

## CITY COUNCIL PROCEEDINGS

July 13, 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. 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on July 7, 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 Tom Kobus, Bruce Meysenburg, Jessica Miller, Pat Meysenburg, John Vandenberg, Kevin Woita, and Interim City Administrator/City Clerk-Treasurer Tami Comte and Interim City Attorney Tim Wollmer.

Also present for the meeting were: Special Projects Coordinator Dana Trowbridge, Deputy Clerk Lori Matchett, Wastewater Supervisor Dan Sobota, Jackie & Garry Hazen, Greg Eller, Don Prochaska, Water Department employee Anthony Kobus, Jerry Oborny, Dan & Jan Sypal, Banner-Press Correspondent Hannah Schrodt, Deputy Sheriff Bill Drozd, Deputy Sheriff Joseph Ernst and Sheriff Tom Dion.

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 Bruce Meysenburg made a motion to approve the minutes of the June 22 & 27, 2022 City Council meetings 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: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Pat Meysenburg made a motion to approve 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: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Mayor Zavodny stated that the next item on the agenda was committee and officer's reports.

Mayor Zavodny reported that Nebraska Game & Parks department was in town to look into the fish kill at the park lakes. They determined that the fish kill was caused by a big rain that caused corn stalks to wash into the lakes.

Mayor Zavodny stated that there was a very serious incident at the swimming pool and it is being handled by law enforcement and the County Attorney.

Mayor Zavodny presented a Five-Year Certificate of Appreciation to Michelle Meysenburg for her faithful and efficient service to this community.

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: Yea, Kevin Woita: Yea

Yea: 6, Nay: 0

Mayor Alan Zavodny said, "I am certainly grateful to Egr, Birkel & Wollmer for their many years of providing legal counsel to the City and given the circumstances which we've discussed previously, and the workload, we are looking to make a change there. I have to say from the position where I sit looking at the consideration that we are putting before you, it's going to be a nice transition, if you approve it, because their firm specializes in the very things that city's do. You can't ask for a more perfect fit. I know that we've had discussions from time to time that you wake up in the morning and you just can't possible predict what it going to happen. There are surprises that come. Some things you can kind of prepare for and you expect, and other things come from a place that you never see coming. Without further ado, we can have David address the Council and tell us about his firm and his credentials."

David Levy of Baird Holm introduced himself and said, "I'm here to discuss with the Council and the mayor the city's consideration of hiring the Baird Holm law firm as the city attorney. The firm is nearly a hundred and fifty years old. We're about ninety lawyers. We have offices in Omaha and Lincoln. As the mayor said, maybe most importantly to this discussion, we are truly a full-service law firm but with a very strong specialty in municipal law, municipal finance, real estate development. You have some materials in front of you. I call it propaganda for the firm, but I wanted you to have something. I did include four attorneys in there, in particular, myself, Michael Sands, who is a young partner in the firm, who is kind of my right-hand guy. He's doing finance work for the City right now. Jennifer Hiatt, who is a new lawyer with us. Jennifer also has a background and a degree in city planning. She just finished her master's program at the University of Nebraska. She finished first in her class in the city planning program. Also, Morgan Kreiser who is an employee benefits and employment lawyer. City's and of course City Council's deal with a lot of municipal law issues, a lot of real estate development issues and those kinds of things. You deal with the entire spectrum of issues, as well. I thought it would be helpful to include Morgan in there as an example of our firm. I have had the pleasure of doing work for David City now for about a decade. We helped form and set up your Community Development Agency in 2012 and 2013. We've done tax increment finance work for the city. We helped the CDA and the City acquire the Treat house. We've helped deal with your airport and a number of other matters as well. We are currently working with you on your upcoming annexation and the change to your electric service territory that will be necessary with that. For myself, I've been practicing law now for about twenty-three years. Prior to that I worked as a professional city planner. I have a master's degree in city planning, as well. I call myself a land-use nerd. I come by that honestly. As part of my practice, I do a lot of energy work, as well. I do a lot of state agency work, a lot of municipal law work, I lobby at the legislature. So, really, what you do here, is what I do all day, every day. The last thing that I'll say and then I'd love to take any questions and discuss this with you as you'd like. We do not serve as city attorney, per se, at this time for any cities. We do serve as special city attorney to many cities around the state, as to tax increment financing, real estate development,

energy matters, lots of specialized things where the city attorney either isn't comfortable or doesn't have the band width. I serve as general counsel to District Energy Corporation, which is an interlocal political subdivision entity in Lincoln that provides steam heat and chilled water cooling to government buildings in Lincoln. I serve as general counsel to the Northeast Nebraska Public Power District, which is a large rural public power district. They are also a political subdivision, so we do a lot of that kind of work. We do serve as general counsel for other government entities across the state, Norfolk, Auburn, Sidney, you name it, on municipal law matters of all kinds. We would really appreciate the opportunity. The last thing that I want to say is that I do know that this is probably new to have someone from Omaha here proposing this and I can't stand here and say that there won't be logistical things that we haven't thought about and something that comes up. I recognize that. We would love to do this work and serve in this role for the City. There will be a little bit of figuring it out as we go like anything new. We are ready, willing and able to do that. Part of the reason that I picked the particular team that I did for the primary work is with Jennifer Hiatt, in particular, she has the band width and the time to serve and do a lot of the day to day work, whereas, the most specialized work, the bigger picture work, the tax increment financing work, she knows that but then you have the gray hair to go with it. I really tried to propose a well-rounded team that could serve you in all of your needs. With that, we really appreciate the opportunity, and I am happy to take any questions that you might have."

Mayor Alan Zavodny said, "I have one really quick one. First of all, I've known David for a while, and I trust him implicitly. It could occur that we have an issue with NPPD at some point. How do you juggle your representation of them and your representation of our interests? How do you navigate that type of situation?"

David Levy of Baird Holm said, "That's a great question. So we do not represent NPPD in particular, but let's say that a real estate developer came to town and they do a TIF project and they called us and say 'Hey, we're going to build X in David City and we're going to ask for TIF and we'd like you to represent us.' We, in those instances, will always say, 'No, we represent the City and so we cannot represent you.'"

Mayor Alan Zavodny said, "So, it will default to us?"

David Levy of Baird Holm said, "It will default to you. We do that in Norfolk, for example, fairly frequently, even though we are not technically their city attorney. We are their special TIF counsel. We've made that commitment and we honor that commitment. We've never had a problem with a developer client. In full transparency, the one place where that could get thorny is if we had a client of the firm who was suing the City. We would probably have to bow out of that litigation, but absent litigation, we would default to the City. In talking about this with my partners, I made it clear to them that if we're going to make a commitment to be the city attorney, that we have to make that commitment and we will abide by that."

Mayor Alan Zavodny said, "Things come up that we can't anticipate so a presence during our meetings seems like something, even if it is by Zoom, seems like a good idea."

David Levy of Baird Holm said, "We anticipate that, as well. Again, I think that's one of those things that we can work out. I'm a big believer in it's best to be in person. Tami and I talked about doing this two weeks ago by Zoom and I said if we could wait that I'd really like to be there in person. If it's the Council's pleasure that we have somebody here in person, at each of your meetings, then we can do that. If that proves economically challenging, then we'll work with you on that. If there's a meeting with a short agenda and somebody can attend by Zoom

and you're all comfortable with that, we'll do that. We know that we're going to need to be flexible, if selected."

Keith Marvin introduced himself and said, "Hopefully this doesn't hurt his chances, but I've known David for a long time, and we've actually done work together. I will tell you that we had a Planning Commission meeting in the last six months that we needed to have some sort of representation and we got ahold of David after we talked with Alan about it to see if it was okay and we had him Zoom in on a Saturday morning at 8 a.m. He was there and he helped us out and it was a wonderful situation to have that. I think that was when Joanna was on maternity leave. So, he was very helpful when that situation occurred."

Council member Kevin Woita made a motion to approve hiring the firm of Baird Holm to be the City's attorneys. Council Member Jessica Miller seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

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David C. Levy

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Also admitted in California, Iowa and  
Kansas

July 13, 2022

**VIA ELECTRONIC MAIL**

City of David City  
Tami Comte  
City Clerk-Treasurer  
557 4th Street  
David City, Nebraska 68632

**Re: Proposal for City Attorney Position**

Dear Ms. Comte:

We are pleased to provide the City of David City ("David City") with our credentials and experience for consideration for David City's City Attorney for civil matters. As you know, we assisted David City with the formation of its Community Development Agency in 2013. Since then, we have advised David City on its tax-increment financing and municipal law matters. We appreciate the opportunity to present this proposal.

We possess the experience and knowledge necessary to partner with David City to provide excellent representation for David City. We have assembled a team of lawyers available to work with you and we look forward to introducing them to you.

If you have any questions, or if you would like further information, please do not hesitate to contact me. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to be "D. Levy", written over a blue horizontal line.

David C. Levy

Enclosures



**BAIRD**HOLM<sup>LLP</sup>  
ATTORNEYS AT LAW  
EST. 1873

1700 Farnam Street, Suite 1500 • Omaha, NE 68102 • 402.344.0500

## **City of David City, Nebraska**

### **Proposal to Serve as City Attorney**

July 13, 2022

## I. FIRM BACKGROUND AND PROFILE

Founded in 1873 and with offices in Lincoln and Omaha, Nebraska, Baird Holm proudly represents public and private companies, individuals, private funds and other investors, financial institutions, governmental entities and nonprofit organizations.

Baird Holm is a full-service law firm with expertise in the following practice areas: real estate; construction; agriculture and agribusiness finance; banking; bankruptcy and financial dispute resolution; benefits, ERISA and fiduciary responsibilities, business, tax and estate planning; corporate and business matters; education; environmental; finance; government affairs, lobbying and legislative services; health care; intellectual property, copyright, patent and trademark; international services; labor relations and employment; litigation; prepaid card services; privacy and security; public finance; renewable energy; securities; and technology and e-commerce.

- Time in business: 149 years
- Clients: approximately 7,100
- Attorneys and Staff: Approximately 90 attorneys; 69 full-time support staff
- Primary Contact: David Levy [dlevy@bairdholm.com](mailto:dlevy@bairdholm.com), 402.636.8310

## II. PROPOSAL DETAILS

We have the municipal law, real estate, finance, tax and labor and employment law experience necessary to counsel the City of David City ("David City") through the most complex issues. We have the breadth and depth of people and expertise to take on whatever challenges David City may send our way.

### A. Municipal Governance

We represent numerous municipalities as outside general counsel or special counsel. These representations cover all aspects of municipal governance and activity. We regularly appear before village and city boards and advise municipal clients in unique aspects of municipal governance such as compliance with the Open Meetings Act and the Public Records Law, zoning ordinances and updates and land use planning.

#### *Member of State Law Resources, Inc.*

Baird Holm is the exclusive Nebraska member of State Law Resources Group, an international network of independent law firms. Firms are selected based on their experience in government relations and administrative, regulatory and municipal law at the state and federal level. This gives Baird Holm a broad reach beyond its borders should issues require representation or consultation in other states. David Levy is a member of the State Law Resources Board of Directors and served as Board President in 2018 and 2019.

#### *Tax Increment Financing*

We represent numerous private developers and municipal clients across the state on TIF projects. We serve as outside special TIF counsel to numerous Nebraska cities and villages. Given our unique experience on all sides of a TIF project, we pride ourselves in providing the best representation possible to municipalities.

We have the best opportunity to address those needs if your Baird Holm team includes people with cross-disciplinary skills that enable them to better understand you. Within our project management framework, at the commencement of the engagement, we will visit with you about your objectives with an eye toward finding ways to best achieve the outcomes you seek.

#### F. Primary Contacts

*David Levy (Partner)* represents clients in zoning, land use, energy, environmental and general real estate matters, and in transactional, administrative, legislative and judicial proceedings. David is a Fellow in the American College of Real Estate Lawyers. David worked for seven years as a professional city planner before entering law school. He is very active in the community. David serves as general counsel to the Northeast Nebraska Public Power District and the District Energy Corporation and serves as special TIF counsel to a number of cities, including Columbus, Auburn and Norfolk.

*Michael Sands (Partner)* focuses his practice on real estate, construction, tax-increment financing, occupation taxes, municipal bonds and renewable energy matters. He represents commercial real estate developers, wind and solar developers, investors and owners of real estate in matters involving acquisition, financing, sale and development of real property, leasing, management, land use and zoning, tax-increment financing, workforce housing, occupation taxes and title review. Michael also represents municipalities, acting as special counsel for projects utilizing tax-increment financing, general business occupation taxes and other alternative financing mechanisms. Michael currently serves on the board of directors for the Nebraska Housing Development Association and Restoration Exchange Omaha.

*Jennifer Hiatt (Associate)* focuses her practice on zoning, land use, renewable energy and general real estate matters and in administrative and legislative proceedings. Jennifer worked for three years as a community planner helping communities throughout Greater Nebraska identify and realize sustainable growth opportunities. Jennifer has served as a member of the Lancaster County Board of Zoning Appeals. She is a native of Hershey, Nebraska.

*Morgan Kreiser (Associate)* practices in the area of employee benefits, ERISA, tax law and public employer retirement systems. She represents clients with respect to all aspects of benefit plan compliance, including retirement plans, deferred compensation plans and health and welfare benefits. Morgan regularly serves as a trusted partner to municipalities in navigating the complications of avoiding ERISA while ensuring compliance with the Internal Revenue Code and Nebraska state law.

### III. DETAILED AND ITEMIZED PRICING

Baird Holm proposes to charge David City for its municipal work as follows:

Attorney Hourly Rate: ..... \$295

We are open to alternative fee arrangements that enable us to create value for both you and Baird Holm, including fixed-fee arrangements for transactional work. Our attorneys have significant experience in utilizing fixed-fee arrangements in many aspects of acquisition and divestiture transactions, including due diligence services and document preparation. We also have performed services under contractual retainer structures on numerous occasions. We are happy to discuss alternative billing arrangements on a case-by-case basis or as an overall structure for our representation.





## David C. Levy | Partner

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### Areas of Practice

Energy & Renewable Energy  
Environmental & Natural Resources  
Government Relations  
Litigation  
Real Estate & Land Use  
Planning  
Tax Credit & Alternative Finance  
Transportation

### Education

University of California, Hastings  
College of Law, J.D., 1999  
University of California, Berkeley,  
Masters degree in City and Regional  
Planning, 1996  
University of California, Berkeley,  
Bachelor's degree in Urban Studies,  
1991

### Bar & Court Admissions

California, 1999  
Nebraska, 2006  
Iowa, 2009  
Kansas, 2021  
United States Court of  
Appeals for the Ninth Circuit, 1999  
United States District Court for the  
Northern District of California, 1999  
United States District Court for the  
District of Nebraska, 2014  
United States District Court for the  
Central District of California, 2015

David C. Levy represents clients in zoning, land use, energy, environmental and general real estate matters, and in transactional, administrative, legislative and judicial proceedings. He is resident in the firm's Omaha and Lincoln offices.

David represents developers of wind and solar energy generation projects in Nebraska, Iowa and Kansas on over 1,350 megawatts of operating projects, and approximately 3,500 megawatts in development. David also represents developers of various real estate projects, often including tax-increment financing, tax credits and other unique financing mechanisms and structures. He also advises cities, counties and other governmental entities on a wide range of municipal law matters.

David is a registered lobbyist in the State of Nebraska. In June, 2009, the Nebraska legislature appointed David to its wind energy technical working group. In early 2010, he successfully represented wind development interests in the drafting and negotiation of LB 1048, Nebraska's "omnibus" wind export bill, which the Nebraska Legislature unanimously passed. In 2011, David led a group that introduced and lobbied for a bill that would create a state historic tax credit in Nebraska. In 2014, this effort successfully concluded with the passage of LB 191, which creates a 20 percent state tax credit for rehabilitation of historic buildings in Nebraska. In 2016, David played a central role in the development and passage of LB 824, which removes regulatory barriers to significant renewable energy development for export outside of Nebraska.

David has served as an Adjunct Professor in Land Use Law at the University of San Francisco School of Law, and has taught legal writing at Creighton University School of Law. He is admitted to practice law in California, Iowa and Nebraska, and has earned the American Institute of Certified Planners designation, the City Planning profession's highest level of certification. Since 2011, David has been selected by his peers for inclusion in *The Best Lawyers in America* the field of Land Use & Zoning Law. In 2015, the American College of Real Estate Lawyers elected him as Fellow.

Prior to joining the firm, David practiced land use and environmental law with a firm in San Francisco. Before beginning his legal career, he worked for seven years as a City Planner for the City and County of San Francisco. He is a native of Lincoln, Nebraska.

### Professional & Civic Affiliations

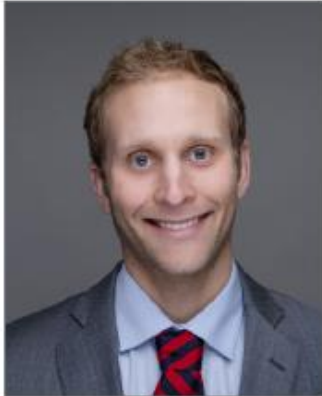
- Dr. Susan LaFlesche Picotte Center Board of Directors, Member (2021-Present)
- Benson Theater Board of Directors, Member (2021-Present)
- Douglas County Board of Health (ex-officio, non-voting) (2020-Present)
- Omaha Housing Authority, Commissioner (NAHRO Commissioner Certification) (2015—Present), Vice-Chairman (2017—2018), Chairman (2018—Present)
- Douglas County Planning Commission (2016—Present), Vice-Chairman (2017—2021), Chairman (2021—Present)



- City of Omaha Administrative Board of Appeals (2007—Present), Vice-Chairman (2009—2016), Chairman (2016—Present)
- History Nebraska, Trustee (2019—Present), President (2022)
- The Nature Conservancy, Nebraska Chapter, Trustee (2019—Present)
- State Law Resources, Inc., Board of Directors (2013—2020), President (2018—2019)
- American College of Real Estate Lawyers, Fellow (2015—Present)
- Nebraska Association of Commercial Property Owners Board of Directors, (2013—Present)
- Omaha by Design, Board of Directors (2013—Present), President (2020—Present)



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## Michael D. Sands | Partner

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### Areas of Practice

Tax Credit & Alternative Financing  
Energy & Renewable Energy  
Real Estate

### Education

University of Nebraska College of Law, J.D., *with high distinction & Order of the Coif*, 2015

William Allen White School of Journalism at the University of Kansas, B.S., Journalism, 2011

### Bar & Court Admissions

Nebraska, 2015  
Iowa, 2015  
Colorado, 2020

Michael D. Sands' practice focuses on real estate, construction, tax-increment financing, occupation taxes, municipal bonds and renewable energy matters. He represents commercial real estate developers, wind and solar developers, investors and owners of real estate in matters involving acquisition, financing, sale and development of real property, leasing, management, land use and zoning, tax-increment financing, workforce housing, occupation taxes and title review. Michael also represents municipalities, acting as special counsel for projects utilizing tax-increment financing, general business occupation taxes and other alternative financing mechanisms. Michael currently serves on the board of directors for the Nebraska Housing Development Association and Restoration Exchange Omaha.

Michael received his Juris Doctor, *with high distinction*, from the University of Nebraska College of Law in 2015, where he was inducted into the *Order of the Coif*. While in law school, Michael served as Executive Editor of the *Nebraska Law Review*. He was the recipient of the CALI Excellence for the Future Award in Contracts, Pre-trial Litigation, and Federal Income Tax. Michael received his Bachelor of Science with a major in Journalism from the University of Kansas.



## Jennifer L. Hiatt | Associate

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### Areas of Practice

Energy & Renewable Energy

Environmental & Natural Resources

Real Estate

### Education

University of Nebraska College of Law, J.D., concentration in Land Use and Natural Resource Development, 2017

University of Nebraska-Lincoln, B.A., American History, 2011

### Bar & Court Admissions

Nebraska, 2017

Jennifer L. Hiatt focuses her practice on zoning, land use, renewable energy and general real estate matters. She represents clients in development, financing, leasing, acquisition, and sale of real property.

Prior to joining the firm, Jennifer worked with an engineering firm in Kearney, Nebraska, helping communities throughout Greater Nebraska identify and realize sustainable growth opportunities. She also spent two years with the Nebraska State Bar Association as Director of Section Facilitation and Publications.

Jennifer received her Juris Doctor from the University of Nebraska College of Law in 2017, with a concentration in land use and natural resource development. While in law school, she served as a member of the Lancaster County Board of Zoning Appeals. Prior to law school, she received her Bachelor of Arts with a major in American History from the University of the Nebraska-Lincoln. Jennifer is a native of Hershey, Nebraska.

### Professional & Civic Affiliations

- Nebraska State Bar Association, Member
- Lincoln Bar Association, Member
- Leadership Lincoln – Hot Topics Committee



## Morgan L. Kreiser | Associate

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### Areas of Practice

Employee Benefits & ERISA  
Labor & Employment Law  
Taxation

### Education

Creighton University School of Law, J.D., *cum laude* & *Order of the Barristers*, 2017  
Central College, B.A.,  
Communication Studies, 2014

### Bar & Court Admissions

Nebraska, 2017  
Iowa, 2018

Morgan L. Kreiser practices in the area of employee benefits, ERISA, tax law and public employer retirement systems. She represents clients with respect to all aspects of ERISA compliance and employee benefit programs, including retirement and 401(k) plans, deferred compensation and health and welfare benefits.

Morgan received her Juris Doctor, *cum laude*, from Creighton University School of Law, where she served on the *Creighton Law Review*. There, she was also inducted into the *National Order of the Barristers* based on her outstanding participation and performance as a student advocate, and received a CALI Excellence for the Future award in State and Local Tax. She graduated from Central College with a Bachelor of Arts in Communication Studies.

### Professional & Civic Affiliations

- The National Order of Barristers, 2017
- Creighton University School of Law's Young Alumni Association
- Pension Council of the Midlands
- Omaha Bar Association
- Nebraska State Bar Association
- American Bar Association

### Selected Recent Publications

- "Loosen Up: Breaking Free from Strict 'With Particularity' Requirements when Pleading Fraud for Qui Tam Actions Brought under the FCA," *Creighton Law Review*, 2016

Mayor Zavodny stated that the next item on the agenda was consideration of options pertaining to our law enforcement contract with the Butler County Sheriff's Department including possible termination of the contract.

Mayor Alan Zavodny said, "There's been a lot of discussion and I think that this is really the first opportunity in a public forum to give the Sheriff some opportunity to address some of the things that have been talked about on the fringes about the relationship with the City and the contract. I know that he's prepared to discuss some concerns that have been raised. I know he's reached out to several members of the Council. I'll raise one of the first ones to start the discussion if that's okay. One of the things that has come up more than once and it's hard everywhere to find employees but part of when we originally put this together the agreement was with the money that the City provided there was the opportunity to hire three additional deputies to what the force had and those three additional deputies were to be able to help augment the law enforcement in our community specifically. I know, from time to time, it has been hard to stay at ten. People leave for various reasons and then we're a little short. I know that has been one thing that has been brought up. So, as part of our first question discussion, I'd like to throw that one out there. Sheriff, do you want to address that issue?"

Sheriff Tom Dion said, "As far as keeping the deputies?"

Mayor Alan Zavodny said, "As far as staying at ten which was our agreement to make sure that we have enough coverage because obviously any number short of ten stretches your department."

Sheriff Tom Dion said, "We are down one deputy right now but he starts on August 8<sup>th</sup> and we have a new deputy that started last week so that puts us at nine. We are doing the coverage of the city and also the county."

Mayor Alan Zavodny said, "I just want you to understand the issues that have been presented to me is that it's been hard to stay at that ten number consistently."

Sheriff Tom Dion said, "We have not been under that ten number. For a short period of time we were looking for two deputies. We put the advertisement out and in a short period of time we had two hires."

Mayor Alan Zavodny said, "I think that the only reason that I'm raising that is that over the duration of this contract there have been times where it's been a little short and it has taken some time. It's been kind of an ongoing thing and it's hard to find employees so we recognize that."

Sheriff Tom Dion said, "That's a statewide issue in law enforcement."

Mayor Alan Zavodny said, "That's my first one so now I'll leave it to Council member or community members that have a concern to raise."

Sheriff Tom Dion said, "I also have two deputies here that would be willing to answer questions also."

Mayor Alan Zavodny said, "Questions of the Sheriff or comments or maybe not addressed to him about this contract and where concerns lie and where are we at."

Council member Bruce Meysenburg said, "As far as enforcing ordinances, how are we doing on that? That is part of the contract."

Sheriff Tom Dion said, "That is part of the contract and we're doing our due diligence on the ordinances and we're working with Gary Meister. We do visit from time to time on issues around the town. I do have reports from the beginning of the contract until the end of June. These have what the calls were, how many calls there were and some of the response times."

Mayor Alan Zavodny said, "If you could, just as a follow-up to Council member Meysenburg's inquiry of you, could you walk us through how you are approaching ordinance enforcement. Is it a complaint made to Gary and then he contacts you? Walk us through how that is working right now."

Sheriff Tom Dion said, "Before Gary was hired we were handling some of the grass ordinances and so on. Since he was hired he has been handling some and we're handling some. We're kind of working together on some of these issues and some of the yards that need to be cleaned up. Especially now, this time of year, with the grass ordinance, I've already had a couple of contacts with folks here in town that have tall grass. I've had a couple of deputies that have had contact with some."

Mayor Alan Zavodny said, "Another comment that I wanted to make and I should have started with this because I've said this many times publicly – a community of our size that is progressing as rapidly as we are having adequate law enforcement and public safety taken care of probably should be the number one if not close to the top of our priorities. It is a huge responsibility of the governing entity to make sure that our citizens are protected. So, I've said that on the record many times before. I'm restating it tonight since we are discussing that. That is one of our primary responsibilities. However we address this, we've got to make sure that public safety is first and foremost in any decision that we make and in any discussion that we have."

Sheriff Tom Dion stated that there had been comments regarding traffic safety and he stated that it's a big town and they can't be everywhere at one time.

Council member Pat Meysenburg said, "What seems to be the problem with not getting rid of the junk vehicles around town?"

Sheriff Tom Dion said, "Actually, we are in the process of doing that right now. We did that a few years ago when Clayton was here. There was confusion at that time because we had a list and it was a mess. We did our due diligence. We drove through the town and we do talk to the people who have expired tags on vehicles that have been sitting for some time."

Council member Pat Meysenburg said, "It doesn't seem to me like they ever get moved. We've got more vehicles sitting around now than we've ever had."

Sheriff Tom Dion said, "I don't know about that but the last time that we did this we had quite a few that we towed."

Mayor Alan Zavodny said, "I know one of the major parts and we have a small sample here but have you been able to run some numbers on what the response time is?"

Sheriff Tom Dion said, "The response times are all in there from the time that I started until the end of June. I believe that we were behind on two calls. I believe they were one minute and two minutes."

Mayor Alan Zavodny said, "This represents all of them or is this a sample?"

Sheriff Tom Dion said, "This is the response times of the calls that we need to get to. Medical calls are not on there."

Mayor Alan Zavodny said, "If you were to evaluate because you are doing this job everyday, what are the primary needs of the City? Would you list them? People bring up the dog thing from time to time and we seem to have a lot more of those. Some of them are running loose and there are kids, especially in the summer, riding their bikes around. I'm worried about that a little bit."

Sheriff Tom Dion said, "The priority is the children running around town because it is summer and it's nice out and people are driving. That is a priority for me."

Special Projects Coordinator Dana Trowbridge introduced himself and said, "The question that I have is who do we contract with? Do we contract with the Sheriff, the Sheriff's department or the County of Butler? Who is the principal on the other side?"

Mayor Alan Zavodny said, "I would say, as in most cases, you follow the money and I think our contract, per se, is with the County – Butler County. As a department directly reportable to the Board of Supervisors."

Special Projects Coordinator Dana Trowbridge said, "The issue that I see with that is that the Board of Supervisors has very little to do with how this operation runs because he is an elected official. The only thing that I've seen in my lifetime was recently in Omaha in Sarpy county where an official was removed by the county board and that was for a flagrant violation of duty. That's where I'm going – can the county board be effective in change if that is what is necessary?"

Mayor Alan Zavodny said, "I think we did have an issue locally years ago in the Treasurer's office."

Special Projects Coordinator Dana Trowbridge said, "Yes. There was a removal there."

Mayor Alan Zavodny said, "I think one of the biggest hammer's that the county would have is the budgetary authority. You may not be able to remove an elected official but you can certainly say here's what we're going to do budgetwise."

Special Projects Coordinator Dana Trowbridge said, "Where that question also leads is what would happen if there is a change in Sheriff?"

Mayor Alan Zavodny said, "I don't know that there's any mechanism that changes the contract, per se. A lot of this is perception, too. Everybody has their own experience with law enforcement. You'd just as soon know that they are there but not have to be involved with them."

Sheriff Tom Dion said, "Every meeting that I come to I do ask if there are any comments or concerns since I took office? I generally don't get any feedback. We've had our committee



meetings. We've only had one this year and that had to do with dogs and we took care of that with the County Attorney."

Council member Bruce Meysenburg said, "At that committee meeting we talked about ordinances, too."

Council member Jessica Miller said, "Ordinances and nuisances, too, and about Tami getting that list of vehicles."

Council member Bruce Meysenburg said, "Other than that I think those were the only concerns that we had at that time."

Mayor Alan Zavodny said, "We're not only here to talk about things that aren't going well, I'd like to hear something that we feel is positive and we think they are doing well and we want to make sure that continues."

Garry Hazen introduced himself and said, "I live on 'O' Street and that is a very busy street and there is an excessive amount of speeding on that street. We sit out on our patio and watch and we watch a lot of vehicles speed down that street and is there anything being done in consideration of the new street being built there to address the speed? Is there going to be a speed bump or in other towns they have these speed indicators on a pole that tell people when they are speeding down that street. Is there any consideration for something like that?"

Mayor Alan Zavodny said, "We haven't had any discussion to this point about addressing those kinds of things. I think the position of the Council, and I don't want to speak for the whole Council, it is a law enforcement issue as far as enforcement of the current laws. I think that the rules are in place to take care of it. That street is unique in that you have everything from semis and tractors and combines to the guy that is apparently late for work in the morning and is going 45 mph at 6 a.m. It's a wide variety of traffic patterns and usages and a lot of walkers and there's no really great place for them to go on that. I think in that design all of those things need to be taken into consideration. I know from time to time and it's been a while, we would see a deputy parked in the alley just watching and slowing people down."

Council member Kevin Woita said, "We're going to have a major problem because it's going to be smoother and wider and I see that the speed is going to increase."

Mayor Alan Zavodny said, "And they don't have to slow down because there are no cross intersections."

Joseph Ernst introduced himself and said, "I am a deputy with the Sheriff's office. Everybody's concerns here are we need somebody at this spot, we need somebody at this spot, and at this spot. While the Sheriff's office is full staffed at ten, just in my experience, while it may not be as extensive as some people in this building, ten is skeleton crew for a county that has the area that is covered with the population base that is also served. You're going to have about three guys that are responsible for about five hundred and fifty square miles on two of, arguably, the busiest highways in the state. You're really kind of selling yourself short as far as coverage. If you look at places that have comparable population, so if you look at cities like York with eight thousand people, they are about a sixteen man department. Just down the road in Seward I think they have a twelve man department with six thousand. At ten, you are really stretching everybody thin. I think it was brought up at some other point, Colfax County, which has Schuyler and all of it's surrounding communities in total has about twenty to twenty-five law enforcement officers in that county alone. We out pace them in case load last year."

Mayor Alan Zavodny said, "I know that we're not the only city in the county that has an additional contract. So, you have the county funding and you have the cities that are contracting and the villages. Maybe that is where the issue lies. Ten may not be the number."

Joseph Ernst said, "The idea of terminating the contract, yes people may have concerns in and about in town. If you cut that three person funding, you're going to lose those three spots unless the county ponies up the dough and sometimes I don't know if that is the most effective path to take. If you drop us down to seven then we are in a world of hurt. I've worked departments that staff full-time at six and it is a nightmare. There were times that I was in a car for two to two and a half weeks straight because we just didn't have anybody. If you start running into six and seven, running two and a half weeks in a row, your turnover will explode."

Mayor Alan Zavodny said, "I'm glad that you raised those points. As a simple extension of math you have a hundred and sixty eight hours of coverages in a week if you have twenty-four hour coverage and you have that many personnel and working even forty hours, the math shows you that you are pretty thin from the start, let alone if you are down."

Council member Jessica Miller said, "In my understanding is that the termination of the current contract that we are supposed to be in negotiations. Renegotiate a different contract. We've been waiting for a date to come across our emails of when that is going to happen for those of us sitting on the committee."

Interim City Administrator/City Clerk Tami Comte said, "I was waiting for this meeting and then we can set a date."

Council member Jessica Miller said, "So, it's termination of the current contract to renegotiate a new contract. That's what our understanding was of it."

Discussion continued.

Jan Sypal introduced herself and said, "Just a question for the Council. What is your thought process if you decide to cancel the current contract. What is your thought process?"

Mayor Alan Zavodny said, "I can speak to that a little bit. I've had citizens say statute requires the Sheriff's department to be your law enforcement for the county, why are you paying them anything? I always come back with, yes, you could do that but understand what that is going to mean as far as response times and coverage and that kind of thing. That is a major concern. I think if we were to decide to just terminate and not have a plan in place which I've shared before is unacceptable to me, anyway, that it raises tons more problems immediately. I think right now what we're looking at is how do we get our needs met for the money that we are spending. Is it the right amount? That kind of thing. I don't think that we are in a position to just say that we're done but it has come up in discussions."

Jan Sypal said, "I also feel that maybe it would be in the best interest of the city and the county both to maybe get together with our committee and include Mayor Zavodny and Sheriff Dion and maybe pull some thought processes together before we actually make that decision to cancel and maybe table it to the next meeting. In the next two to three weeks be very vigilant about getting together and try to get a plan."

Council member Jessica Miller said, "This was legal counsel that said to give termination of the current contract because of renegotiations because we want to renegotiate."

Mayor Alan Zavodny said, "I think what it was is to clearly state the potential of that being an outcome."

Interim City Attorney Tim Wollmer said, "It said that it would renew for another year if we didn't say that it had to be terminated. Of course you could always renegotiate the contract but this contract in it's current form will be terminated, period, so that it doesn't just automatically renew. Otherwise, if you don't give notice by July 1<sup>st</sup> of that it would have renewed or at least it could have been argued that."

Jan Sypal said, "I think, though, correct me if I'm wrong, that the contract actually expires October 31<sup>st</sup>."

Council member Jessica Miller said, "But we had to give notice by July 1<sup>st</sup>."

Jan Sypal said, "It does say July 1<sup>st</sup>? Well, we're beyond that anyway, at this point."

Council member Jessica Miller said, "It was filed before that."

Discussion continued.

Mayor Alan Zavodny said, "I think what we're looking to do is there are some feelings that it might not be working overall as an umbrella so I think that Jan raised a good point earlier – how do you come at this and fix it?"

Special Projects Coordinator Dana Trowbridge said, "It could be as simple as the county board is not allowing the depth of deputy to serve the needs of Butler County at ten."

Mayor Alan Zavodny said, "I think that's where the partnership piece comes in because we can have all the discussions that we want but at the end of the day this is going to come down to money. You don't like the amount of coverage that you have then pony up more to get more. Are other villages going to step up? Is the county board going to say maybe we need to nudge it a little north and it's going to take all of that because without the revenue stream, employees are expensive and this isn't something that you can automate. It's not an assembly line. I think everybody has to have a frank discussion of what is your sweet spot. If we need to up that number a little bit, we can do a formula to say we need X amount more money to increase the staffing X amount."

Deputy Bill Drozd said, "I just want to point out that on weekends we only have one deputy on duty for the entire county from 6 a.m. to 2 p.m. because of the budget. I'm salaried so I get my forty hours in during the week. They are on a twelve hour rotating shift. Yes, we can call people out but if there's a call in David City and a call in Rising City and a call in Bellwood, somebody has to go to each one of those and so we're stretched extra thin as well on weekends."

Mayor Alan Zavodny said, "It's easy if the priorities of those are if a cat's in a tree versus a very serious domestic violence versus somebody is mad that their neighbor's grass is too tall."

Deputy Bill Drozd said, "I can remember five years ago when I was still on weekends working five accidents on a Saturday by myself because it was icy."

Mayor Alan Zavodny said, "I don't think that any of us would think that is an acceptable situation."

Jan Sypal said, "Can I forward a question to Tim? I just want to see if you can clarify something with this. If the city terminates the contract and come October 31<sup>st</sup> they have no contract with the county, so I think that State Statute reads that the Sheriff's department has to...."

Interim City Attorney Tim Wollmer said, "I hate to interrupt you but the only reason that the County got the letter was so that the City has the opportunity to renegotiate the contract because it had an 'evergreen clause' that would automatically renew it on the same terms and conditions. So, the only way to get to the table to be able to actually look at these issues is to simply send a letter and refer to the contract and say that we are exercising our option to terminate so we can renegotiate. Now, I'm not going to answer questions with regard to the duties of the City, in terms of the State Statute and numbers. We'll get into that when we talk about renegotiation of this contract. I hope that is good enough for you."

Jan Sypal said, "My question is when are you talking about this renegotiation period of time?"

Interim City Attorney Tim Wollmer said, "What you're talking about now. The contract will continue in place until it terminates in October. So, you have July, August, September and October and hopefully you guys will have a number of productive meetings that can flush out some of these issues and then hopefully you come to an understanding that makes everybody happy and you might make some revisions with regard to certain terms of the contract and everything is fine."

Jan Sypal said, "So, then you would start a new contract on November 1<sup>st</sup>?"

Interim City Attorney Tim Wollmer said, "Absolutely, yes."

Jan Sypal said, "Is that your plan?"

Interim City Attorney Tim Wollmer said, "I don't personally have a plan."

Council member Jessica Miller said, "Bruce and I sit on the law enforcement committee and that was the impression that we got and the idea that this was brought up and it was initiated by a board member to start renegotiation. We were following the advice that we had and now we were waiting until we decided on an attorney so that we could be advised that way too. So, now that we've decided on an attorney then I think that our intentions are to start the process of dates when we can meet."

Mayor Alan Zavodny said, "Let me take one quick shot because I think that you're raising something important. I think it was just a mechanism to put the process in place to get to a point. Does that help?"

Jan Sypal said, "Yes, thank you."

Mayor Alan Zavodny said, "What I would suggest at this point, unless someone has a point that they really need to make, I would entertain a motion to begin the small group negotiations to address the contract for the County and the City for law enforcement."

Council member Bruce Meysenburg made a motion to begin small group negotiation for a new law enforcement contract. Council Member John Vandenberg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Tom Kobus made a motion to approve the agreement with Veenstra & Kimm, Inc. for the AGP Sewer Extension. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

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**AGREEMENT FOR PROFESSIONAL SERVICES**

**CITY OF DAVID CITY, NEBRASKA  
AGP TRUNK SEWER**

**THIS AGREEMENT**, made this 13<sup>th</sup> day of July, 2022 by and between the **CITY OF DAVID CITY, NEBRASKA**, hereinafter referred to as the **CITY**, and **VEENSTRA & KIMM, INC.** of West Des Moines, Iowa, a corporation organized and existing under the laws of the State of Iowa, hereinafter referred to as the **ENGINEERS**,

**WITNESSETH, THAT WHEREAS**, the City currently owns and operates a sanitary sewerage system, and

**WHEREAS**, AGP is in the process of designing and constructing a new soy bean crushing facility that will be located in the northwest area of the City, and

**WHEREAS**, the City does not currently have sanitary sewer service available to the AGP site, and

**WHEREAS**, the City has agreed to extend sanitary sewer to serve the AGP site before it is scheduled to open as early as the fall of 2024, and

**WHEREAS**, to provide sanitary sewer service the City will need to extend a trunk sewer from the wastewater treatment plant northerly a distance of approximately 8,500 feet to the AGP site along a natural swale located west of M Road with said trunk sewer referred to as the **AGP Trunk Sewer** or the **Project**, and

**WHEREAS**, the City desires to retain the services of the Engineers for the design and construction engineering services for the Project.

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto the City retains the Engineers to provide professional engineering services for the Project subject to the following terms and conditions:

1. **PROJECT SCOPE.** It is understood and agreed the scope of the Project shall consist of:
  - a. A sanitary sewer connecting to the City's wastewater treatment plant and extending north along a natural draw located west of M Road a distance of approximately 8,500 feet to the southerly portion of the AGP site.
  - b. Coordination of the design of the new trunk sewer with AGP's onsite sanitary sewer system.

- c. Coordination with AGP on the location and design parameters for the AGP industrial flow monitoring and sampling station.
2. **DESIGN SERVICES.** The design services for the Project shall include the following:
  - a. Prepare the preliminary and final plans and specifications for the AGP Trunk Sewer.
3. **DESIGN SURVEYS.** The Engineers shall undertake necessary topographic and other surveys for the design of the Project. Design surveys shall include all survey necessary for preparation of plans and specifications. The surveys include these necessary to prepare acquisition plats for the sanitary sewer easements.
4. **DESIGN CONFERENCES AND REPORTS.** The Engineers shall attend such design conferences with the Owner as may be necessary to make decisions as to the details of design of the Project. The Engineers shall make periodic progress reports to the City.
5. **DESIGN FLOW AND ALIGNMENT.** During the design of the Project the Engineers shall consult with the City on the determination of the design flow for the AGP Trunk Sewer. The Engineers shall consult with the City on the alignment and route of the trunk sewer.
6. **COORDINATION WITH AGP.** The Engineer shall coordinate the design of the new City constructed trunk sewer with the onsite development of the AGP facilities including the determination of the terminus point and location of the City constructed trunk sewer on the AGP site. The Engineer shall coordinate with AGP on the location and design of a flow metering and sampling facility to record all industrial flow from the AGP facility.
7. **COORDINATION WITH FINANCING REQUIREMENTS.** The Engineer shall complete the design and contract documents in conformity with all requirement associated with any funding used by the City for design and construction of the project.
8. **PLANS AND SPECIFICATIONS.** The Engineers shall prepare such detailed plans and specifications as are reasonably necessary and desirable for construction of the Project. The specifications shall describe in detail the work to be done, and materials to be used. The plans shall show in detail the work to be done, the location and extent of the construction required. Three (3) sets of final plans and specifications for each construction contract shall be submitted to the Owner.
9. **ESTIMATE OF COST.** The Engineers shall prepare an estimate of cost for the construction contract. The estimate of cost shall be based on the Engineers' best knowledge at the time of preparation of the estimate of cost. The Engineers shall

not be responsible if the construction contract awarded for the Project varies from the Engineers' estimate of cost. The Engineers shall advise and assist the City, if necessary, in adjusting the scope and extent of the Project to allow the Project to be constructed within available budget limitations.

10. **EASEMENT DOCUMENTS.** The Engineers shall prepare all necessary easement documents for the Project.
11. **PERMITS AND LICENSES.** The Engineers shall assist the City in obtaining all necessary permits for the construction of the project. Any fees for construction permits shall be paid by the City and said costs shall not be charged against the Engineers fees.
13. **BIDDING SERVICES.** During the bidding phase of the Project the Engineers shall provide the following services:
  - a. Distribute plans and specifications to contractors and vendors at no charge.
  - b. Answer contractor and vendor questions.
  - c. Issue any necessary addendum to the plans and specifications.
  - d. Attend the bid opening, prepare a bid tabulation and make recommendation to the City on award of contract.
  - e. Attend the City Council meeting at which the award of contract will be considered.
  - f. Prepare contract documents, including contracts and bonds and coordinate the signature by contractor and City.
  - g. Distribute executed contract documents.
  - h. Prepare and conduct preconstruction conference.
14. **CONSTRUCTION ADMINISTRATION SERVICES.** During the construction phase of the Project the Engineer shall provide the following construction administration services:
  - a. Coordinate construction with the contractor, including answering inquiries from the contractor, City and general public.
  - b. Provide construction staking as necessary for Project.
  - c. Prepare necessary change orders, and coordinate the approval of change orders.



- d. Determine the monthly quantities of work completed and prepare and process partial payment applications to the City.
15. **RESIDENT REVIEW SERVICES.**
- a. Provide resident review services understood to include the detailed observation and review of work of the Contractors and materials to assure compliance with the plans and specifications. Resident review services shall include appropriate inspections during construction.
  - b. The Engineers shall provide resident review services by assigning resident engineers and/or engineering technicians to the Project for such periods reasonably required to insure proper review of the construction work. On-site review shall take place on a part time basis during the construction work on the Project.
  - c. Resident review services under this Agreement shall be provided by a resident reviewer trained and experienced in the construction of sanitary sewers.
16. **RECORD DRAWINGS.** At the completion of construction the Engineer shall prepare record drawings showing the as constructed. The City will be provided two full size sets of record drawings, two half size sets of record drawings and an electronic copy of the record drawings in .pdf file format.
17. **FINAL REVIEW.** The Engineers shall make a final review of the Project after construction is completed to determine that the construction complies with the plans and specifications. The Engineers shall certify the completion of the work to the Owner when construction substantially complies with the plans and specifications.
18. **RESPONSIBILITIES OF THE CITY.** The City shall furnish available information that would assist the Engineers in the development and design of the trunk sewer project.
19. **COMPLETION.** The preliminary and final design for the Project shall be completed as follows:
- a. Design: July 1, 2023.
20. **COMPENSATION.** The City shall compensate the Engineers for services under this Agreement as set forth in this section.
- a. The fee for services for design, preparation of the plans and specifications, permit applications and bidding services as set forth in 2. **DESIGN SERVICES** through 13. **BIDDING SERVICES** shall be on the basis of the Engineers' standard hourly

fees, plus reimbursement of direct out of pocket expenses, with a maximum not to exceed fee of Ninety-Five Thousand Eight Hundred Dollars (\$95,800.00).

- b. The fee for services for construction administration and construction observation services as set forth in 14. **CONSTRUCTION ADMINISTRATION SERVICES** and 17. **FINAL REVIEW** shall be on the basis of the Engineers' standard hourly fees, plus reimbursement of direct out of pocket expenses, with a maximum fee for engineering services during construction to be set forth by separate Amendment to Agreement to be approved prior to the start of construction.

- 21. **METHOD OF PAYMENT.** The Engineers shall submit monthly invoices for the actual costs for Project services completed to the end of the invoice period. The monthly invoices of the Engineers shall show the total fees due, the amounts paid to date and the balance of the amount of the contract.

Invoices shall be due and payable upon receipt and shall be paid by the City within thirty (30) days of the date of receipt of an approvable invoice.

- 22. **NOTICE TO PROCEED.** Approval of this Agreement by the City shall constitute Notice to Proceed.

- 23. **SERVICES NOT INCLUDED.** Services not included in this Agreement include the following:

- a. Easement acquisition services.
- b. Services associated with any arbitration or litigation that may arise in conjunction with the construction of the Project for which the City may be named a party.

- 24. **TERMINATION OF AGREEMENT.** If, through any cause, the Engineers shall fail to fulfill in a timely and proper manner the obligations under this Agreement, the City shall have the right to terminate this Agreement by specifying the date of termination in a written notice to the Engineers at least ten (10) working days before the termination date. In this event, the Engineers shall be entitled to just and equitable compensation for any satisfactory work completed.

- 25. **ASSIGNABILITY.** The Engineers shall not assign any interest in this Agreement and shall not transfer any interest in the same without prior written consent of the City.

27. **INSURANCE.** The Engineers shall furnish the Owner with certificates of insurance by insurance companies licensed to do business in the State of Iowa, upon which the Owner is endorsed as an additional named insured, in the following limits. It must be clearly disclosed on the face of the certificates that the coverage is on an occurrence basis.

General Liability*	\$1,000,000/2,000,000
Automobile Liability	\$1,000,000
Excess Liability (Umbrella)*	\$8,000,000/8,000,000
Workers' Compensation, Statutory Benefits Coverage B	\$1,000,000
Professional Liability**,***	\$3,000,000/3,000,000

\*Occurrence/Aggregate

\*\* The Owner is not to be named as an additional insured

\*\*\*Claims made basis

28. **INDEMNIFICATION.** The Engineers shall and hereby agree to hold and save the City harmless from any and all claims, settlements, and judgments, to include all reasonable investigative fees, attorneys' fees, suit and court costs for personal injury, property damage, and/or death arising out of the Engineers' or any of its agents', servants', and employees' errors, omissions or negligent acts for services under this Agreement, and for all injury and/or death to any and all of the Engineers' personnel, agents, servants, and employees occurring under the Workers' Compensation Act of the State of Iowa.

29. **ERRORS OR DEFICIENCIES.** The Engineers shall, without additional compensation, revise any materials prepared under this Agreement if it is determined that the Engineers are responsible for any errors or deficiencies. This provision shall not apply to changes in the Project or Project materials which may result from causes or information which the Engineers could not have reasonably ascertained during the Project design, such as hidden or latent defects or conditions in the existing plant.

30. **MODIFICATIONS TO AGREEMENT.** This Agreement may be modified upon written agreement by the City and the Engineers. In the event that any additional services are required of the Engineers that are over and above those described in this Agreement, the services shall not be done without express prior written agreement between the City and the Engineers. The scope of additional services, and fees to be charged, shall be specified in any such written authorization. Additional services to be provided by the Engineers after completion of the work set forth under this Agreement may include general services during construction, resident review, start-up services, preparation of an instruction and/or operation and maintenance manual, supervision of operation or other services that may be mutually agreed upon by the City and Engineers.

31. **LEGAL SERVICES.** The City shall provide the services of an attorney experienced in legal matters pertaining to this type of project. The Engineers shall cooperate with said attorney and shall comply with his requirements as to form of contract documents and procedures relative to them.
32. **COMPLETENESS OF CONTRACT.** This document contains all terms and conditions of this Agreement. Any alterations shall be invalid unless made in writing, signed by both parties and incorporated as an amendment to this Agreement.

The undersigned do hereby covenant and state that this Agreement is executed in duplicate as though each were an original and that there are no oral agreements that have not been reduced to writing in this instrument.

It is further covenanted and stated that there are no other considerations or monies contingent upon or resulting from the execution of this Agreement nor have any of the above been implied by or for any party to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have hereunto subscribed their names on the date first written above.

**CITY OF CITY OF DAVID CITY, NEBRASKA**

**ATTEST:**



By

  
Mayor

By

  
City Clerk

**VEENSTRA & KIMM, INC.**

**ATTEST:**

By

  
Chair, Board of Directios

By



Council member Bruce Meysenburg made a motion to approve the agreement with Veenstra & Kimm, Inc. to complete a water and sewer rate study. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

## AGREEMENT

### CITY OF DAVID CITY, NEBRASKA WATER AND SEWER RATE STUDIES

**THIS AGREEMENT**, made and entered into this 13<sup>th</sup> day of July, 2022, by and between the **CITY OF DAVID CITY, NEBRASKA**, hereinafter referred to as the **City**, party of the first part, and **VEENSTRA & KIMM, INC.**, a corporation organized and existing under the laws of the State of Iowa, with principal offices in West Des Moines, hereinafter referred to as the **Engineers**.

**WITNESSETH: THAT WHEREAS**, the City of David City owns and operates a municipal sanitary sewerage utility and a municipal water utility, and

**WHEREAS**, the City has determined it appropriate to review and update the existing sewer user charge rates, and

**WHEREAS**, the City has determined it appropriate to review and update its existing water rates, and

**WHEREAS**, the City desires to retain the Engineers to provide services to assist the City in the review of both the water rates and sewer user charge rates.

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto that the City retains the Engineers to provide professional engineering services for the Water and Sewer Rate Studies project subject to the following terms and conditions, to wit:

1. **SCOPE OF PROJECT.** It is understood and agreed the project shall consist of the analysis and evaluation of both the existing water rates and sewer user charge rates. Separate evaluations and analysis will be completed for both water rates and sewer user charge rates.
  - a. Water Rate Study.
    - i. Review the income and expenditures for the water enterprise fund for the past five fiscal years and the current fiscal year.
    - ii. Identify the operating expenses and capital expenses for the past five fiscal years.
    - iii. Develop projections of the future operating expenses and future capital expenses for already committed capital projects.

- iv. Review and summarize the current customer count and volume of water usage for purposes of calculating the rate structure.
  - v. Review the projected units of wastewater flow from the AGP facility to determine the adjusted number of user charge units for purposes of the rate analysis.
  - vi. Review anticipated capital improvements to be funded by the water enterprise fund for a five year period including improvements to be financed by reserves and improvements to be financed by debt financing.
  - vii. Review the existing user charge rate model to determine the need for adjustments or modifications.
  - viii. In consultation with City staff, identify proposed modifications to the water user charge rate structure.
  - ix. In consultation with City staff, identify proposed water user charge rates. The water user rates may incorporate the concept of a single rate increase or periodic rate increases over a period of years.
  - x. Prepare and present a draft report summarizing the Water Rate Study and recommendations for adjustments to the water rates.
  - xi. Review the draft report with the City.
  - xii. Incorporate appropriate modifications to the draft report.
  - xiii. Prepare and present the City the final Water Rate Study.
- b. Sewer Rate Study.
- i. Review the income and expenditures for the sewer enterprise fund for the past five fiscal years and the current fiscal year.
  - ii. Identify the operating expenses and capital expenses for the past five fiscal years.
  - iii. Develop projections of the future operating expenses and future capital expenses for already committed capital projects.

- iv. Review and summarize the current customer count and volume of sewer usage for purposes of calculating the rate structure.
  - v. Review the projected units of wastewater flow from the AGP facility to determine the adjusted number of user charge units for purposes of the rate analysis.
  - vi. Review anticipated capital improvements to be funded by the sewer enterprise fund for a five year period, including improvements to be financed by reserves and improvements to be financed by debt financing.
  - vii. Review the existing user charge rate model to determine the need for adjustments or modifications.
  - viii. In consultation with City staff, identify proposed modifications to the sewer user charge rate structure.
  - ix. In consultation with City staff, identify proposed sewer user charge rates. The sewer user rates may incorporate the concept of a single rate increase or periodic rate increases over a period of years.
  - x. Prepare and present a draft report summarizing the Sewer Rate Study and recommendations for adjustments to the sewer rates.
  - xi. Review the draft report with the City.
  - xii. Incorporate appropriate modifications to the draft report.
  - xiii. Prepare and present the City the final Sewer Rate Study.
2. **PROJECT DATA.** The City shall provide all available records and information which would assist the Engineers in the completion of the study. It is understood and agreed the Engineers shall be primarily responsible for review of existing data.
  3. **CONFERENCES.** During the course of the performance of the study, the Engineers will meet with City staff on a regular basis to review the data evaluation and recommendations of the project.
  4. **REPORT.** The Engineers shall provide appropriate copies of the preliminary draft report and final report.



5. **COMPENSATION.** The City of David City shall compensate the Engineers for its services by the payment of the Engineers' standard hourly fees, plus reimbursement of direct out-of-pocket expenses.

a. The maximum fee for the Water Rate Study under this agreement shall not exceed the sum of Seven Thousand Nine Hundred Fifty Dollars (7,950).

b. The maximum fee for services under this agreement for the Sewer Rate Study shall not exceed the sum of Seven Thousand Eight Hundred Fifty Dollars (\$7,850).

It is understood and agreed the maximum fee for the Water Rate Study and Sewer Rate Study are based on the concept of no major structural modifications in the existing sewer user charge rates. If the scope of work requires more significant activities related to major modifications of the user charge structure, the maximum fee may be adjusted by mutual agreement.

6. **COMPENSATION** shall be billed and payable monthly during the course of the performance of services under this Agreement.

7. **TIME OF COMPLETION.** The Engineers shall complete all services, through and including the preparation and presentation of the final report as follows:

a. Draft of sewer user charge structure analysis: December 31, 2022.

It is understood the completion date may be modified by mutual agreement depending on the progress of the negotiations of the renewal of the agreement with a local industry.

8. **SERVICES NOT INCLUDED.** Services not included under this Agreement include the following:

a. Major structural changes in the sewer use rate structure.

9. **CHANGES.** If, after the reports are completed and approved by the City, the Engineers are required to change the reports because of changes made by the City, the Engineers shall receive additional compensation for making such changes. The compensation for such changes shall be based upon the standard hourly fees plus expenses for personnel of the Engineers actually engaged in making the changes.

10. **EXTRA WORK.** Fees stated in this Agreement cover the specific services outlined in this Agreement for the Project. If the City requires additional services of the Engineers in connection with the Project, such additional compensation shall be at the standard hourly fees for personnel of the Engineers, plus expenses for personnel engaged in the authorized extra work. The fee for such services shall be billed and payable monthly.

11. **INDEMNIFICATION.** The Engineers shall and hereby agree to hold and save the City of David City harmless from any and all claims, settlements, and judgments, to include all reasonable investigative fees, attorneys' fees, suit and court costs for personal injury, property damage, and/or death arising out of the Engineers' or any of its agents', servants', and employees' errors, omissions, or negligent acts for services under this Agreement, and for all injury and/or death to any and all of the Engineers' personnel, agents, servants, and employees occurring under the Workers' Compensation Act of the State of Iowa.

12. **INSURANCE.** The Engineers shall furnish the City of David City with certificates of insurance by insurance companies licensed to do business in the State of Iowa, upon which the City of David City is endorsed as an additional named insured, in the following limits. It must be clearly disclosed on the face of the certificates that the coverage is on an occurrence basis.

General Liability*	\$1,000,000/2,000,000
Automobile Liability	\$1,000,000
Excess Liability (Umbrella)*	\$8,000,000/8,000,000
Workers' Compensation, Statutory Benefits Coverage B	\$1,000,000
Professional Liability**, ***	\$3,000,000/3,000,000

\*Occurrence/Aggregate

\*\*The Owner is not to be named as an additional insured

\*\*\*Claims made basis

13. **TERMINATION.** Should the City abandon the Project before the Engineers have completed their work, the Engineers shall be paid for services performed until the date of termination.

14. **ASSIGNMENT.** This Agreement and each and every portion thereof shall be binding upon the successors and assigns of the parties hereto.

The undersigned do hereby covenant and state this Agreement is executed in duplicate as though each were an original and there are no oral agreements that have not been reduced to writing in this instrument.

It is further covenanted and stated there are no other considerations or monies contingent upon or resulting from the execution of this Agreement nor have any of the above been implied by or for any party to this Agreement.

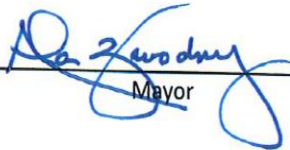
**IN WITNESS WHEREOF**, the parties hereto have hereunto subscribed their names on the date first written above.

**CITY OF DAVID CITY, NEBRASKA**

ATTEST:



By

  
\_\_\_\_\_  
Mayor

By

  
\_\_\_\_\_  
City Clerk

**VEENSTRA & KIMM, INC.**

ATTEST:

By

  
\_\_\_\_\_  
Chair, Board of Directors

By

  
\_\_\_\_\_

Council member Bruce Meysenburg made a motion to pass and adopt Resolution No. 11-2022 adopting building permit fees. Council Member Jessica Miller seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

**RESOLUTION NO. 11-2022**

WHEREAS, the City of David City has determined a need to increase and change the fees charged for Building/Construction Permit Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following application fees are hereby approved and adopted.

**Schedule of application fees:**

Residential Remodel / Structural Repair / Additional living space.....	\$75.00
New Residence.....	\$250.00
Multi-Unit Residential / Per Unit.....	\$250.00
Commercial / Industrial – New / Remodel.....	\$250.00 Minimum

0 to \$2,499.....	10% of project cost
\$2,500 to \$50,000.....	\$250.00
\$50,001 to \$100,000.....	\$350.00
\$100,001 to \$250,000.....	\$450.00
\$250,001 to \$500,000.....	\$550.00
\$500,001 to \$1,000,000.....	\$750.00
\$1,000,000 and over.....	\$1,000.00 + 25¢ per \$1,000 fraction thereof.

Sign, Fence, Awning, Deck, Patio, Concrete, Egress Window, Structural Mailboxes in the R.O.W. and Demolition permits.....	\$25.00
Temporary Storage Container .....	\$25.00
Accessory Buildings and/or additions to such.....	\$75.00
Temporary Structures, including but not limited to: Tent structures, Greenhouse/Hoop Buildings, Carports, and Sheds less than 200 square feet with a built-in floor on skids, (Without a foundation).....	\$25.00
Join / Divide Lots.....	\$50.00

Conditional Use.....	\$100.00
Zoning Amendment Hearing.....	\$150.00
Zoning Variance Hearing.....	\$100.00
Zoning Change Hearing.....	\$150.00
Subdivision – Preliminary Plat.....	\$300.00 +\$10.00 per lot
Subdivision – Final Plat.....	\$175.00
(Final Plat must be submitted within 90 days of Preliminary Plat, or Preliminary Plat may be void.)	

If a special council meeting is required, the applicant will be charged for the cost of the special council meeting in addition to the above charges.

All fees are non-refundable.

Dated this 13<sup>th</sup> day of July, 2022.

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Mayor Alan Zavodny

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City Clerk Tami L. Comte

Council member Pat Meysenburg made a motion to pass and adopt Resolution No. 12-2022 providing for "All Way Stop Signs" at the intersections of 11th & "L" Street and 11th & "H" Streets. Council Member Bruce Meysenburg seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

**RESOLUTION NO. 12 – 2022**

WHEREAS, Chapter 4, Section 110 of the David City Municipal Code provides that the Governing Body may, by resolution, provide for placing of stop signs, or other signs, signals, standards, or mechanical devices in any street or alley under the Municipality’s jurisdiction for the purpose of regulating, or prohibiting traffic thereon, and,

WHEREAS, the City of David City, Nebraska, has determined that there is a need for the placement of “All-Way Stop Signs” on the intersection at 11<sup>th</sup> & “L” Streets and the intersection at 11<sup>th</sup> & “H” Streets to slow the speed of traffic on 11<sup>th</sup> Streets.



NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that "All Way Stop Signs" be installed on the intersections at 11<sup>th</sup> & "L" Streets and 11<sup>th</sup> & "H" Streets.

Dated this 13<sup>th</sup> day of July, 2022.

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Mayor Alan Zavodny

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City Clerk Tami L. Comte

Council member Tom Kobus made a motion to pass and adopt Resolution No. 13-2022 League Association of Risk Management (LARM) insurance coverage for a three-year term beginning on October 1, 2022. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

**League Association of Risk Management  
2022-23 Renewal Resolution  
RESOLUTION NO. 13-2022**

WHEREAS, The City of David City is a member of the League Association of Risk Management (LARM);

WHEREAS, section 8.10 of the Interlocal Agreement for the Establishment and Operation of the League Association of Risk Management provides that a member may voluntarily terminate its participation in LARM by written notice of termination given to LARM and the Nebraska Director of Insurance at least 90 days prior to the desired termination given to and that members may agree to extend the required termination notice beyond 90 days in order to realize reduced excess coverage costs, stability of contribution rates and efficiency in operation of LARM; and

WHEREAS, the Board of Directors of LARM has adopted a plan to provide contribution credits in consideration of certain agreements by members of LARM as provided in the attached letter.

BE IT RESOLVED that the governing body of The City of David City, Nebraska, in consideration of the contribution credits provided under the LARM Board's plan, agrees to:

- Provide written notice of termination at least 180 days prior to the desired termination date, which date shall be no sooner than September 30, 2025. (**180 day and 3 year commitment; 5% discount**)
- Provide written notice of termination at least 180 days prior to the desired termination date, which date shall be no sooner than September 30, 2024. (**180 day and 2 year commitment; 4% discount**)
- Provide written notice of termination at least 180 days prior to the desired termination date, which date shall be no sooner than September 30, 2023. (**180 day notice only; 2% discount**)
- Provide written notice of termination at least 90 days prior to the desired termination date, which date shall be no sooner than September 30, 2025. (**90 day notice and 3 year commitment only; 2% discount**)
- Provide written notice of termination at least 90 days prior to the desired termination date, which date shall be no sooner than September 30, 2024. (**2 year commitment only; 1%**)
- Provide written notice of termination at least 90 days prior to the desired termination date, which date shall be no sooner than September 30, 2023. (**90 day Notice only**)

Adopted this 13<sup>th</sup> day of July, 2022.

**Signature:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**ATTEST:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**Please email ([customerservice@LARMpool.org](mailto:customerservice@LARMpool.org)) or fax (402.476.4089) the completed resolution to LARM.**

Council member Bruce Meysenburg made a motion to approve the quote of Midco Diving & Marine for water tower repairs. Council Member Pat Meysenburg seconded the motion. The motion carried.  
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

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June 24, 2022

**City of David City**  
Attn: Anthony Kobis  
1220 E St.  
David City, NE 68632

**Re: 2022 Tank Maintenance Project – PAX Water Technologies Mixer PWM150**

Thank you for considering Midco Diving & Marine Services, Inc., a proud member of the National Rural Water Association (NRWA). We are pleased to present the following proposal for the scope of work listed below and equipment manufactured by PAX Water Technologies, a UGSI Solutions Company.

All diving operations are fully insured for “**Commercial Diving Operations**” including: General Liability, Workman’s Compensation, Hull Machinery, Protection and Indemnity, Pollution Liability, Maritime Employers Liability, Contractor’s Pollution, Automotive Liability, U.S.L.H. and Umbrella/Excess Liability/Bumbershoot. **Verifiable Certificates of Insurance with Current Limits** are available upon request.

Midco Diving & Marine Services, Inc. is in full compliance with OSHA 29 CFR 1910, Subpart T - Commercial Diving Operations regulations. OSHA specifies that the minimum acceptable dive crew size is three qualified divers. Not all firms comply with this mandate and continue to use two-person dive crews or unqualified personnel; please be aware of these safety concerns when evaluating our proposal.

Current diver and equipment certifications will be available on site for review:

- Diver training – from accredited commercial dive school (each dive team member)**
- Current First Aid/CPR training (each dive team member)**
- Annual medical examination determining diver is fit to perform assigned tasks (each dive team member)**
- Air purity test for breathing air source(s) – tested every 6 months**
- Breathing gas supply hoses – tested at least annually to 1.5 times their working pressure**
- Depth gauges – calibrated every 6 months**

**TANK DESCRIPTION(S)**

<b>Tank Name</b>	<b>Capacity</b>	<b>Dimensions</b>	<b>Type</b>
Road N Tower	750K Gallons	38’ Height (144’ overall height) x 64’ Diameter	Steel Welded Watersphere

**SCOPE OF WORK**

1. The dive team will install a solid cover to the bottom of the roof vent screen.
2. The dive team will install weather stripping on the roof access hatch.
3. The dive team will install #24 corrosion resistant mesh on the overflow plumbing
4. The dive crew will complete as much work as possible in a single 8-hour work day.
5. If sediment removal is necessary to complete the repair work the crew will complete that work first.

The repair work will be documented on video as conditions allow, but no additional inspection and/or reporting will be completed. While Midco Diving & Marine, Inc has had great success with repair work, the repairs are not guaranteed.

**Potable Water Operations** – All Midco divers and associated in-tank equipment are fully disinfected in accordance with ANSI/AWWA Standard C652-19. All system entries will be conducted in accordance with applicable OSHA regulations pertaining to Diving & Confined Space; including 1910.401 – 1910.441. Specialty equipment may include, but is not limited to; appropriate OSHA climbing and personal fall protection, AWWA and ADCI approved commercial diving equipment as it relates to in-service potable water operations.



800.479.1558 (P)  
800.238.0217 (F)  
www.midcodiving.com  
info@midcodiving.com  
PO Box 513, Rapid City, SD. 57709 – 605.791.3030



# MIDCO

DIVING & MARINE SERVICES

## INSTALLATION SERVICES

PAX PWM150 Mixer Installation .....	\$3,898.00
Additional Repair/Epoxy Pricing .....	\$465.00/hr

## PAX WATER TECHNOLOGIES MIXER PRICING

<input type="checkbox"/> One (1) PWM150-115V-PAX Water Mixer (1 Phase Motor, No Control Center, 60' Cable) ....	\$18,000.00
Equipment Shipping .....	\$375.00/Each
<input type="checkbox"/> One (1) 100' FSR-3 (3-Wire or 4-Wire Flat Jacket Strain Relief) .....	\$190.00/Each
<p>*Client or their electrical contractor are responsible for final electrical and SCADA connections*</p> <p>**Equipment and shipping fees are due upon receipt of invoice and must be paid in full prior to delivery and installation scheduling**</p>	

The PWM150 PAX Mixer is an active jet mixer for small water storage tanks. The mixer creates a powerful vortex flow pattern to thoroughly circulate the entire tank volume and prevent water quality issues. Compact and lightweight, the mixer can be easily lowered into the tank from the hatch and self-rights on the tank floor, even on a sloped surface.

## PWM150 MIXER OPTIONS

SPECIFICATIONS	(115V)	(230V)	Control Center (PCC155)	Control Center (PCC155)
Power Supply Requirement	120 VAC, 60 Hz, GFCI-protected, 20 amp circuit	240 VAC, 60 Hz, GFCI-protected, 15 amp circuit	120 VAC, 50/60 Hz, non-GFCI-protected, 20 amp circuit	240 VAC, 50/60 Hz, non-GFCI-protected, 20 amp circuit
Motor Type	115 VAC, 60 Hz, ½ HP, water-filled, water-lubricated	230 VAC, 60 Hz, ½ HP, waterfilled, water-lubricated		
Nominal Power Draw	1.15 kVA (670 watts)			
Footprint Diameter	10" (25 cm)			
Height	2' 10" (86 cm)			
Weight	42 lbs. (19 kg)			
Material: Housing	316 stainless steel			
Material: Motor Seals	Chlorine/chloramine-resistant NBR rubber			
Material: Foot	Chlorine/chloramine-resistant EPDM rubber			
Wiring	NSF 61 & UL-listed submersible pump cable 14 AWG (2.1 mm <sup>2</sup> ) XLPE (.6" x .28" / 15 mm x 7 mm)		NSF 61 & UL-listed submersible pump cable 14 AWG (2.1 mm <sup>2</sup> ) XLPE (.78" x .28" / 20 mm x 7 mm)	
Control Center Dimensions	N/A		55 lbs. (25 kg) (20"x 21"x 8" / 50 cm x 53 cm x 20 cm)	
Material: Control Center	N/A	N/A	Powder-coated carbon steel, Type 4 enclosure	



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# MIDCO

DIVING & MARINE SERVICES

Please note, the above pricing **does not include**; City business licenses' and/or permit fees, contract review, additional insurance requirements, third party vendor verification site requirements and/or fees, local, state, or franchise taxes – if any. If requested at any time, these items will be added to the final invoice, at the current rates and with an appropriate markup. Pricing for listed equipment **does not include** installation fees or recommended preinstallation cleaning & inspection, these are separate line items. Midco Diving reserves the right to deny any installation without the recommended cleaning & inspection during our visit or prior to arrival. Any contract that is not fulfilled will be subject to a cancellation fee. Interest accrues at 1.5% monthly on any unpaid balances. Payment for **PAX Technology Mixers**, accessories and shipping is due upon receipt and acceptance of this agreement. This will minimize any logistic delay and allows adequate time for equipment to be ordered from PAX Water Technologies and shipped direct to your facility.

**To Expedite your project please be aware of the following:**

- The tank(s) must be full to overflow and in-service prior to the crews' arrival.
- Access into the reservoirs must be sufficient for safe diver entry and exit. A minimum hatch size of 24", no hatch obstructions, and unobstructed road access to the tank.
- Working with our scheduling department to complete the project in a timely and proficient manner, which may require weekend and/or holiday access.
- It will be the responsibility of the Client, Owner, or Owner Representative to notify antenna operator and/or owners prior to crews' arrival for proper lockout of all antennas, RF devices (Radio Frequency Antennas) and EME sources (Electromagnetic Energy) that may interfere with Midco team safety and access to the water reservoirs.

This quote has been prepared exclusively for your firm using the information you provided. Incorrect or inaccurate information used for estimate purposes, that delays progress, may influence your final pricing. If Midco Diving & Marine Services, Inc. is unable to complete the work described due to lack of weekend and/or holiday access, tank access, water levels, safety issues, etc. a nominal trip charge and/or standby fees will be assessed.

This proposal is valid for thirty (30) days from receipt. This proposal, when executed by both parties, shall constitute a binding agreement between the parties. The persons signing on behalf of the Client, Owner or Owners Representative and Midco hereby represents and certifies that they are fully empowered to bind the respective parties to this contract. The contents of this quotation are confidential and are not to be divulged to third parties. Please note, it's the responsibility of the Client, Owner or Owners Representative's responsibility to test and maintain for water quality.

All Midco Diving quotes are subject to availability of equipment and personnel. Upon approval, please sign and return by fax, email or USPS to Midco Diving & Marine Services, Inc.

City of David City  
1220 E St.  
David City, NE 68632

*I have read, understand and agree to the terms of this proposal:*

By: 

Title: Mayor

Date: 7-13-2022

Midco Diving & Marine Services, Inc.  
PO Box 513  
Rapid City, SD. 57709  
(P) 800.479.1558  
(F) 800.238.0217

By: Melanie Hall

Title: Nebraska Regional Sales Manager

Date: June 24, 2022



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info@midcodiving.com

PO Box 513, Rapid City, SD. 57709 – 605.791.3030



Mayor Zavodny stated that the next item on the agenda was consideration of Ordinance No. 1403 updating the electric rates.

Interim City Administrator/City Clerk-Treasurer Tami Comte said, "This update is only to add the provisions for the net-metering. That is the ONLY thing that this is changing."

Council member Bruce Meysenburg introduced Ordinance No. 1403 Updating the Electric Rates. Mayor Zavodny read Ordinance No. 1403 by title. Council member Bruce Meysenburg made a motion to suspend the statutory rule requiring that an Ordinance 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: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1403 updating the electric rates on third and final reading. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

### **ORDINANCE NO. 1403**

AN ORDINANCE RELATING TO ELECTRIC SERVICE RATES AND MINIMUM CHARGES, TO PROVIDE NEW SCHEDULES OF ELECTRIC RATES, TO REPEAL ALL PARTS OF THE CODE, RESOLUTIONS AND ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE WHEN THE ORDINANCE SHALL TAKE EFFECT; AND TO PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. **NEW SCHEDULES**: Relating to electric service and minimum charges, to provide a schedule of electric rates, minimum charges, and customer service charges, to distinguish residential rates, commercial rates, industrial rates, off-peak industrial rates, and irrigation rates; to set availability rating; to provide and establish the following tariff of rates to consumers of electric service from the electric distribution system of the City of David City, Nebraska.

### **RESIDENTIAL SERVICE**

#### *Available*

To residential customers in the established service area of David City.

#### *Applicable*

To single-family residences and individually metered apartments for all domestic purposes when all service is supplied through a single meter. It is not applicable to residences where a commercial enterprise is conducted.

*Character of Service*

A.C. 60 Hertz, Single-Phase 120 volt, 2 wire or 120/240 volts, 3 wire.

***Rate Effective December 19, 2012***

**Customer Service Charge - \$14.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1100</b>	<b>\$0.1050</b> per kilowatt-hour for the first 500 kilowatt-hours used per month
<b>\$0.0975</b>	<b>\$0.0850</b> per kilowatt-hour for the next 500 kilowatt-hours used
<b>\$0.0900</b>	<b>\$0.0700</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Rate Effective December 19, 2013***

**Customer Service Charge - \$18.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1125</b>	<b>\$0.1100</b> per kilowatt-hour for the first 500 kilowatt-hours used per month
<b>\$0.1000</b>	<b>\$0.0900</b> per kilowatt-hour for the next 500 kilowatt-hours used
<b>\$0.0950</b>	<b>\$0.0790</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge**

-----

**RESIDENTIAL SUMMER CONTROLS**

*Applicable*

To residential consumers who have allowed the Utility Department to install, and operate, such devices as would be required to cycle central air conditioning units during periods of peak electrical demand and imposed upon the electrical system. Window air conditioning units, on a separate electric circuit can be included in this rate.

***Rate Effective December 19, 2012***

**Customer Service Charge - \$14.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1100</b>	<b>\$0.1050</b> per kilowatt-hour for the first 500 kilowatt-hours used per month
<b>\$0.0925</b>	<b>\$0.0850</b> per kilowatt-hour for the next 500 kilowatt-hours used
<b>\$0.0875</b>	<b>\$0.0700</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Rate Effective December 19, 2013***

**Customer Service Charge - \$18.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1125</b>	<b>\$0.1100</b> per kilowatt-hour for the first 500 kilowatt-hours used per month
<b>\$0.0925</b>	<b>\$0.0900</b> per kilowatt-hour for the next 500 kilowatt-hours used
<b>\$0.0875</b>	<b>\$0.0790</b> per kilowatt-hour for all additional use.

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***  
**Customer Service Charge**

*Seasonal Billing Periods*

- Summer - Summer period is for the meter readings obtained during the four month period of May 19<sup>th</sup> through September 19<sup>th</sup>.  
Winter - Winter period is for the meter readings obtained during the eight month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

*Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

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**STREET LIGHT / ALLEY LIGHT RENTALS**

*Available*

To customers in the established service area of David City.

*Applicable*

To any residence or commercial customer who has an alley light or a **requested** street light that is not individually metered. It is not applicable to residences or businesses where the city has installed a street light for the City's convenience.

***Rate Effective December 19, 2012***

**Customer Service Charge - \$5.84 per fixture per month (or partial month)**

***Rate Effective December 19, 2013***

**Customer Service Charge - \$6.45 per fixture per month (or partial month)**

**Some customers will share the cost of one fixture.**

-----

**COMMERCIAL SERVICE**

*Available*

To any non-residential consumer in the established service area of David City.

*Applicable*

To any non-residential consumer for lighting, heating and power purposes where the customer's billing demand does not exceed 35 Kw or 10,000 Kwh for three consecutive months.

*Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

***Single Phase Rate Effective December 19, 2012***  
**Customer Service Charge - \$21.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1200</b>	<b>\$0.1175 per kilowatt-hour for the first 1000 kilowatt-hours used per month</b>
<b>\$0.0925</b>	<b>\$0.0925 per kilowatt-hour for the next 1000 kilowatt-hours used</b>
<b>\$0.0925</b>	<b>\$0.0700 per kilowatt-hour for all additional use.</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Single Phase Rate Effective December 19, 2013***  
**Customer Service Charge - \$28.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1200</b>	<b>\$0.1175 per kilowatt-hour for the first 1000 kilowatt-hours used per month</b>
<b>\$0.0950</b>	<b>\$0.0925 per kilowatt-hour for the next 1000 kilowatt-hours used</b>
<b>\$0.0925</b>	<b>\$0.0800 per kilowatt-hour for all additional use.</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge, or \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 per horsepower of connected load thereafter, or whichever is the largest.**

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***Three Phase Rate Effective December 19, 2012***  
**Customer Service Charge - \$30.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1200</b>	<b>\$0.1200 per kilowatt-hour for the first 1000 kilowatt-hours used per month</b>
<b>\$0.1050</b>	<b>\$0.0975 per kilowatt-hour for the next 1000 kilowatt-hours used</b>
<b>\$0.0960</b>	<b>\$0.0700 per kilowatt-hour for all additional use.</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Three Phase Rate Effective December 19, 2013***  
**Customer Service Charge - \$37.00 per month (or partial month)**

<b>Summer</b>	<b>Winter</b>
<b>\$0.1200</b>	<b>\$0.1200 per kilowatt-hour for the first 1000 kilowatt-hours used per month</b>
<b>\$0.1075</b>	<b>\$0.0975 per kilowatt-hour for the next 1000 kilowatt-hours used</b>
<b>\$0.0975</b>	<b>\$0.0800 per kilowatt-hour for all additional use.</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**Customer Service Charge or \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 per horsepower of connected load thereafter, or whichever is the largest.**

*Seasonal Billing Periods*

- Summer - Summer period is for the meter readings obtained during the four month period of May 19<sup>th</sup> through September 19<sup>th</sup>.
- Winter - Winter period is for the meter readings obtained during the eight month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

*Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

*Power Factor Adjustment*

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

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**INDUSTRIAL SERVICE**

*Available*

To any non-residential consumer in the established service area of David City.

*Applicable*

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for three consecutive months.

*Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

***Rate Effective December 19, 2012***

**Customer Service Charge - \$50.00 per month (or partial month)**

**Demand Charge**

<b>Summer</b>	<b>\$22.00 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$17.50 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0520 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0438 per kilowatt-hour used</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Rate Effective December 19, 2013***



**Customer Service Charge - \$75.00 per month (or partial month)**

**Demand Charge**

Summer	\$24.00 per kilowatt of maximum billing demand
Winter	\$18.00 per kilowatt of maximum billing demand

**Energy Charge**

Summer	\$0.0520 per kilowatt-hour used
Winter	\$0.0485 per kilowatt-hour used

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**The minimum bill shall be the customer charge or the billing demand charge, whichever is greater.**

***Determination of Billing Demand***

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt average demand registered on the meter during the preceding months of May 20<sup>th</sup> thru September 19<sup>th</sup>.

***Seasonal Billing Periods***

- Summer - Summer period is for the meter readings obtained during the four month period of May 19<sup>th</sup> through September 19<sup>th</sup>
- Winter - Winter period is for the meter readings obtained during the eight month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

***Terms of Payment***

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

***Power Factor Adjustment***

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

***Fluctuating Loads***

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all nonbetterment costs for corrective equipment to eliminate the interference.

-----

**OFF-PEAK INDUSTRIAL SERVICE**

*Available*

To any non-residential consumer in the established service area of David City.

*Applicable*

To any consumer whose monthly consumption equals or exceeds 10,000 Kwh or whose monthly peak demand equals or exceeds 35 Kw for three consecutive months and whose peak demand during the winter season exceeds the peak demand experienced during the preceding summer season.

*Character of Service*

A.C. 60 Hertz, single-phase or three-phase at any of the Cities standard voltages.

***Rate Effective December 19, 2012***

**Customer Service Charge - \$50.00 per month (or partial month)**

**Demand Charge**

<b>Summer</b>	<b>\$20.00 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$12.75 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0520 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0438 per kilowatt-hour used</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Rate Effective December 19, 2013***

**Customer Service Charge - \$75.00 per month (or partial month)**

**Demand Charge**

<b>Summer</b>	<b>\$23.00 per kilowatt of maximum billing demand</b>
<b>Winter</b>	<b>\$13.00 per kilowatt of maximum billing demand</b>

**Energy Charge**

<b>Summer</b>	<b>\$0.0520 per kilowatt-hour used</b>
<b>Winter</b>	<b>\$0.0485 per kilowatt-hour used</b>

**Subject to Application of Production Cost Adjustment (PCA)**

***Minimum Bill***

**The minimum bill per month shall be the customer charge or the billing demand charge, whichever is greater.**

***Determination of Billing Demand***

The maximum demand for any billing period shall be the larger of: The highest integrated kilowatt load registered on the meter during any thirty (30) minute period occurring in the billing period; or fifty four percent (54%) of the highest kilowatt demand registered on the meter during the preceding months of June, July, August, or September.

***Seasonal Billing Periods***

Summer - Summer period is for the meter readings obtained during the four month period of May 19<sup>th</sup> through September 19<sup>th</sup>.

Winter - Winter period is for the meter readings obtained during the eight month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

*Terms of Payment*

Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a week-end, customers will be given the following regular business day. A ten percent (10%) penalty is imposed on all delinquent bills.

*Power Factor Adjustment*

The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test that the power factor at the time of the Customer's peak load is less than 90%, the Utility Department, at its option, may correct the power factor of the Customer's load at the expense of the Customer.

*Fluctuating Loads*

Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and X-ray machines, shall be required to isolate these loads from the balance of the electric system if they unduly interfere with service on the lines. The customer shall be required to pay all non-betterment costs for corrective equipment to eliminate the interference.

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**CUSTOMER OWNED GENERATION EXCESS POWER RATE**

- A) Availability - To a customer signing an Interconnection Agreement with the Electric Department and who owns and operates cogeneration and small power production facilities with production capacity of 100 kW and less that qualify under the guidelines for implementing PURPA Sections 201 and 210 and as outlined in the Electric Department's Policy and Guideline for Customer Owned Generation.
- B) Character of Service – Unless otherwise provided by in the interconnection agreement, the character of purchased power will be single or three phase alternating electric current of 60 hertz. Voltage shall be determined by the voltage of the Electric Department's distribution system in the vicinity unless otherwise agreed.
- C) Purchase Of Output From Qualifying Facilities – Owners of qualifying Facilities will be allowed the option to either (1) sell the entire electrical output to their Qualifying Facilities to the Electric Department, or (2) use the electrical output of their Qualifying Facilities to instantaneously supply all or a portion of their own load and sell the instantaneous surplus to the Electric Department.
- D) Purchase Price – Energy from qualifying facilities will be paid for on the following basis:

- (1) For Qualifying Facilities of 100 kW and less without time-of-day metering, payment on a monthly basis of an amount of \$0.0295 per kilowatt hour for the summer season and \$0.0216 per kilowatt hour for the winter season for all power and/or energy delivered to the Electric Department.
- (2) The purchase price shall be adjusted up or down to reflect the savings or costs resulting from variations in losses compared to if the Electric Department had generated or purchased elsewhere an equivalent amount of energy. Such an adjustment factor shall be identified in the Interconnection Agreement.

E) Accounting Charge – The owner of the Qualifying Facility will pay to the Electric Department the following monthly charges for additional energy accounting expenses incurred by the Electric Department:

(1) kWh Meter	\$4.00 per meter
(2) Interval Meter	\$20.00 per meter



Section 2. **RATE MODIFICATION**: Whereas the rates offered to the customer by the City is based upon the current rate being paid by the City to its wholesale supplier, the City shall reserve the right, during the term of the rates, to adjust said rates to the consumer by an amount not to exceed two (2) mills per kilowatt hour greater than the adjustment to the City by its wholesale supplier.

Section 4. That all rates in Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. This ordinance shall be published in pamphlet form and all rates included in this Ordinance shall be effective as of July 19, 2022. (The usage from December 19<sup>th</sup> through January 18<sup>th</sup> will be billed on these rates).

PASSED AND ADOPTED this 13<sup>th</sup> day of July, 2022

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Mayor Alan Zavodny

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City Clerk Tami Comte

Council member Pat Meysenburg made a motion to approve the estimate for mini blinds for the new City Office from Neujahr Home Center. Council Member Jessica Miller seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea Yea: 6, Nay: 0

Neujahr Home Center  
470 N 5th Str  
David City, NE 68632  
402-367-6169

City Office  
Window Blinds  
  
6-30-2022

ESTIMATE

Aluminum Mini Blinds 5 Main floor/east side windows	\$968.13
Installation	\$250.00
Tax	\$72.61
TOTAL	\$1290.74
Optional: 3 Inside windows/conference room	\$352.89
Installation	\$100.00
Tax	\$26.47
TOTAL	\$479.36
TOTAL-8 Blinds/Installation/Tax	\$1770.10

Thanks!

Mayor Zavodny stated that the next item on the agenda was discussion concerning the sidewalks on the south side of "O" Street.

Council member Kevin Woita said, "At the pre-construction meeting there were a couple of citizens that raised concerns about the placement of the sidewalk on the south side of the street, mainly between 5<sup>th</sup> and 6<sup>th</sup> Streets. Jerry Oborny was one of them that was concerned about how close the sidewalk would be to his house. He doesn't want anybody walking along tapping on his windows. The next one's were Eller's concerning their bushes. We think that the sidewalk was going to go right where the bushes are. Greg, are you taking out your bushes?"

Greg Eller said, "I cut them down. I was planning on moving them if I have to. I'm just saying that the sidewalk is probably going to be within twelve feet of my house. I think a lot of the houses on that south side – it's going to squeeze everybody's property."

Mayor Alan Zavodny said, "You're being very diplomatic. I've had people come up to me and say 'Where in the heck are you putting the sidewalk?' because you're trying to fit something that is three feet wide in a four feet wide area. Solutions?"

Council member Kevin Woita said, "I said at the meeting that I would bring it up to the Council and we would decide what we wanted to do and how we wanted to approach this."

Jerry Oborny said, "Where is the placement? Is it on the north side of the power poles or will it be on the south side of the power poles?"

Council member Pat Meysenburg said, "They almost have to go on the north side of the power poles."

Council member Kevin Woita said, "I thought they were five feet from the curb."

Jerry Oborny said, "They said they were seven feet from the curb."

Council member Kevin Woita said, "Sixteen feet from the middle of the road was the curb and then it's seven?"

Jerry Oborny said, "Seven feet to the sidewalk and then a five foot sidewalk, so my concern is do we need seven feet in there? Can we cut that back to four feet?"

Mayor Alan Zavodny said, "What's the magic to being that far off of the traffic, or what?"

Council member Kevin Woita said, "Yeah. They were concerned about blading the snow and it all ends up on the sidewalk and becomes a hazard."

Council member Bruce Meysenburg said, "It's going to anyway. On a normal sidewalk they throw it out there that far."

Council member Kevin Woita said, "That is true."

Jackie Hazen introduced herself and said, "When they plow the snow, most of the time it mostly goes on the north side of the street anyway. They go from west to east and they plow it and it all goes north most of the time."

Mayor Alan Zavodny said, "It doesn't take much looking over there to see that we are in a pretty confined area and I would say that I wouldn't want a sidewalk right next to my house either where people are walking potentially or hearing them laughing at two in the morning."

Council member Kevin Woita said, "The question was also brought up did the Council decide on putting the sidewalk in or is this a plan that Olsson came up with and the Council agreed with it?"

Mayor Alan Zavodny said, "I don't think we ever discussed the sidewalk issue here."

Council member Bruce Meysenburg said, "Just vaguely."

Council member Kevin Woita said, "It does not go from east to west."

Council member Jessica Miller said, "It was discussed to put it in the plans, but we've never seen the plans."

Interim City Administrator/City Clerk-Treasurer Tami Comte said, "The Council discussed putting in sidewalks but then Olsson came up with the south side because it won't work on the north with drainage."

Mayor Alan Zavodny said, "It's not ideal. I'll tell you that right now."

Council member Kevin Woita said, "I agree."

Council member Tom Kobus said, "Don't put them in then."

Council member Kevin Woita said, "I think it's going to cause more trouble down the road than it's worth."

Mayor Alan Zavodny said, "Worst case scenario is that you have what you have now. This happens in town where there are sidewalks, where are people walking?"

Council member Bruce Meysenburg said, "On the street, yeah."

Mayor Alan Zavodny said, "That's where people go. I see them walking up and down "O" Street all the time."

Council member Jessica Miller said, "I'll be devil's advocate here because pushing wheelchairs, I choose the streets that have sidewalks. It's not always available to do and then we take the street because you have no other option."

Council member Pat Meysenburg said, "Then we're back to people saying, 'if they don't have to have sidewalks on "O" Street then why do I have to put them in?'"

Council member Jessica Miller said, "I would really like a nice walking path in town, an extension where you can get to the ballfields and the soccer fields and to Stop Inn just by walking on a nice path. A bike path, or a roller blading path or a wheelchair path."

Mayor Alan Zavodny said, "That's actually a very good idea. I know that it's been kicked around but it never goes anywhere. I have a hard time forcing this issue when it probably creates more problems than it solves."

Council member Jessica Miller said, "Absolutely. But, I also cringe when I see those kids riding their bikes to Family Dollar."

Mayor Alan Zavodny said, "Your point is well taken. You're not fixing that issue."

Keith Marvin introduced himself and said, "I haven't seen the plans. Is the drainage going to go underground or is it going to be a ditch out in front?"

It was determined that the drainage would be a ditch in that area.

Mayor Alan Zavodny said, "This has been a problem forever and you don't have to look very far because the water coming down is starting to undermine "O" Street in my ditch right now and all the water coming from Silver Drive really needs a drop inlet and a pipe if you want to handle it right. That's not a possibility because you'll never get to your mains then. We have to separate all of those things anyway. We don't have good solutions here. If you were going to ask where I would side, I side with Jerry. I certainly think that putting a sidewalk in an area where you don't have the room for it and you are right up against his house makes no sense."

Jerry Oborny said, "I live on the corner of 5<sup>th</sup> and "O" Street and there are sidewalks along 5<sup>th</sup> Street on both sides. I even extended the sidewalk at my place and I want to put a sidewalk out to 5<sup>th</sup> Street in front of my house. I watch the people and the kids come from Jan and Dan's store and they'll walk down the street. They will not walk the sidewalks. They will walk right down 5<sup>th</sup> Street. My wife and I see it every day. To me, I don't see where we're going to benefit putting that sidewalk there."

Council member Jessica Miller said, "I agree with you to that extent too, but also having clients that we push in wheelchairs and a lot of streets have the curbs. So, a lot of times we have to take the street because going up and down with wheelchairs to get over those curbs and it's hard."

Mayor Alan Zavodny said, "They would be cut to where they meet the sidewalks."

Council member Jessica Miller said, "But, I'm saying with the sidewalks that we do have now to utilize them efficiently when you have strollers and wheelchairs, you can't because of the curbs."

Mayor Alan Zavodny said, "Here's the compromise and the only solution that we have. I think that if we are able to widen "O" Street the best we can, what we are doing is improving a situation where traffic can still go and people can get way to one side facing it and basically you've created a walking space within your roadway. It's not perfect but it's better than putting in sidewalks that people probably aren't going to use anyway. I remember Greg's dad being there and those bushes have been there longer than I've been alive. I think if we widen the street and make it walkable."

Dan Sypal introduced himself and said, "One thing that was brought up and we were also at the meeting and somebody questioned about having sidewalks and they said they had to put it in the plan because they wanted to provide pedestrian access without being on the street and they had to put it in the plan and make it sustainable. That was what he mentioned when somebody asked him why and he said it was a safety factor for pedestrians who had to walk along "O" Street. That was their argument for putting them in."



Mayor Alan Zavodny said, "That makes sense. Logistically, the reality is that you don't have the room to do it. I think make the road as wide as it can be and put in the curbs and do the cuts so they can head north and south if they want to and I think that it's a compromise that we make."

Dan Sypal said, "One thing that they did say was that they were going to have them come from our store across Boss' property that they rent from us to 5<sup>th</sup> Street and take the sidewalks and connect them with 5<sup>th</sup> Street going back downtown. I said that was great to keep people off that area of parking. Maybe they will at least take that off of the street and that's fine and we have no problem with that."

Jerry Oborny said, "I wouldn't be opposed to when they put the street in if they would extend my sidewalk to the north to "O" Street so people could have a ramp and they could use that sidewalk going south on 5<sup>th</sup> Street."

Council member Pat Meysenburg said, "All of those are going to be extended."

Council member Kevin Woita said, "I don't think there are sidewalks on 7<sup>th</sup> Street going south. 6<sup>th</sup> Street does have them."

Mayor Alan Zavodny said, "We have what we have to work with. People are going to continue to use them the way they have. When you choose to walk in the street, to some extent, you are accepting that risk. Without asking Tim or David a question that I don't want the answer to what's the liability of fifty years from now that it's the City's fault because they should have had sidewalks there. Where are you going to put them? People assume that risk, I think, to some extent choosing to go that path. They can go down a block and not be on "O" Street. At least, that would be my non-legal defense."

Interim City Administrator/City Clerk-Treasurer Tami Comte said, "So, if we don't want to do this we'll need a change order from Olsson."

Mayor Alan Zavodny said, "Yes. On an upcoming agenda request a change order to take the sidewalk piece out if that makes sense to everyone. You have between now and the time when it becomes an official agenda item to address that."

Mayor Zavodny stated that the next item on the agenda was consideration of an agreement with Olsson to provide "O" Street construction phase services.

Mayor Alan Zavodny said, "Does taking the sidewalks out change this because it's going to be modified some. Is it going to be the end of the world if we table this and move it down two weeks?"

Keith Marvin said, "You're not going to take action on removing that for two weeks so if someone comes up with a solution that works then you would never have that change order. You're going to have to have construction services regardless but maybe eliminating sidewalk review."

Mayor Alan Zavodny said, "We haven't defined what we're constructing, per se, totally because that is a fairly major change. By signing this agreement you are agreeing to these prices as laid out here. Maybe if they don't have to design a sidewalk we might save some money. I don't know. What we should do is have a contract that conveys what we're hoping to

do. So, what we need to do is at the next meeting put sidewalks and then the next thing is approve an agreement with Olsson's. That would seem to be the most prudent procedure."

Council member Kevin Woita made a motion to table an agreement with Olsson to provide "O" Street construction phase services. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Pat Meysenburg made a motion to approve Contract Amendment #1 with Garver, LLC to amend the Airport Layout Plan to accommodate Frontier Coop's expansion. Council Member Kevin Woita seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea Yea: 6, Nay: 0

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**AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES**

City of David City  
David City, Nebraska  
AIP 3-31-0025-014-2021  
Project No. 20A14400

**CONTRACT AMENDMENT NO. 1**

This Contract Amendment No. 1 ("Amendment"), effective on the date last written below, shall amend the original contract between the City of David City (Owner) and Garver, LLC (Garver), dated April 28, 2021, referred to in the following paragraphs as the "Agreement."

This Amendment adds professional services and fee for the David City Municipal Airport Airport Layout Plan with Narrative Report.

The Agreement is hereby modified as follows:

**SECTION 3 – PAYMENT**

The following language is amended in Section 3 of the Agreement:

**3.1. Fee.**

For the services described under section 2.1, Owner will pay Garver in accordance with this Section 3, Appendix B and Appendix B-1. Owner represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms in this agreement.

**APPENDIX A – ELEMENT 5 – AIRPORT ALTERNATIVES**

The following task is added to Appendix A, Element 5 of the Agreement:

**Task 5.6 – Additional Alternative Development and Preferred Alternative Revisions**

An additional alternative will be developed and the preferred alternative will be revised to accommodate an aerial applicator development proposed after the submittal of working paper #2. This task includes coordination between Garver, Owner, the aerial applicator company to determine a preferred location and integrate this into the preferred alternative. Garver will develop a single alternative exhibit, revise the preferred alternative exhibit, and make additions to the working paper to document the additional considerations.

The proposed development includes a single box hangar and loading pad south of the existing T-Hangar. Proposed T-Hangars shall be relocated south of the aerial applicator development.

Project invoicing will be updated to document non-AIP eligible costs.



Terms and conditions of the Agreement not modified herein remain unchanged and in full force and effect.


This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Owner and Garver have executed this Amendment effective as of the date last written below.

City of David City

GARVER, LLC

By: \_\_\_\_\_  
*Signature*

By:  \_\_\_\_\_  
*Signature*  
Digitally signed by Mark E. Williams  
Date: 2022.07.11  
16:45:05'00

Name: \_\_\_\_\_  
*Printed Name*

Name: Mark E. Williams, PE  
*Printed Name*

Title: \_\_\_\_\_

Title: Midwest Aviation Leader

Date: \_\_\_\_\_

Date: July 11, 2022

Attest: \_\_\_\_\_

Attest:  \_\_\_\_\_

**Appendix B-1**

**City of David City, NE  
Airport Layout Plan with Narrative**

**FEE SUMMARY**

<b>Planning Services</b>	<b>Estimated Fees</b>
Additional Alternative	\$ 7,609.33
<b>Subtotal for Planning Services</b>	<b>\$ 7,609.33</b>

**Appendix B-1**

**City of David City, NE  
 Airport Layout Plan with Narrative**

**ADDITIONAL ALTERNATIVE**

WORK TASK DESCRIPTION	E-6	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$99.71 hr	\$62.00 hr	\$56.31 hr	\$60.70 hr	\$48.28 hr	\$37.43 hr	\$31.19 hr	\$29.25 hr
<b>5.8 Preferred Alternative Revisions</b>								
Client Coordination	1		6					
FAA & Aeronautics Coordination			2					
Alternative #4 Development			2		4			20
Preferred Alternative Exhibit Revisions					2			8
Working Paper #2 Revisions					8			
Quality Control Review			1	1				
<b>Subtotal - Preferred Alternative Revisions</b>	<b>1</b>	<b>0</b>	<b>11</b>	<b>1</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>28</b>
<b>Hours</b>	<b>1</b>	<b>0</b>	<b>11</b>	<b>1</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>28</b>
<b>Salary Costs</b>	<b>\$99.71</b>	<b>\$0.00</b>	<b>\$619.41</b>	<b>\$60.70</b>	<b>\$675.92</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$819.00</b>
<b>SUBTOTAL - SALARIES:</b>			<b>\$2,273.74</b>					
<b>LABOR AND GENERAL          ADMINISTRATIVE OVERHEAD (181.01%):</b>			<b>\$4,343.07</b>					
<b>DIRECT NON-LABOR EXPENSES</b>								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Courier	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
<b>SUBTOTAL - DIRECT NON-LABOR EXPENSES:</b>			<b>\$0.00</b>					
<b>SUBTOTAL:</b>			<b>\$8,616.81</b>					
<b>SUBCONSULTANTS FEE:</b>			<b>\$0.00</b>					
<b>PROFESSIONAL FEE (16%):</b>			<b>\$992.62</b>					
<b>TOTAL FEE:</b>			<b>\$7,809.33</b>					

Council member Pat Meysenburg made a motion to adjourn. Council Member Bruce Meysenburg seconded the motion. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:25 p.m.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

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CERTIFICATION OF MINUTES

July 27, 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 July 27, 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.

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Tami Comte, City Clerk