCE HOUSING FUND
(Continued)

- Columbus' RWHF is \$3,572,500
- Schuyler's RWHF is \$3,352,362
- With new legislation, community can triple their local housing dollars through the Rural Workforce Housing Fund.
- Perpetual revolving loan fund for community.

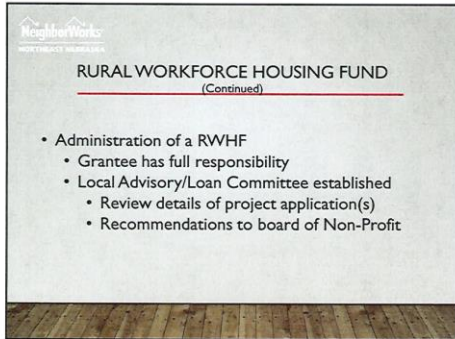
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NORTHWEST NEBRASKA

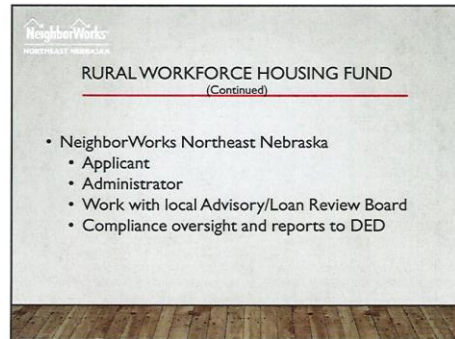
RURAL WORKFORCE HOUSING FUND
(Continued)

- Local match can come a variety of sources
 - City funds
 - Employers
 - Housing Advocates
 - Individuals
 - Etc.

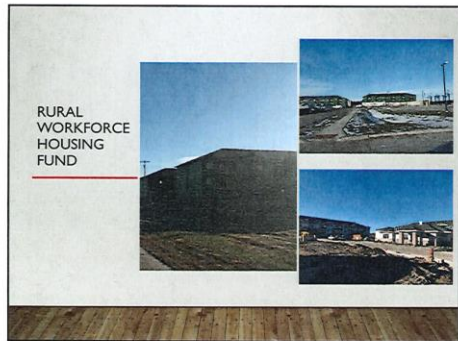
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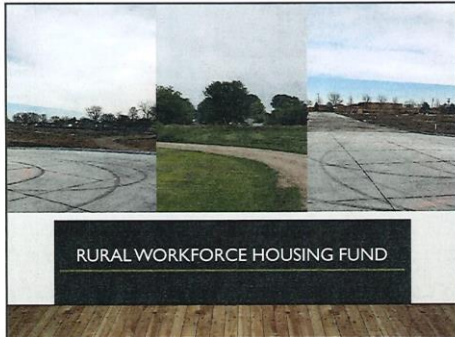


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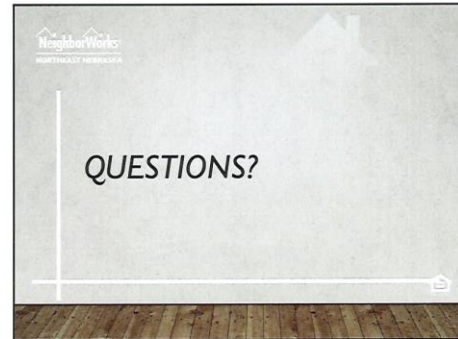
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Mayor Zavodny stated that the next item on the agenda was consideration of approving an agreement and scope of services with JEO Consulting Group to provide electric assistance for expansion of electrical services.

Matt Kalin, PE with JEO Consulting Group introduced himself and said via Zoom, “I’ve worked with JEO since 2005. I graduated from the University of Nebraska – Lincoln with an electrical engineering degree. I met with Pat several weeks ago to talk about some of the upcoming electrical needs that you’re going to have. In front of you is a cover letter that highlights some of those, whether that is the AGP Processing facility, the John Deere dealership or some potential discussions for several existing customers looking to expand and then several other developments. One of the reasons that we looked at structuring this on an hourly basis is that pretty much all of these I would consider in their infancy. I’ll use AGP for an example. They recently gave us what their electrical loads are, but we need to work with Nebraska Public Power District and others to see what the most feasible way is of serving those. So, I think it’s going to take a little bit to get to a spot where we can define a scope of services for each one of these as you can see a need for those. It’s not something where you guys would be billed for them no matter what, it’s based off the hours we actually work on the project, in lieu of doing it on a fixed fee basis.”

Matt Kalin went through the agreement and highlighted the areas that were pertinent.

Mayor Zavodny asked what if a refinery were to locate closer to the source because that would be another major thing.

Mayor Zavodny said, "The other thing that I think we ought to incorporate here to the extent that we can without spending a lot of money necessarily is to have some redundancy. I think that building redundancy into that system was something that they were pretty concerned about because they can't afford to have a transformer go down and not have that second one that they can switch over to while we're repairing or waiting twelve to eighteen months for the transformer to show up."

Matt Kalin, PE with JEO Consulting Group said, "That facility would potentially garner looking at setting it up with two substation transformers and each one could handle that lower demand level. We'd have to make those determinations and look at it from a financial standpoint. Does it make sense for each one of those transformers to handle that higher number? I think just evaluate that from that perspective. We could build half of the substation right away and get them up and going and then we could build the other half in a couple years if we felt like we wanted to wait and kind of plan it out more from a budgeting perspective."

Mayor Zavodny said, "How quickly can you move with talking to NPPD to see what we're even going to be allowed to do off of their system and are we going to be looking at wheeling rates and those kinds of things if we can't do it ourselves? Do you have a guess on how quickly this could move? I think one of the things that we're probably not too interested in, I think we want to spend the money now, while we know that we have access to some funds to make sure that we're there because we know where we're at today. We won't know five to ten years from now."

Matt Kalin, PE with JEO Consulting Group said, "Actually, Pat and I had an initial Teams meeting with NPPD on March 1st and we kind of talked through some of their loading and working with Tami and we're trying to get a meeting set up that would be between NPPD, Butler Public Power and the City. We're trying to roll on that as soon as we can. I think that we need to just get all of the cards out there on the table and get those conversations started."

Mayor Zavodny said, "I'm just wondering if the initial conversations should be with NPPD, you and us and then see if Butler has to be involved at that point? I'd rather not have all of those discussions out in the open and tip our hand of what we might do and that kind of thing. Does that make some sense from a strategic standpoint?"

Matt Kalin, PE with JEO Consulting Group said, "It does. But the issue that I see with that is, and this is just conversations with Pat, right now you guys aren't really set up to own and operate subtransmission."

Mayor Zavodny said, "We know that."

Matt Kalin, PE with JEO Consulting Group said, "That's where having the local REA at the table to use that network makes the most sense from that perspective."

Mayor Zavodny said, "I would like to examine first, though, how would we get there as a City? Would we need to hire additional expertise to run specific equipment and that kind of thing? I don't want to just write off as an option of the City doing it. We may find out that maybe we can't. I don't know. I'd like to start with looking if we can."

Matt Kalin, PE with JEO Consulting Group said, "Okay."

Special Projects Coordinator Dana Trowbridge said, "In our model can you give us scenarios to mitigate or eliminate our wheeling charges?"

Matt Kalin, PE with JEO Consulting Group said, "The only way to eliminate your wheeling charges is you guys would have to have a subtransmission source coming directly from the NPPD substation. We've got what is called David City to the east and then the Rising City one to the west. Pat might have an idea of approximately how far away those are."

Mayor Zavodny said, "I think that is something as you progress through this you know what we're looking for so if we could evaluate those as we go, I think that's where we'd like to start. We can always bring others in. Ultimately, we need to get where we need to go. If the City could do as much of this as possible because we've been the ones involved in putting most of this together and the revenue is important to us because we're going to have other expenses, i.e., roads, water, sewer. So, having them as a ratepayer that we can recoup the most we can is good for our ratepayers and our taxpayers."

Council member Kevin Woita made a motion to approve an agreement and scope of services with JEO Consulting Group to provide electric assistance for expansion of electrical services. Council Member Bruce Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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March 4, 2022

Mayor and City Council
City of David City, Nebraska
557 4th Street, PO Box 191
David City, NE 68632-0191

RE: 2022 David City Electrical Assistance
David City, Nebraska
JEO Project No. 220323.00

Dear Mayor and City Council:

JEO Consulting Group, Inc. (JEO) is pleased to submit this proposal for electrical engineering services to provide Electrical Assistance for the City of David City, Nebraska (city). The assistance will provide guidance to the city on the electrical requirements of the electrical distribution system infrastructure necessary to serve the anticipated additional loads of Ag Processing Inc (AGP), John Deere dealership, existing customer expansions, and several other developments.

JEO has structured the enclosed agreement on an hourly basis because the previously mentioned anticipated additional loads are in their infancy and the ability to define a specific scope of services is not feasible. Each of these end users will require coordination to determine their explicit needs. Upon definition of these needs, JEO will be able to provide the City with a separate agreement to complete a defined scope of work.

If the enclosed agreement meets with your approval, please return one signed copy of the agreement to the Omaha office and retain one for your records. JEO appreciates the opportunity to provide the enclosed agreement and look forward to working with the you to meet your electrical needs.

I look forward to reviewing the enclosed agreement with you during your next regularly scheduled council meeting.

Respectfully,

A handwritten signature in blue ink that reads "Matt E. Kalin".

Matt E. Kalin, PE
Electrical Project Manager

MEK:cns
Enclosure



**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of date signed by Owner ("Effective Date") between City of David City, Nebraska ("Owner") and JEO Consulting Group, Inc. ("Engineer").

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

2022 David City Electrical Assistance ("Project")

JEO Project Number: 220323.00

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

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

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 Owner Responsibilities

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

ARTICLE 3 - COMPENSATION

3.01 Compensation

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

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

Exhibit A – Scope of Services
Exhibit B – General Conditions

4.02 Total Agreement

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

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

Owner: City of David City, Nebraska

Engineer: JEO Consulting Group, Inc.

_____ 

By: Alan Zavodny

By: Matt E. Kalin

Title: Mayor

Title: Electrical Project Manager

Date Signed: _____

Date Signed: March 4, 2022

Address for giving notices:

Address for giving notices:

City of David City, Nebraska

JEO Consulting Group, Inc.

557 4th Street, PO Box 191

11213 Davenport Street, Suite 200

David City, Nebraska 68632-0191

Omaha, Nebraska 68154

Attn: Pat Hoeff, Electric Supervisor

Attn: Matt Kalin, PE

Exhibit A

**SCOPE OF SERVICES
CITY OF DAVID CITY, NEBRASKA
2022 ELECTRICAL ASSISTANCE
JEO PROJECT # 220323.00**

Project Description:

This City of David City, Nebraska (Owner) owns and operates the 13.8Y/7.96 KV electrical distribution system that serves the city residents and businesses. The Owner's electrical distribution system consists of the 13.8Y/7.96 kV infrastructure within the O Street and Power Plant Substations. The O Street substation metal-clad switchgear consists of a main breaker section, two feeder breaker sections (South & East), and an Auxiliary 'A' section which are housed within a metal building. The Power Plant substation metal-clad switchgear consists of a main breaker section, three feeder breaker sections (South Ring Bus, North Ring Bus, & 13.8 kV Spacer Cable Tie), generator transformer step-up breaker section, three generator breaker sections (G5, G6, & G7), and a station power breaker section which are housed within a metal building. Additional generators within the Power Plant are connected to the 13.8 kV metal-clad switchgear via a 3,750/4,200 kVA step-up transformer.

Ag Processing Inc (AGP) recently announced their intention to construct a new soybean crushing facility. The facility would be adjacent to property the Owner annexed in year 2019 in the northwest part of the Owner's corporate limits. Also, the John Deere dealership is looking to construction a new facility, a developer is working on a preliminary layout/plat for a mixed-use development for Parcel 120035329, a new city housing development is under way, potential commercial expansion on the southwest part of the Owner's corporate limits across the highway from Aquinas Catholic Schools, and several other existing customers have expressed expansions of their facilities.

It is anticipated that JEO will provide Electrical Assistance to provide guidance to the Owner on the requirements of the electrical distribution system infrastructure necessary to serve the anticipated additional loads.

Scope of Services:

- 1 ELECTRICAL ASSISTANCE:**
 - 1.1 Provide project management oversight over all facets of the project. Project management shall include the following services:
 - a. Coordination of design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors as well as ensure a timely project design.
 - b. Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
 - c. Provide oversight, monitor staff, and ensure proper staffing levels are maintained to ensure scope of services and schedule are met.
 - d. Work with disciplines to identify potential risks and how to mitigate those risks.
 - e. Review billed hours by design team and prepare invoice statements for Owner.
 - 1.2 Coordinate with AGP to determine their electrical need(s) and develop option(s) to serve the facility.

Exhibit A

- 1.3 Coordinate with Nebraska Public Power District (NPPD) to determine and provide the necessary information required to update their regional planning load flow model with the Owner's future load growth projection(s).
 - 1.4 Coordinate with Butler County Public Power District (BCPPD) to develop option(s) to serve the new AGP facility and determine the ownership of any new electrical infrastructure.
 - 1.5 Coordinate with Owner's rate consultant in the development of an electrical rate to serve AGP.
 - 1.6 Coordinate with Owner's legal counsel in the development of an annexation of the AGP facility.
 - 1.7 Assist with facilitation of in-person and virtual meetings as necessary with AGP, NPPD, BCPPD, Owner's rate consultant, and Owner's legal counsel to determine the optimal solution to serve additional loads.
 - 1.8 Coordinate with NPPD to obtain the short-circuit information for the two substation(s).
 - 1.9 Develop a map-based load flow model of the necessary electrical distribution system components utilizing WindMil. Utilizing peak demand data and new load projections, the load flow model will be used to determine the conductor load per phase, voltage drop, and power factor with respect to ANSI standards. Determine the projected load can be served without violating reliability criteria and applicable codes/standards.
 - 1.10 Develop conceptual layouts to depict approximate new equipment location(s) to allow Owner to procure long lead time material(s).
 - 1.11 Develop high level opinion of probable construction cost for each new facility, expansion, or development; accuracy level of +/- 20%.
- 2 **FEE:**
- 2.1 The cost to provide the above-mentioned services would be an hourly fee with an estimate of \$35,000.00.
 - 2.2 When nearing estimated compensation amounts stated herein and it subsequently becomes apparent to Engineer that the total compensation amount estimated will be exceeded, Engineer shall give Owner written notice thereof. Should the Owner determine the estimated amount should not be exceeded, Owner shall notify Engineer and Engineer shall reduce the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the total estimated amount before Owner notifies the Engineer, the Engineer shall be paid for all services rendered up to being notified.
 - 2.3 This fee includes JEO's billable time and overhead expenses including telephone calls, copying, postage, travel and meals that are included in our hourly rates and fees. Any additional services beyond the Scope of Service will be provided on a billable time basis in accordance with our standard Hourly Rate Schedule, only with prior approval by Owner.
- 3 **PAYMENT:**
- 3.1 We will invoice you monthly for work completed to date, payment is due upon receipt. Invoices unpaid after 30 days will accrue interest at 12% per annum (1.0%/month).

Exhibit A

4 TIME FRAME:

- 4.1 Electrical Assistance will commence upon authorization to proceed.

5 OWNER RESPONSIBILITY:

- 5.1 Electronic CAD, GIS, or PDF copy of the latest electrical distribution system map(s) including location, conductor material, sizes and types, and substation transformer nameplate information.
- 5.2 Electronic CAD or PDF copy of the substation and power plant plan(s).
- 5.3 Electronic CAD or PDF copy of any new facility site plan(s), existing facility expansion(s), and preliminary/final subdivision plats.
- 5.4 Peak demand data including power factor for each substation distribution feeder.
- 5.5 Provide a room /location for all meetings throughout the project.

6 EXCLUSIONS:

- 6.1 Topographic survey of land.
- 6.2 Land rights and ownership.
- 6.3 Electrical distribution plat maps (existing and proposed).
- 6.4 Design, bidding, and construction administration services for proposed improvements.
- 6.5 Geotechnical investigation of subsurface soils conditions.
- 6.6 Floodplain, Corps 404, or other environmental permitting.
- 6.7 SWPPP preparation, administration, and inspections.
- 6.8 Any permit fees associated with permit applications.
- 6.9 Attorney fees related to this project.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

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

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

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

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

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

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

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

If the owner fails to make any payment due to JEO for services

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

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

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

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

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

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

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

computer hardware differing from those used by JEO at the beginning of the project.

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

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

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

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

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

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

a. Workers' Compensation: Statutory

b. Employer's Liability

i. Each Accident: \$500,000

ii. Disease, Policy Limit: \$500,000

iii. Disease, Each Employee: \$500,000

c. General Liability

i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000

ii. General Aggregate: \$2,000,000

d. Auto Liability

i. Combined Single: \$1,000,000

e. Excess or Umbrella Liability

i. Each Occurrence: \$1,000,000

ii. General Aggregate: \$1,000,000

f. Professional Liability:

i. Each Occurrence: \$1,000,000

ii. General Aggregate: \$2,000,000

g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or

damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.

h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.

i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

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

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

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The owner and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the owner and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.

b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order,

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requisition, notice to proceed, or like document regarding JEO's services.

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

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev.

Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

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

Council member Bruce Meysenburg made a motion to approve Progress Estimates #6 and #7 for Garver, LLC in the amount of \$18,578.92 and \$8,492.36, respectively for the Airport Layout Plan Update. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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PROGRESS ESTIMATE

**NEBRASKA DEPARTMENT OF TRANSPORTATION
 DIVISION OF AERONAUTICS**

Sponsor: <u>City of David City</u>	Estimate No. <u>6</u>	Date: <u>2/2/2021</u>
<u>557 N. 4th Street</u>	AIP No.: <u>3-31-0025-014-2021</u>	
<u>David City, NE 68632</u>	Garver Project No.: <u>20A14400</u>	
Contractor: <u>Garver, LLC</u>	<u>David City Municipal Airport</u>	
<u>4701 Northshore Drive</u>	Date of Contract: <u>4/28/2021</u>	
<u>North Little Rock, AR 72118</u>		

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITIES TO DATE	UNIT	UNIT PRICE	AMOUNT
1	Project Initiation & Admin	100%	LS	\$7,536.18	\$7,536.18
2	Inventory of Existing Conditions	90%	LS	\$52,047.61	\$46,842.85
3	Aviation Activity Forecasts	100%	LS	\$23,496.81	\$23,496.81
4	Facility Requirements	85%	LS	\$13,572.76	\$11,536.85
5	Airport Alternatives	65%	LS	\$39,469.11	\$25,654.92
6	Airport Layout Plan Development	15%	LS	\$51,237.11	\$7,685.57
7	Implementation Plan	0%	LS	\$8,105.63	\$0.00
8	Aeronautical Survey	95%	LS	\$90,909.00	\$86,363.55
9	Closeout	0%	LS	\$9,131.92	\$0.00

As Project Engineer, I hereby certify that the quantities shown above have been completed from measurements made by me or my predecessors and that the work has been performed according to plans and specifications.


 Project Engineer 2/4/2022
 Date

Approved for payment as per Project Engineer's certification 
 NDOT Project Engineer 2/4/2022
 Date

Grand Total	\$209,116.73
Less Previous Estimates	\$190,537.81
Due Contractor This Estimate	\$18,578.92

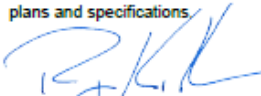
APPROVED: _____
 Airport Sponsor Date

PROGRESS ESTIMATE

**NEBRASKA DEPARTMENT OF TRANSPORTATION
 DIVISION OF AERONAUTICS**

Sponsor: <u>City of David City</u>	Estimate No. <u>7</u>	Date: <u>3/2/2021</u>
<u>557 N. 4th Street</u>	AIP No.: <u>3-31-0025-014-2021</u>	
<u>David City, NE 68632</u>	Garver Project No.: <u>20A14400</u>	
Contractor: <u>Garver, LLC</u>	<u>David City Municipal Airport</u>	
<u>4701 Northshore Drive</u>	Date of Contract: <u>4/28/2021</u>	
<u>North Little Rock, AR 72118</u>		

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITIES TO DATE	UNIT	UNIT PRICE	AMOUNT
1	Project Initiation & Admin	100%	LS	\$7,536.18	\$7,536.18
2	Inventory of Existing Conditions	90%	LS	\$52,047.61	\$46,842.85
3	Aviation Activity Forecasts	100%	LS	\$23,496.81	\$23,496.81
4	Facility Requirements	85%	LS	\$13,572.76	\$11,536.85
5	Airport Alternatives	75%	LS	\$39,469.11	\$29,601.83
6	Airport Layout Plan Development	15%	LS	\$51,237.11	\$7,685.57
7	Implementation Plan	0%	LS	\$8,105.63	\$0.00
8	Aeronautical Survey	100%	LS	\$90,909.00	\$90,909.00
9	Closeout	0%	LS	\$9,131.92	\$0.00

As Project Engineer, I hereby certify that the quantities shown above have been completed from measurements made by me or my predecessors and that the work has been performed according to plans and specifications.  Project Engineer Date <u>3/2/2022</u>	Grand Total	\$217,609.09
	Less Previous Estimates	\$209,116.73
	Due Contractor This Estimate	\$8,492.36

Approved for payment as per Project Engineer's certification Anna Lamin 3/2/2022
 NDOT Project Engineer Date

APPROVED: _____
 Airport Sponsor Date

Council member Kevin Woita made a motion to approve Progress Estimate #14 and #15 for Kirkham Michael in the amount of \$1,758.46 and \$1,308.56, respectively, for the 93Y Fuel Project. Council Member Pat Meysenburg seconded the motion. The motion carried.

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

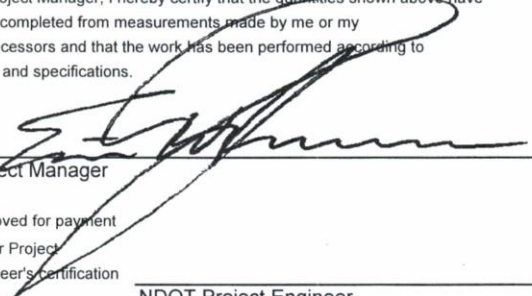
Yea: 5, Nay: 0, Absent: 1

**NEBRASKA DIVISION
 OF AERONAUTICS**

Sponsor: <u>City of David City</u>	Estimate No. <u>14</u>	Date: <u>Jan. 3, 2021</u>
<u>P.O. Box 191</u>	Invoice: <u>93799</u>	
<u>David City, Nebraska 68632</u>	KM Project No.: <u>2010235</u>	
Contractor: <u>Kirkham Michael</u>	AIP Project No.: <u>3-31-0025-013</u>	
<u>5621 NW 1st Street, Suite 400</u>	Name of Project: <u>93Y Fuel Project</u>	
<u>Lincoln, Nebraska 68521</u>	Date of Contract: <u>October 14, 2020</u>	

CONTRACT QUANTITIES	ITEM NO.	DESCRIPTION	ESTIMATED QUANTITIES TO DATE	UNIT	AMOUNT
34,092.86	A	Design Phase	100%	hourly	\$ 34,092.86
7,122.82	B	Bid Phase	100%	hourly	\$ 7,122.82
30,895.67	C	Construction Phase	81%	hourly	\$ 25,116.34
7,134.13	D	Close Out Phase	25%	L/S	\$ 1,783.53

As Project Manager, I hereby certify that the quantities shown above have been completed from measurements made by me or my predecessors and that the work has been performed according to plans and specifications.


 Project Manager _____ Date 1/3/22
 Approved for payment as per Project Engineer's Certification

 NDOT Project Engineer _____ Date _____

Grand Total	\$	68,115.55
Less Retained	\$	-
Less Previous Estimates	\$	66,357.09
Due Contractor This Estimate	\$	1,758.46

APPROVED: _____
 Airport Sponsor _____ Date _____



January 3, 2022

City of David City
 P.O. Box 191
 David City, Nebraska 68632

Estimate No.: 14
 Invoice: 93799
 File: 2010235

Attention: Clayton Keller

Professional engineering services in connection with the construction phase for the David City Airport 93Y Fueling system per the contract signed October 14, 2020.

October 16, 2021 through December 24, 2021

<u>Classification</u>	<u>Hours</u>	<u>Rates</u>	<u>Amounts</u>
C. Gaston, Senior Engineer	9.0	\$ 45.68	\$ 411.12
S. Beauchamp, Cad Tech	0.5	\$ 24.50	\$ 12.25
Subtotal	9.5		\$ 423.37
 <u>Direct Non-Salary Costs</u>			
Mileage		\$ 190.96	
B&E Flying		\$ 230.00	
Subtotal		\$ 420.96	
 Direct Salary Costs			
			\$ 423.37
Overhead (182.07%)			
			\$ 770.83
			\$ 1,194.20
Direct Non-Salary Costs			
			\$ 420.96
 Total Cost			
			\$ 1,615.16
Fixed Fee (12%)			
			\$ 143.30
 Subtotal			
			\$ 1,758.46
 AMOUNT DUE THIS INVOICE			
			<u>\$ 1,758.46</u>

Kirkham Michael - Monthly Progress Report

AIP Project No.: 3-31-0025-013

KM Project No.: 2010235

LOCATION: David City

TYPE OF WORK: 93Y Fuel Project

Notice to Proceed: October 14, 2020

Progress Through: December 24, 2021

This Estimate includes services per the executed contract
found under SECTION 5:
CONSTRUCTION PHASE (page 4 & 5)

Project progress this reporting period:

- a. Project Administratin
- j. David Bacon compliance
- l. Progress estimates
- m. Arrange and conduct final walk-through

INVOICE # 207

B&E FLYING

3091 County Road #25
Morse Bluff, NE 68648
402-430-3102

DATE: 12/24/2021

BILL TO:
Kirkham Michael
12700 West Dodge Road
Omaha, NE 68154

SERVICES FOR:
9/17/21-12/24/21

DETAILS	HOURS	JOB NO.	AMOUNT
12/17/21 David City	1	2010235	\$ 230.00
		TOTAL	\$ 230.00

IF YOU HAVE ANY QUESTIONS CONCERNING THIS INVOICE, CALL 402.430.3102

THANK YOU FOR YOUR BUSINESS

Mayor Zavodny stated that the next item on the agenda was consideration of the Building Inspector's hours.

Building Inspector Gary Meister introduced himself and said, "I asked to be on the agenda for quite a few reasons. I'd like to get some feedback from the Council about what kind of a job I'm doing, or do you like the direction that it's going, are you hearing positive things – I kind of wanted to hear some feedback on that. What should be done differently? I've been working on a lot of nuisances. We've got six or seven that we're putting pressure on right now. It seems like calling people really helps. I call them and tell them that I don't see anything happening and do we need to go to the next level? Are you going to work with us or with the City Attorney? I think that the more that I handle firsthand the cheaper it's going to be for the City than if I get the attorney involved and then there will be court costs. People like to deal with problems face to face. I've visited a few of them personally and I feel like a lot of them are moving along. It's a slow process. If they are making progress, I think that we just have to keep pushing the heat and let them know that we're not going away until the problems go away. I've spent a lot of time on that over the winter. I think it's also a good thing that I'm in town at eight o'clock every morning and most everybody knows that. They see my truck and they come in and see me. I think the fact that I'm visible every day, I can't imagine doing this job if I came once a week and I just don't see how that worked. The hours are what I was asking about because they're going to fluctuate as the workload changes and so will the hours. I'm not good at looking out the window and waiting for the time to leave, when I'm caught up, I leave. I get off the clock and come back the next morning and go at it again. But for me to drive into town every day and take my time away from my business. Every hour that I'm here I'm losing money. The pay is something that we need to look at. We don't need to look at it tonight, but I've checked with other towns around and compared to what other building inspectors are getting paid, my pay is not even competitive. I have no retirement and no insurance and I'm not asking for it. I don't get paid vacations and that's fine. But you guys all know what those benefits cost for your full-time employees. If it's x amount of dollars per forty hours, then I feel that I should get that too. I might only be putting in two hours per week but if that figure is fifteen or twenty dollars per hour for all of these benefits then I think that I should get two hours' worth of it so that I can go purchase my insurance and take care of my retirement and pay for my time off when I want vacation. I took the job, and I was very interested in it, and I enjoy the job. I don't want to be here forty hours per week. I don't want to be here three hours per week if I'm caught up. I guess what I'm asking is for you guys to look into this."

Mayor Zavodny said, "Let's have a discussion. From my standpoint I think you're doing a great job. I think we're making progress. I publicly waged war on crowing chickens and that's a minor thing but if you look at everything and you haven't had your head in the sand for a while, you know that we have a big development. The only thing that concerns me about what you talked about is I think that we need you more. Is that something that works for you? I'm more interested in how this is working for you and if we were to consider full-time which I think our need is there or we're on the precipice of it. Is that something that you can do?"

Building Inspector Gary Meister said, "It's something that I'll consider. I see what's coming or what we think is coming and I think my hours will spool up as needed. I want this to be a priority but if I make substantially more in the private sector it doesn't make sense for me personally."

Mayor Zavodny said, "Part of the piece is, to me, if you go full-time there is the insurance part and there is the paid time off and all of the other benefits that our employees get, and I do agree that your salary needs to be changed. We need to do that through Ordinance."

Building Inspector Gary Meister said, "I talked to Tami, and she gave me some direction on who to talk to and the thing is I'm the kind of guy that needs to be busy."

Mayor Zavodny said, "You still haven't answered my question."

Building Inspector Gary Meister said, "Would I go full-time? If it was necessary."

Mayor Zavodny said, "I think our job is getting to where there is so much out there, and I agree with you that one of the things that we've learned over time is that coming in once a week you can't stay on top of things."

Building Inspector Gary Meister said, "Nuisances in town are embarrassing. If they were easy fixes, they would have been fixed a long time ago. They are difficult. You have to constantly be putting heat on them and some days it doesn't seem like you are gaining but all of a sudden something happens."

Mayor Zavodny said, "At one point I think we had identified around seventy-five unlicensed vehicles. It was something in the ballpark. Just identifying all of those. I know that you don't want to be sitting around waiting for work but let's say that some of what we are talking about doesn't happen, if a portion of what we are talking about happens, it's probably more than one person can handle."

Building Inspector Gary Meister said, "A lot of these nuisances that I've been dealing with are ten years old. This stuff didn't just happen, but I think what happens is that there is a light shined on it and then everybody gets busy."

Council member Jessica Miller said, "I think you've proven that you're invested. Your follow-through has been great. You're following-through. I don't think we've ever seen that."

Mayor Zavodny said, "Tell me how this is fitting into your life. I know this isn't all you do. So, I think in the summer it gets busier because there is more going on."

Building Inspector Gary Meister said, "I'm going to back off on my other business. My brother works with me also."

Mayor Zavodny said, "If you can commit, based on what our needs are, and you've been really good about it. We've had so many meetings. Unless you are walking in these shoes, you don't understand the time that it takes to meet with the people who are planning for what we have coming. It takes a lot of time. We try to involve you in a lot of that stuff."

Building Inspector Gary Meister said, "I think that these nuisances shouldn't end up with the Council members. I don't want them to get involved in nuisances. You guys have plenty of important things to do other than chasing chickens."

Mayor Zavodny said, "We will continue the conversations. It helps for all of us to hear the same thing. From our perspective, I think that it's going great. I want to make sure that it's working for you and down the road I think we can address the pay and I feel comfortable with that. I think we can address what the hours might look like. If you are willing to commit to us, I think the workload is going to be there."

Building Inspector Gary Meister said, "As far as the workload, I will come as much as needed. I have been reading every City Ordinance and every building code. I've been reading for six months, and I want to know it as well as Tami knows it."

Council member Kevin Woita said, "The contractors that I've talked to have all been very positive. They appreciate the way you've been operating."

Building Inspector Gary Meister said, "We're not the enemy. I really feel like we need to do a better job of handing out the codes and requirements. If you're putting up a garage, we should give them the information so that can build it accordingly."

Mayor Zavodny said, "So they know what the rules are. I appreciate you talking to us, and we will continue to talk."

Mayor Zavodny stated that the next agenda item was consideration of the agreement with Olsson for the Akrs water and sewer extension.

Mayor Zavodny asked Electric Supervisor Pat Hoeft if he had done any work on the temporary construction power for Akrs.

Electric Supervisor Pat Hoeft said, "I need easements and I need to know where we are sitting. He tried to call me twice today and missed me both times. I'm going to call him in the morning."

Council member Bruce Meysenburg said, "Do we have the electric deal all ironed out?"

Mayor Zavodny said to City Clerk Comte, "What's your answer to that question?"

City Clerk Comte said, "I don't know for sure. I think so from the emails."

Electric Supervisor Pat Hoeft said, "I think so from the phone conversations. It's been our area since 2010. Back on January 9, 2010, the Power Review Board ruled that it was David City's territory."

City Clerk Comte said, "Our attorney contacted their attorney and from the email, our attorney was going to send him the documentation and I haven't heard anything else."

Mayor Zavodny said, "I think that was just yesterday and he used the word evidence."

Water Supervisor Aaron Gustin said, "This is the agreement to allow Olsson to extend the water distribution and the sanitary sewer collection system to accommodate the Akrs relocation. From the conversation it was approximately eleven hundred feet and for the design scope and service of both utilities to accommodate Akrs."

Mayor Zavodny said, "Included in this is obviously anything that we would potentially use is going to cost us. It's all laid out there and it's impossible to know what we'll end up with. I'm telling you that we don't have a choice. We've got to get this going."

Council member Tom Kobus made a motion to approve the agreement with Olsson for the Akrs Water and Sewer Utility Extension. Council Member Kevin Woita seconded the motion. The motion carried.

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

Yea: 5, Nay: 0, Absent: 1



**LETTER AGREEMENT
FOR PROFESSIONAL SERVICES**

March 4, 2022

City of David City
Attn: Ms. Tami Comte
557 North 4th Street
David City, Nebraska 68632

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**
Akrs Water and Sewer Utility Extension (the "Project")
David City, Nebraska

Dear Ms. Comte:

It is our understanding that the City of David City, Nebraska ("Client") requests Olsson, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project:

PROJECT DESCRIPTION AND LOCATION

Project is located at: David City, Nebraska.

Project Description: This agreement includes design of water and sewer extensions to the north property line of the proposed Akrs property. The proposed utilities will connect to existing utilities designed and installed as part of a 2010 Olsson design, titled the Hein water and sewer utility extensions. At the February 23, 2022, the City Council instructed the water main to be designed as a 12-inch water main, connecting to the existing 8-inch water main, as part of an anticipated future loop. The existing sewer main is 8-inches, and the extension would also be 8-inches. The preliminary lengths of the 12-inch water and 8-inch sewer main are anticipated to be 1,375 LF and 1,600 LF, respectively. The 8-inch sewer will require easements through the proposed Timppte property. Easements will be proposed and coordinated with Timppte, for inclusion on their site layout, that has yet to be developed. The 8-inch sewer will be placed on the east side of the proposed 180-foot wide road right-of-way, per instructions from the City. This proposed 180-foot wide roadway corridor will be surveyed as part of this Agreement.

The utility extension will be made to a recently acquired 15-acre commercial property located north of the existing Hein acreage on the west side of Highway 15. The property has yet to be updated in the Butler County assessor's website. These improvements are anticipated to be funded by the City budget. The City will coordinate with the developer and provide development drawings (PDF or CAD) for Olsson's use in laying out the requested utility extensions. Current layouts of the proposed properties, as provided by the City, are included as a reference.

1.0 PROJECT INITIATION/ADMINISTRATION

- 1.1 A project initiation meeting will be conducted with all parties involved to refine project scope, review the project site, identify specific goals, determine area to be surveyed, establish schedule for completion, and establish channels of communication.
- 1.2 Coordinate with Client's representative for the project. Olsson shall attend one design review meeting with City staff at the 90-percent design level.
- 1.3 Provide general administrative services to manage and support the design of the utility project. This will include coordination with Akrs and Timppte on potential utility and service connection locations. One (1) coordination meeting is included to meet with both of them to discuss the sewer layout.
- 1.4 Coordination with the Nebraska Department of Transportation (NDOT) is anticipated for this agreement for water main extension.

2.0 DESIGN SERVICES

- 2.1 Topographic survey data will include all necessary field and property surveys required for design and construction of the water utility replacement. This will also provide vertical and horizontal control points, including 2-3 control points and 2 benchmarks using Nebraska LDP coordinates. It is anticipated that the water utility extension will occur within Nebraska Department of Transportation (NDOT) existing ROW, the sanitary sewer would be provided in a dedicated utility easement on the Timpte property, and that no additional permanent easements will be necessary. A temporary construction easement is anticipated for the sanitary sewer extension, and has been included. If additional easements are required for the project, this service can be provided, but will be considered an additional service. Other services included with the survey will be:
 - a. Research existing vesting deeds, Right of ways and easements for the proposed project area.
 - b. Locate section corners and property corners to define property and ROW lines
 - c. Complete topographic survey of the two corridors for proposed water and sanitary sewer utilities, and the 180-foot wide roadway corridor.
 - d. Contact Nebraska 811 to mark out utilities.
 - e. Locate existing water and sewer infrastructure to include in the topographic survey.
 - f. Provide a Civil 3D drawing to include property/ROW lines, existing easements, contours, structures and utilities.
 - g. One temporary easement exhibit and description will be provided for the proposed Timpte property which will be affected by the sewer installation.
- 2.2 Prepare detailed drawings and technical specifications for the proposed water and sewer utilities work and for all equipment and materials required under the contract. The documents will be prepared for construction by City utilities personnel, and will not be installed as part of a competitive bidding process. The specifications shall contain contracts, bid forms, bidding instructions, General and Supplementary Conditions. A combined set of plans and specifications will be prepared for all proposed utility extension locations.
 - a. Design will be concurrent with hydraulic modeling confirmation of the proposed future loop around the proposed project area, of which this extension will be a part.
- 2.3 Provide three (3) sets of drawings to the Client for review at 90 percent. As part of the review of each submittal, meet with Client or Client's designee to discuss their review comments and resolve any questions.
- 2.4 Perform an "in-house" quality control review of each set of drawings and specifications at 90 percent completion.

- 2.5 Opinion of Probable Construction Costs - Prepare an opinion of probable construction costs for the project work for utility extension locations.
- 2.6 Submit the water and sewer utility replacement project documents to the Nebraska Department of Environment and Energy (NDEE) and Incorporate Review Comments - Olsson will coordinate the project with NDEE and submit the project plans and specifications as required for approval and issuance of a construction permit. Permit review fees, anticipated to be \$100 plus 0.5% of the actual project cost, shall be the responsibility of the Client. Olsson can submit these fees on behalf of the Client and submit them as additional services, if desired.

The plans and a permit application will be submitted to NDOT for their review and approval of utility installation in the existing Highway 15 ROW.
- 2.7 Provide three (3) sets of final plans and specifications to the Client for their use.
- 2.8 The project is anticipated to be constructed by the City, so bidding phase services are not included in this agreement. Should bidding phase services be required for utility installation by a contractor, they can be provided as additional services.

3.0 CONSTRUCTION PHASE SERVICES

- 3.1 Perform construction administrative services including communication with the City personnel, attendance at the pre-construction meeting, plus up to three (3) site visits to verify construction activities, shop drawing or submittal review (as defined below), respond to field questions from the City and/or Contractor, and other items requested by the City during construction, within the budget amount stated for construction administration.
- 3.2 Perform construction staking services for the Client based on the plans prepared by Olsson. Fees are based on two (2) round trips to the job site. Construction staking will include:
 - a. Verify control points on site and benchmarks
 - b. Set one row of graded offset hubs for sanitary sewer and 2 offsets at each MH for sanitary sewer. 1 trip to the site.
 - c. Set one row of graded offset hubs and 1 stake at each fixture for water main. 1 trip to the site.
 - d. Any required or requested re-staking will be time and material.
- 3.3 Shop Drawing Submittal Review – Review drawings and other data submitted by the Contractor as required by the construction contract documents. Olsson's review shall be for general conformity to the construction contract drawings and specifications for the Contract and shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.

- 3.4 Substantial and Final Completion Inspections – Upon the Contractor completing substantial and final completion, inspection of the construction work and preparation of a tentative list of the items to be completed or corrected before final completion of the contract. Following substantial completion, conduct a final inspection to determine if the work is completed. A total of two (2) additional site visits (6 total) will be made, than previously referenced Olsson shall provide written recommendations concerning final payment to Client, including a list of items, if any, to be completed prior to making such payment. This item includes a site visit to review the completed items.
- 3.5 Prepare Record Drawings: Olsson will maintain a marked set of record drawings and specifications based on data provided by the Contractor. This information will be combined with information maintained by the Contractor to produce a master set of record documents. Upon completion of the project, the construction contract drawings will be revised to conform to the construction records. Submit two (2) hard copies and (1) one electronic copy to the Client.
- 3.6 CONSTRUCTION OBSERVATION
Olsson will furnish a part-time Resident Project Representative (RPR), in addition to the services outlined in the Construction Administration section, if needed and at the City's request, up to the limit stated herein. The limit was determined to include up to 100 hours spread over up to 20 trips during the anticipated 10-week construction timeframe.

The RPR will observe the Contractor's work and perform the services listed below. The RPR shall not have the responsibility for the superintendence of construction site conditions, safety, safe practices or unsafe practices or conditions, operation, equipment, or personnel other than employees of Olsson.

This service shall in no way relieve the Contractor of complete supervision of the work or the Contractor's obligation for complete compliance with the drawings and specifications. The Contractor shall have sole responsibility for safety and for maintaining safe practices and avoiding unsafe practices or conditions. Specific services performed by the RPR are anticipated to be as follows:

- Conduct on-site observations of the general progress of the work to assist Project Manager in determining if the work is proceeding in accordance with the construction contract documents.
- Attend pre-construction conference and assist Project Manager in explaining administrative procedures which will be followed during construction.
- Submit to the Client construction progress reports containing a summary of the Contractor's progress, general conditions of the work, problems, and resolutions or proposed resolutions of problems.

- Verify that all construction testing conforms to the contract documents.
- Maintain a marked set of record drawings and specifications at the job site based on data provided by the Contractor. This information will be combined with information maintained by the Contractor and a master set of record documents produced.
- Before Olsson issues a Certificate of Substantial Completion, assist the Project Manager in submitting to the Contractor a punch list of observed items requiring completion or correction.
- Assist the Project Manager in conducting final inspection in the company of the Client and the Contractor and prepare a final list of items to be completed or corrected.
- Compile data from the Contractor and from our records to prepare conforms-to-construction-records drawings. These drawings will reflect the best information available about the facility as constructed.

ADDITIONAL AND EXCLUDED SERVICES

- Survey, research, and associated services for new permanent easements.
- Construction testing (soil compaction, concrete testing, etc.).
- Project funding applications or support (SRF, USDA-RD, City funds, etc.).
- Bidding or bidding phase services since the City utilities department(s) will perform the work.
- Geotechnical drilling/investigation, wetland delineation, or similar services are not anticipated for this project.
- The items described in the Exclusions section may be provided as additional services to the Client, if so requested.

Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson expects to perform its services under the Agreement as follows:

Anticipated Start Date:	March 14, 2022
Topographical Survey Complete:	April 1, 2022
90% Design Review Meeting with City	June 1, 2022
Submittal to NDEE/NDOT:	June 10, 2022
Ready for Construction:	July 15, 2022
Anticipated Construction Completion Date*:	October 15, 2022

*Construction completion is highly dependent on material availability.

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services a lump sum of Forty-One Thousand Eight Hundred Forty dollars (\$41,840.00). Olsson's reimbursable expenses for this project are included in the lump sum. A breakdown of the fee is provided below:

<u>Description</u>	<u>Design Fee</u>
Project Management and Coordination	\$8,090.00
Design Services	\$33,750.00
Total Design Services	\$41,840.00*

*Construction Phase Services shall be completed on a time and expense basis as described below.

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing construction observation services only, and all actual reimbursable expenses in accordance with the Labor Rate Schedule and the Reimbursable Expense Schedule attached to this Agreement.

If applicable: Olsson's Scope of Services for construction phase (administration, staking, and observation) services with related expenses will be provided on a time and expense basis not to exceed Twenty-Four Thousand Five Hundred Dollars (\$24,500.00).

The total design and construction phase services fee (combined fixed fee and time and expense basis) is \$66,340.00.

Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

TERMS AND CONDITIONS OF SERVICE

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative shall be Mr. Aaron Gustin.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

OLSSON, INC.

By 

By 

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DAVID CITY, NEBRASKA

By _____
Signature

Print Name _____

Title _____

Dated _____

Attachments

- General Provisions
- Standard Labor Rate Schedule
- Reimbursable Expense Schedule
- Resident Project Representative Duties

GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated March 4, 2022 between City of David City, Nebraska ("Client") and Olsson, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

SECTION 1—OLSSON'S SCOPE OF SERVICES

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

SECTION 2—ADDITIONAL SERVICES

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate

schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

2.3 Whenever, in its sole discretion, Olsson determines additional services as set forth in this Section 2.3 are necessary to avoid a delay in the completion of the Project(s) ("Necessary Additional Services"), Olsson shall perform or obtain from others such services without waiting for specific instructions from Client, and Olsson will be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any:

2.3.1 Services in connection with work directive changes and/or change orders directed by the Client to any contractors.

2.3.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor(s); or evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the Project(s).

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damaged during construction, (2) a defective, inefficient or neglected work by any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any contractor.

SECTION 3—CLIENT'S RESPONSIBILITIES

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been paid in full and Client has fully satisfied all of its obligations under this Agreement.

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.4.7 All fees and other amounts payable by Client under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Client is responsible and liable for all sales, service, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, county or local governmental authority on any amounts payable by Client under this Agreement, other than any taxes imposed on Olsson's income. In the event any governmental authority assesses Olsson for taxes, duties, or charges of any kind in connection with Scope of Services provided by Olsson to Client, Olsson shall be entitled to submit an invoice to Client, its successors or assigns, for the amount of said assessment and related interest and penalties. Client shall pay such invoice in accordance with Olsson's standard payment terms.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Jobsite safety. Neither the professional activities of Olsson, nor the presence of Olsson or its employees or sub-consultants at the Project shall impose any duty on Olsson relating to any health or safety laws, regulations, rules, programs or procedures.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed

Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.8.4 Providing and assuming all responsibility for: interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods. Client waives any claims against Olsson and releases Olsson from liability relating to or arising out of such services and agrees, to the fullest extent permitted by law, to indemnify and hold Olsson harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to such actions and services.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

SECTION 4—MEANING OF TERMS

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client

understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Opinion of Probable Cost": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for

any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

SECTION 5—TERMINATION

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons; provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project(s) by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by

Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client and (a) a final determination of default is entered against Olsson under Section 6.2 and (b) Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by Olsson in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by Olsson in preparing or negotiating any proposals submitted to Client for Olsson's Scope of Services or Optional Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of ten percent (10%) of Olsson's actual costs (including overhead) incurred.

SECTION 6—DISPUTE RESOLUTION

6.1. Mediation

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

6.2. Arbitration or Litigation

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by binding arbitration or litigation at the sole discretion and choice of Olsson. If Olsson chooses arbitration, the arbitration proceeding shall proceed in accordance with the Construction Industry Arbitration Rules of the AAA.

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any arbitration or litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 If Olsson chooses arbitration or litigation, either may be commenced at any time prior to or after completion of the Project(s), provided that if arbitration or litigation is commenced prior to the completion of the Project(s), the obligations of the parties under the terms of this Agreement shall not be altered by reason of the arbitration or litigation being conducted. Any arbitration hearings or litigation shall take place in Lincoln, Nebraska, the location of Olsson's home office.

6.2.4 Except to the extent prohibited by law, the prevailing party in any arbitration or litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute. In the event of a Dispute involving a Claim (as hereinafter defined) against Olsson, Olsson shall be considered the "prevailing party" if Client is awarded materially less than the full amount of damages claimed by the Client in connection with the Dispute. In all other Disputes, "prevailing party" shall mean the party (if any) who obtains all, or substantially all, of the relief requested by that party in connection with the Dispute.

6.3 Certification of Merit

Client agrees that it will not assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against Olsson, or any Olsson subconsultant, unless Client has first provided Olsson with a sworn certificate of merit affidavit setting forth the factual and legal basis for such Claim (the "Certificate"). The Certificate shall be executed by an independent engineer ("Certifying Engineer") currently licensed and practicing in the jurisdiction of the Project site. The Certificate must contain: (a) the name and license number of the Certifying Engineer; (b) the qualifications of the Certifying Engineer, including a list of all publications authored in the previous 10 years and a list of all cases in which the Certifying Engineer testified within the previous 4 years; (c) a statement by the Certifying Engineer setting forth the factual basis for the Claim; (d) a statement by the Certifying Engineer of each and every act, error, or omission that the Certifying Engineer contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Certifying Engineer of all opinions the Certifying Engineer holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Certifying Engineer; and (g) a list of every individual who provided Certifying Engineer with any information regarding the Project. The Certificate shall be provided to Olsson not less than thirty (30) days prior to any arbitration or litigation commenced by Client or not less than ten (10) days prior to the initial response submitted by Client in any arbitration or litigation commenced by someone other than Client. The Certificate is a condition precedent to the right of Client to assert any Claim in any litigation or arbitration and Client's failure to timely provide a Certificate to Olsson will be grounds for automatic dismissal of the Claim with prejudice. In any such instance, Olsson shall be entitled to an award of attorney's fees, costs, and expenses.

SECTION 7—MISCELLANEOUS

7.1 Reuse of Documents

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s). Such Work Product is not intended or represented to be suitable for reuse by Client or others on extensions of the Project(s) or on any other Project(s). Client will not distribute or convey such Work Product to any other persons or entities without Olsson's prior written consent which shall include a release of Olsson from liability and indemnification by the third party. Any reuse of Work Product without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation of Work Product will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.

7.2 Electronic Files

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client

shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than Olsson or from any reuse of the electronic files without the prior written consent of Olsson.

7.3 Opinion of Probable Cost

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Opinion of Probable Cost provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Opinion of Probable Cost. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client shall employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Opinion of Probable Cost was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Opinion of Probable Cost was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Opinion of Probable Cost, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Opinion of Probable Cost.

7.4 Prevailing Wages

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

7.5 Samples

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

7.6 Standard of Care

Olsson will strive to perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same locality under similar circumstances at the time Olsson's services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.

7.7 Force Majeure

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause.

7.8 Equal Employment Opportunity

Olsson and any sub-consultant or subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

7.9 Confidentiality

In performing this Agreement, the parties may disclose to each other written, oral, electronic, graphic, machine-readable, tangible or intangible, non-public, confidential or proprietary data or information in any form or medium, including but not limited to: (1) information of a business, planning, marketing, conceptual, design, or technical nature; (2) models, tools, hardware, software or source code; and (3) any documents, videos, photographs, audio files, data, studies, reports, flowcharts, works in progress, memoranda, notes, files or analyses that contain, summarize or are based upon any non-public, proprietary or confidential information (hereafter referred to as the "Information"). The Information is not required to be marked as confidential.

7.9.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless Client is a public entity and the release of Information is required by law or legal process.

7.9.2 Prior to the start of construction on the Project, the existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.9.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.9.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.9.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.9.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.9.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.9.3.5 is received from a third party not subject to any confidentiality obligations.

7.9.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.9.5 Notwithstanding anything to the contrary herein (or to the contrary of any existing or future nondisclosure, confidentiality or similar agreement between the parties), Olsson is authorized, to use, display, reproduce, publish, transmit, and distribute Information (including, but not limited to, videos and photographs of the Project) on and in any and all formats and media (including, but not limited to, Olsson's internet website) throughout the world and in all languages in connection with or in any manner relating to the marketing, advertising, selling, qualifying, proposing, commercializing, and promotion of Olsson and/or its services and business and in connection with any other lawful purpose of Olsson. In the event of any conflict or inconsistency between the provisions of this section and any other prior or future nondisclosure, confidentiality or similar agreement between the parties, the terms of this section shall take precedence.

7.9.6 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.9.7 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in

addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.9.8 The obligations of confidentiality set forth herein shall survive termination of this Agreement but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

7.10 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination

7.10.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson in the use of such information.

7.10.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client. Client agrees to indemnify and hold Olsson harmless from any and all claims that Olsson is a generator, arranger, transporter, or disposer of hazardous waste as a result of any actions of Olsson, including, but not limited to, Olsson signing a Hazardous Waste Manifest, Bill of Lading or other form on behalf of Client.

7.10.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.10.4 Client shall release Olsson of any liability for, and shall defend and indemnify Olsson against any and all claims, liability and expense resulting from operations under this Agreement on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of

the earth, and for any loss or damage to any formation, strata, reservoir beneath the surface of the earth.

7.10.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

7.10.5.1 Unless otherwise provided herein, Client shall assume all responsibility for, including control and removal of, and protect, defend and save harmless Olsson from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants, motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Olsson's possession and control and directly associated with Olsson's equipment.

7.10.5.2 In the event a third party commits an act or omission which results in pollution or contamination for which either Olsson or Client, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between Olsson and Client, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

7.11 Controlling Law and Venue

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Nebraska.

7.12 Subconsultants

Olsson may utilize as necessary in its discretion subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

7.13 Assignment

7.13.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.13.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.13.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or

discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate to assist in the performance of services under this Agreement.

7.13.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

7.14 Indemnity

Olsson and Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault.

7.15 Limitation on Damages

7.15.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.15.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.15.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall not exceed the amount of Olsson's fee earned under this Agreement. Client acknowledges that such causes include, but are not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract

and/or breach of strict or implied warranty. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

7.16 Entire Agreement/Severability

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson. If any part of this Agreement is found to conflict with applicable law, such part alone shall be null and void and considered stricken, but the remainder of this Agreement shall be given full force and effect.

Olsson 2022 NE WTWW Rate Schedule

<u>Description</u>	<u>Rate</u>
Assistant Engineer	\$108.00
Assistant Scientist	\$85.00
Assistant Surveyor	\$68.00
Assistant Technician	\$69.00
Associate Construction Manager	\$112.00
Associate Engineer	\$126.00
Associate Scientist	\$103.00
Associate Surveyor II	\$95.00
Associate Technician I	\$76.00
Associate Technician II	\$91.00
Design Associate	\$122.00
Design Manager	\$152.00
Design Technical Manager	\$179.00
Industry Expert	\$269.00
Office Assistant	\$64.00
Principal	\$287.00
Project Engineer	\$159.00
Project Scientist	\$125.00
Public Engagement Assistant	\$95.00
Public Engagement Lead	\$115.00
Senior Administrative Coordinator	\$111.00
Senior Engineer I	\$190.00
Senior Engineer II	\$208.00
Senior Engineer III	\$232.00
Senior Scientist I	\$172.00
Senior Scientist II	\$215.00
Senior Surveyor	\$137.00
Senior Team Coordinator	\$111.00
Senior Technician	\$103.00
Student Technician - Level I	\$61.00
Student Technician - Level II	\$68.00
Team Coordinator I	\$74.00
Team Coordinator II	\$89.00
Team Leader	\$198.00
Technical Manager	\$154.00

REIMBURSABLE EXPENSE SCHEDULE

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Cost</u>
Automobiles (Personal Vehicle)	\$0.585/mile*
Suburban's and Pick-Ups	\$0.75/mile*
Automobiles (Olsson Vehicle)	\$85.00/day
Other Travel or Lodging Cost	Actual Cost
Meals	Actual Cost
Printing and Duplication including Mylars and Linens	
In-House	Actual Cost
Outside	Actual Cost+10%
Postage & Shipping Charges for Project Related Materials including Express Mail and Special Delivery	Actual Cost
Film and Photo Developing	Actual Cost+10%
Telephone and Fax Transmissions	Actual Cost+10%
Miscellaneous Materials & Supplies Applicable to this Project	Actual Cost+10%
Copies of Deeds, Easements or other Project Related Documents	Actual Cost+10%
Fees for Applications or Permits	Actual Cost+10%
Sub-Consultants	Actual Cost+10%
Taxes Levied on Services and Reimbursable Expenses	Actual Cost

*Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).

**A LISTING OF THE DUTIES, RESPONSIBILITIES
AND LIMITATIONS OF AUTHORITY OF THE
RESIDENT PROJECT REPRESENTATIVE**

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the work of CONTRACTOR.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with Contract Documents and in particular the specific limitations set forth in the Agreement as applicable.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealing in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealing with subcontractor shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. Conferences and Meetings: Attend meeting with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist the ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
4. Shop Drawings and Samples:
 - a. Record date of receipt of Shop Drawings and samples.
 - b. Receive samples which are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.
 - c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.

5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. Interpretation of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
7. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings and Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
9. Reports:
 - a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
 - b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
 - c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
 - d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.
10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.
12. Completion:
 - a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
 - b. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.
 - c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

Mayor Zavodny stated that the next item on the agenda was consideration of having Olsson quantify the findings from the sanitary sewer study to prepare documentation and scope and study with design and construction phase services to property seek RFP's.

Water Supervisor Aaron Gustin said, "Given the results of the sanitary sewer inspection by Johnson Services, all of their results have been submitted to the City and at the meeting you wanted to look at an RFP. These are the options, we can either quantify the findings of that, which I don't have the expertise nor the time to do, there were four binders that were very thick, and it would take a considerable amount of time. In my mind it makes sense given that Craig and Olsson's did the north side slip lining. They would be able to quantify the findings and develop it to properly go out for an RFP. That way we can seek proposals from engineering firms. I did reach out to Craig, and I told him that I felt like a jerk asking him to quantify something to put out for other engineers to bid on but it's what we are looking to ask you to do, and he said that he was okay with that. It would most likely be the quickest turn around in terms of us being able to go out for an RFP."

Mayor Zavodny said, "Considering that we can't and shouldn't do this ourselves, let's hire him."

Council member Pat Meysenburg made a motion to approve having Olsson quantify the findings from the Sanitary Sewer Study to prepare documentation and scope and study with design and construction phase services to properly seek RFP's. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to appoint Allan Steinberger to the David City Housing Authority Board to fill out the term of Catherine (Marie) Hoefl. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda is discussion concerning Highway 15 north safety discussion relative to traffic changes.

Special Projects Coordinator Dana Trowbridge said, "I asked that this be put on the agenda after talking to Kenny Wellman who is our local State DOT fellow and his boss last week. They were not aware of all of the things that are on the horizon for Highway 15 from "O" Street to the Bruno corner. Not surprisingly so. They are not in the know. We have so many things going on that are going to impact the quantity and the type of traffic on this piece of road and the entrances and the exits and the proposed entrances and the needed entrances that have yet to be built or thought of. They said they need something that they can read that the City is interested in the safety aspects of all of these changes to the highway traffic going north. We can then sit down and take a look and understand what is going on because the sooner they do that the better. So that's what we're doing, we're making a record this evening."

Mayor Zavodny said, "I'm going to give you credit for getting that ball rolling because I spent over a half an hour on the phone with them. I think it's because of the seed that you planted with them of everything going on. So, I talked about a lot of what could be coming. We're talking about the Bruno spur needing to get looked at. I don't think that they feel comfortable with what that looks like now. They talked about turn lanes and what it's going to take. Based on the initial drawings east, the discussions with Akrs, temporary access versus permanent access, and they are requesting a highway access. We don't know what is going to happen with that. I told them about the north/south road which they were pretty happy about."

So, they had indicated to me that I was going to be getting a call in a few days and it hasn't happened yet with some more people from DOT and they want to have a meeting sooner rather than later because there are a lot of moving parts here and I know that part of our concern is that we're talking about businesses that are going to be combines, tractors and trucks. So, you don't put a thin turn lane. It will have to have some beef to it. I think he was even more concerned about that intersection at the Bruno corner. I told him that more than likely we're going to be paving that half mile. So, I think that we need to lay out everything as we know it today of what it might look like. I think they have some idea, but I agree with you that they didn't. They wouldn't unless someone tells them. I think that is where we are at."

Council member Bruce Meysenburg said, "I think at a minimum that they are going to need to widen the road to make turning lanes all the way to the Bruno highway."

Mayor Zavodny said, "We talked about that. The other part that we're going to have to coordinate is how does all of this change Northwest Drainage? When you add a bunch of concrete and you add a bunch of roofs, you don't have the amount that is soaking in. We've got Timpte's new building and a lot of square footage that used to soak into the ground. It's got to go somewhere and it's coming faster. I believe that we will be having meetings and probably several of them. Thank you for reaching out to them and putting us on their radar."

Council member Pat Meysenburg made a motion to table allowing Arps Red-E-Mix to remove the concrete in the Astro Building parking lot at 6th and Nebraska Central Railroad. Council Member Bruce Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to approve passing over purchasing 7.5 acres of land from R.J. Hein in Section 18, Township 15, Range 3E for the north/south road from Timpte to County Road 37. Council Member Pat Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda was consideration of appointing City Clerk Tami Comte as Interim Administrator.

Mayor Zavodny said, "This was not Tami's idea. This was my idea. I approached her and she said she didn't think that we needed to do that, but we've had such good luck with City Administrator applicant's recently and I don't know when and if we're going to get one in the near future, so those duties fall to somebody, and she's got to deal with all of the responsibilities, and we don't pay her. In the past we did that with Joan several different times so it's only fair that we have that same discussion."

Council member Bruce Meysenburg said, "As long as she's fine with it, I have no problem."

Council member Kevin Woita said, "That's my biggest concern."

City Clerk Tami Comte said, "I'm doing it anyway, whether I wanted to or not."

Council member Tom Kobus said, "Can you hand some of your work down to somebody else?"

City Clerk Tami Comte said, "Yes, I have had Lori doing more and more for me that I don't have time to do."

Council member Kevin Woita said, "Can Lori have the gals out in front do some of her work."

Deputy City Clerk Lori Matchett said, "I am in the process of showing them how to do some of those things."

Council member Bruce Meysenburg made a motion to appoint Tami Comte as the Interim City Administrator. Council Member Jessica Miller seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that the next item on the agenda was consideration of a cost-of-living increase for city employees.

Mayor Zavodny said, "We can't do anything on this tonight because it has to be done by Ordinance, but I want to talk about it. I am going to do the warning before we start the discussion. You cannot make any promises to employees. We do have a Union contract and so can't discuss we can do this and that. What I'm going to talk about in general terms. We have a couple problems that I think need to be taken care of right away and that is employees that are topped out, we should give a percentage to. I did some playing with it and one or one and a half percent doesn't do a heck of a lot but maybe two percent to the topped-out ones. But the other problem that we run into is this is something as part of the negotiation because this is part of the Union contract that we can talk about it, they had asked for this, and we said no. So, we made an agreement that it wouldn't be part of the Union contract. So that's where we are currently. The Union and the City agreed to not make it part of the Union contract and I would probably still argue against that today. The problem that I see that we've created to some extent is that we had a really good salary survey that was current. It was done a while ago and here's the problem, employment has totally changed in the last two years. What it costs to recruit and retain employees, we have fallen way behind on that. Benefit packages are a problem, period, but we had a salary survey so knew where we were and were fairly good. Some were a little low and that kind of thing, so we adjusted that. But without doing cost-of-living type things, you fall behind. That's the problem that we have and then we have people who are stuck. You know, this is as far as I'll go as far as saying we've done a really good job, but we haven't spent money stupidly. I don't know that this City has ever been in a better position. Where we're behind, I think, I don't ever like to use this as an example, but when McDonald's is paying fifteen to twenty dollars an hour and our jobs take a lot more skill and we've got to recruit and retain people. We've got people who run heavy equipment and who have to respond to things in the middle of the night and require different certifications, so I think that we need to look at those kinds of things, but understanding that how we go about that, we're probably going to need some help from lawyers because we have an agreement with the Union. But I think, at a minimum, what I'm unwilling to do is to leave our topped-out employees where they have nothing to look forward to. Prices have really increased, and we have to make sure that they have a living wage and, I think, in the past two years with covid and given that Nebraska has an unemployment rate of one point seven percent, that's problematic. They are

our most valuable asset. I want you to start thinking about that. Jessica and I go back and forth sometimes on what we should do. It gets complicated because this department should get this, and we've got the proprietary versus the governmental funded. We need to find some balance, but we certainly have to take care of topped-out employees, at a minimum."

Council member Tom Kobus said, "I take it that they haven't gotten cost-of-living raises for the last five years? So, if we take all of those cost-of-living raises that they haven't gotten and distribute them accordingly, by how many years each of them has been here, the wages will be up there where they'll be halfway satisfied, and they can appreciate it. I'm taking all of the cost-of-livings."

Mayor Zavodny said, "First of all, I think that I agree with you, but we have an agreement with the Union and our position was to not give cost-of-living increases."

Council member Bruce Meysenburg said, "Is there any way to work through this?"

Mayor Zavodny said, "I don't know."

Street Foreman Mat Asche said, "The way that I understand it the City can do anything to improve but they just can't take away the benefits that we have. We've had this thrown over our head for five years. When the Union first got started on that side of town, I remember talking about trying to get Christmas Eve off, and I said that those guys were forcing us into a Union, and I kind of still feel that way today."

Mayor Zavodny said, "Mat, I appreciate you standing up and saying those things. I agree with what you said. But we had to make other concessions and so now we're giving away all of the things that we negotiated to not have to do because of the other things. I don't think you can have it both ways. If it came to giving you Christmas Eve off, I'd do it."

Street Foreman Mat Asche said, "I know that, and I appreciate everything that you guys have done."

Mayor Zavodny said, "The main reason that I brought this up was that I believe that we need to do something for the topped-out people."

Street Foreman Mat Asche said, "I think we need to do something for everybody."

Mayor Zavodny said, "I agree with that, but we have an agreement. We negotiated this contract."

Council member Jessica Miller said, "When does the contract expire?"

Mayor Zavodny said, "It expired in September but since they didn't want to make any changes and the City didn't want to make any changes, I think you have to make them thirty days prior to the expiration of the contract. Neither of us acted so now it continues for the next year. That's just the reality of it. I think we're going to have to figure something out and we're going to have to talk to a lawyer and it's going to cost us money on how we do this."

Discussion followed.

Council member Bruce Meysenburg said, "I think that all of us sitting here want at least a cost-of-living increase for everybody."

It was agreed by the Mayor and Council members to discuss redoing the salary schedule that would include a cost-of-living increase.

Mayor Zavodny stated that the next item on the agenda was consideration of Ordinance No. 1381 adopting a new pay scale with updated swimming pool pay.

Council member Jessica Miller introduced Ordinance No. 1381. Mayor Zavodny read Ordinance No. 1381 by title. Council member Bruce Meysenburg made a motion to suspend the statutory rule requiring an Ordinance to be read on three separate days. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Tom Kobus made a motion to pass and adopt Ordinance No. 1381 adopting a new pay scale with updated swimming pool pay on third and final reading. Council Member Jessica Miller seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

ORDINANCE NO. 1381

AN ORDINANCE ADOPTING A NEW PAY SCALE / SALARY FOR FULL-TIME AND PERMANENT PART-TIME EMPLOYEES; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:

SECTION 1. The Mayor and City Council of David City, Nebraska, do hereby establish and fix the pay scales and salaries attached for the attached positions for the appointed officers and employees of the City of David City, Nebraska.

SECTION 2. Any Cost-of-Living Adjustments (COLA) shall be given as approved by the City Council.

SECTION 3. Any and all ordinances or sections thereof, passed and approved prior to the passage, approval and publication or posting of this ordinance, and in conflict with its provisions, are hereby repealed.

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect on April 24, 2021 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 28th day of April, 2021.

Mayor Alan Zavodny

City Clerk Tami Comte

City Council Proceedings
 March 9, 2022
 Page #69

Department	10 Steps, Probation is 95% of Pay When Hired									
Position	1	2	3	4	5	6	7	8	9	10
City Hall										
Clerical I	\$11.27	\$11.69	\$12.11	\$12.53	\$12.95	\$13.36	\$13.78	\$14.20	\$14.62	\$15.04
Acct Clerk I	\$16.13	\$16.57	\$17.02	\$17.46	\$17.91	\$18.35	\$18.80	\$19.24	\$19.69	\$20.13
Acct Clerk II	\$19.24	\$19.89	\$20.53	\$21.18	\$21.83	\$22.47	\$23.12	\$23.77	\$24.41	\$25.06
(incl .50/hr if CMC; Ord. 1192)	\$19.74	\$20.39	\$21.03	\$21.68	\$22.33	\$22.97	\$23.62	\$24.27	\$24.91	\$25.56
Power Plant										
Power Plant Op I	\$19.38	\$20.17	\$20.97	\$21.76	\$22.55	\$23.35	\$24.14	\$24.93	\$25.73	\$26.52
Power Plant Supervisor	\$27.53	\$28.42	\$29.30	\$30.19	\$31.07	\$31.96	\$32.84	\$33.73	\$34.61	\$35.50
Electric										
Apprentice Lineman	\$17.97	\$18.55	\$19.13	\$19.71	\$20.29	\$20.87	\$21.45	\$22.03	\$22.61	\$23.19
Lineman 2nd Class	\$19.99	\$20.48	\$20.97	\$21.46	\$21.95	\$22.45	\$22.94	\$23.43	\$23.92	\$24.41
Lineman 1st Class	\$23.63	\$24.24	\$24.84	\$25.45	\$26.05	\$26.66	\$27.26	\$27.87	\$28.47	\$29.08
Line Foreman	\$27.88	\$28.37	\$28.87	\$29.36	\$29.86	\$30.35	\$30.85	\$31.34	\$31.84	\$32.33
Electric Supervisor	\$31.14	\$31.87	\$32.59	\$33.32	\$34.05	\$34.77	\$35.50	\$36.23	\$36.95	\$37.68
Water/Wastewater										
Water/Wastewater Operator I	\$17.94	\$18.54	\$19.13	\$19.73	\$20.33	\$20.92	\$21.52	\$22.12	\$22.71	\$23.31
Water/Wastewater Operator II	\$21.07	\$21.61	\$22.16	\$22.70	\$23.24	\$23.79	\$24.33	\$24.87	\$25.42	\$25.96
Water Field Supervisor	\$21.14	\$21.67	\$22.20	\$22.74	\$23.27	\$23.80	\$24.33	\$24.87	\$25.40	\$25.93
Water Supervisor	\$25.86	\$26.72	\$27.58	\$28.44	\$29.30	\$30.15	\$31.01	\$31.87	\$32.73	\$33.59
Wastewater Supervisor	\$25.18	\$26.00	\$26.82	\$27.63	\$28.45	\$29.27	\$30.09	\$30.90	\$31.72	\$32.54
Street										
Maintenance Worker I	\$15.65	\$16.05	\$16.44	\$16.84	\$17.23	\$17.63	\$18.02	\$18.42	\$18.81	\$19.21
Maintenance Worker II	\$16.82	\$17.25	\$17.68	\$18.11	\$18.54	\$18.96	\$19.39	\$19.82	\$20.25	\$20.68
Street Foreman	\$19.74	\$20.16	\$20.58	\$21.01	\$21.43	\$21.85	\$22.27	\$22.70	\$23.12	\$23.54
Street Supervisor	\$22.86	\$23.48	\$24.10	\$24.72	\$25.34	\$25.96	\$26.58	\$27.20	\$27.82	\$28.44
Parks										
Park Laborer	\$15.00	\$15.53	\$16.06	\$16.59	\$17.12	\$17.65	\$18.18	\$18.71	\$19.24	\$19.77
Parks & Auditorium Supervisor	\$17.64	\$18.24	\$18.84	\$19.44	\$20.04	\$20.65	\$21.25	\$21.85	\$22.45	\$23.05
Recreation										
Recreation Coordinator	\$19.12	\$19.73	\$20.34	\$20.96	\$21.57	\$22.18	\$22.79	\$23.41	\$24.02	\$24.63
Recreation Director	\$21.86	\$22.44	\$23.02	\$23.59	\$24.17	\$24.75	\$25.33	\$25.90	\$26.48	\$27.06
Building & Zoning										
Building Inspector/Zoning Administrator	\$16.50	\$18.00	\$19.50	\$21.00	\$22.50	\$24.00	\$25.50	\$27.00	\$28.50	\$30.00
Part-Time										
Part-Time Workers	\$12.45	\$12.78	\$13.11	\$13.44	\$13.77	\$14.11	\$14.44	\$14.77	\$15.10	\$15.43
Summer Help	\$9.00	\$9.50	\$10.00	\$10.50	(No more than 4 steps)					
Recycling Workers	\$9.00	(No more than 1 Step)								
Pool										
Concession/Games/Cleaning	\$9.00	\$9.15	\$9.30	\$9.45	\$9.60	\$9.75	\$9.90	\$10.05	\$10.20	\$10.35
Swimming Lesson Aid	\$9.00	\$9.15	\$9.30	\$9.45	\$9.60	\$9.75	\$9.90	\$10.05	\$10.20	\$10.35
Aerobics Instructor	\$11.25	\$11.50	\$11.75	\$12.00	\$12.25	\$12.50	\$12.75	\$13.00	\$13.25	\$13.50
Lifeguard	\$9.75	\$10.00	\$10.25	\$10.50	\$10.75	\$11.00	\$11.25	\$11.50	\$11.75	\$12.00
WSI Lifeguard	\$10.75	\$11.00	\$11.25	\$11.50	\$11.75	\$12.00	\$12.25	\$12.50	\$12.75	\$13.00
Head Lifeguard	\$11.75	\$12.00	\$12.25	\$12.50	\$12.75	\$13.00	\$13.25	\$13.50	\$13.75	\$14.00
Assistant Manager	\$12.75	\$13.05	\$13.35	\$13.65	\$13.95	\$14.25	\$14.55	\$14.85	\$15.15	\$15.45
Manager	\$13.25	\$13.55	\$13.85	\$14.15	\$14.45	\$14.75	\$15.05	\$15.35	\$15.65	\$15.95
Salaried Staff Pay Plan (Annual Rate of Pay)										
Position	Minimum		Mid-Point		Maximum					
Clerk/Treasurer	\$57,700		\$68,378		\$79,055					

Council member Jessica Miller made a motion to adjourn. Council Member Pat Meysenburg seconded the motion. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:58 p.m.

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

Yea: 5, Nay: 0, Absent: 1

CERTIFICATION OF MINUTES

March 9, 2022

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 March 9, 2022; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami Comte, City Clerk