

CITY COUNCIL PROCEEDINGS

January 11, 2023

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 490 "E" Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 5th, 2023, 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 Jessica Miller, Council President Bruce Meysenburg, Council members Kevin Woita, Pat Meysenburg, Tom Kobus, City Attorney David Levy, Interim City Administrator/City Clerk Tami Comte, and Deputy Clerk Lori Matchett. Council member Keith Marvin was absent.

Also present for the meeting were: Water Operator In Charge Dan Sobota, Water Department employee Anthony Kobus, Special Projects Coordinator Dana Trowbridge, David McPhillips, Jan Sypal, Joan Prescott, Ruth Thoendel, Jerry Oborny, Bradlee Carls, Alyssa Ledon, Mark Pleskac, Gerry Hazen and Sheriff Tom Dion.

The meeting opened with the Pledge of Allegiance.

Mayor Jessica Miller informed the public of the "Open Meetings Act" posted on the west wall of the meeting room and asked those present to please silence their cell phones. She 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.

Mayor Jessica Miller stated that there were two candidates for 1st Ward Council member and she is putting forth James Angell as her appointment to fill her unexpired term.

Council member Bruce Meysenburg made a motion to approve the appointment of James Angell as 1st Ward Council member. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 1

City Attorney David Levy administered the oath of office to 1st Ward Council member James Angell and he was seated.

Council member Pat Meysenburg made a motion to approve the minutes of the December 14, 2023 meetings as presented. Council Member Kevin Woita seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to approve the claims as presented. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Tom Kobus made a motion to approve the committee and officers' reports as presented. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Kevin Woita made a motion to approve change order #4 for a time extension request and pay estimate #6 for M.E. Collins Contracting Co., Inc. in the amount of \$443,793.80. Council Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

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CHANGE ORDER

No. 4



Date of Issuance: December 22, 2022 Effective Date: December 22, 2022

Project: Municipal Paving Improvements, David City, Nebraska	Owner: City of David City	Owner's Contract No.:
Contract: Municipal Paving Improvements Base Bid		Date of Contract: 06/22/2022
Contractor: M.E. Collins Contracting Co., Inc.		Engineer's Project No.: 021-07066

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Time extension request.

Attachments: (List documents supporting change): None.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>1,848,434.00</u>	Original Contract Times: Substantial Completion (days or date): <u>December 31, 2022</u> Ready for Final Payment (days or date): <u>April 30, 2023</u>
Increase from previously approved Change Orders No. <u>0</u> to No. <u>3</u> ; \$ <u>56,350.00</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>3</u> ; Substantial Completion (days or date): <u>N/A</u> Ready for Final Payment (days or date): <u>N/A</u>
Contract Price prior to this Change Order: \$ <u>1,904,784.00</u>	Contract Times prior to this Change Order: Substantial Completion (days or date): <u>December 31, 2022</u> Ready for Final Payment (days or date): <u>April 30, 2023</u>
[Increase] [Decrease] of this Change Order: \$ <u>00.00</u>	Increase of this Change Order: Substantial Completion (days or date): <u>April 30, 2023</u> Ready for Final Payment (days or date): <u>May 15, 2023</u>
Contract Price incorporating this Change Order: \$ <u>1,904,784.00</u>	Contract Times with all approved Change Orders: Substantial Completion (days or date): <u>April 30, 2023</u> Ready for Final Payment (days or date): <u>May 15, 2023</u>

RECOMMENDED: Olsson	ACCEPTED: City of David City	ACCEPTED: M.E. Collins Contracting Co., Inc.
By: <u></u> Engineer (Authorized Signature)	By: _____ Owner (Authorized Signature)	By: <u></u> Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: _____	Title: <u>V.P.</u>
Date: <u>12/22/2022</u>	Date: _____	Date: <u>12/23/22</u>
Approved by Funding Agency (If applicable):		
By: _____	Title: _____	Date: _____

CERTIFICATE OF PAYMENT: 6



Date of Issuance: December 28, 2022

Project: Municipal Paving Improvements, David City, Nebraska - 2022

Project No.: 021-07066

Contractor: M.E. Collins Contracting Co., Inc.

DETAILED ESTIMATE		
Description	Unit Price	Extension
See Attached.		
PLEASE REMIT PAYMENT TO: M.E. Collins Contracting Co., Inc.		

Value of Work Completed This Request: \$428,183.25

Original Contract Cost: \$1,848,434.00

Approved Change Orders:

No. 1	<u>\$0.00</u>
No. 2	<u>\$47,250.00</u>
No. 3	<u>\$9,100.00</u>

Total Contract Cost: \$1,904,784.00

Value of completed work and materials stored to date \$1,475,745.75

Less retainage percentage 6% \$92,421.70

Net amount due including this estimate \$1,383,324.05

Less: Estimates previously approved:

No. 1	<u>\$9,064.80</u>	No. 3	<u>\$116,932.09</u>	No. 5	<u>\$543,937.23</u>
No. 2	<u>\$189,875.93</u>	No. 4	<u>\$79,720.20</u>	No. 6	<u>\$0.00</u>

Total Previous Estimates: \$939,530.25

NET AMOUNT DUE THIS ESTIMATE: \$443,793.80

The undersigned hereby certifies, based upon periodic observations as set forth in scope of work and the data included in all applicable payment applications that, to the best of its knowledge, information and belief: (1) the work has progressed as indicated in the applicable payment applications; (2) the work performed and materials delivered by Contractor are in conformance with the plans and specifications; and (3) the Contractor, in accordance with the contract, is entitled to payment as indicated above.

This certification does not constitute a warranty or guarantee of any type. Client shall hold its Contractor solely responsible for the quality and completion of the Project, including construction in accordance with the construction documents. Any duty or obligation of Olsson hereunder is for the sole benefit of the Client and not for any third party, including the Contractor or any Subcontractor.

cc: City of David City - Owner
 M.E. Collins Contracting Co., Inc.
 Project File

OLSSON

By: 



PROGRESS ESTIMATE

Date: 16-Dec-22

Project: MUNICIPAL PAVING IMRP DAVID CI

Collins Project No: 222630

To: [City of David City](#)

Contractor Estimate No.: 6

Attn: [Olsson - Dave Ziska](#)

Original Contract Amount: \$ 1,848,434.00

Item	Description	Contract Qty	Qty To Date	Unit Price	Amount
1	MOBILIZATION/DEMobilIZATION	1 LS	0.75	\$ 92,857.00	\$ 69,642.75
2	BUILD 8" CONCRETE PAVEMENT W/INTI	12166 SY	9,575.00	\$ 73.00	\$ 698,975.00
3	BUILD 6" CONCRETE DRIVEWAY	801 SY	625.00	\$ 71.00	\$ 23,075.00
4	BUILD 4" CONCRETE DRIVEWAY	1370 SY	625.00	\$ 57.00	\$ 35,625.00
5	BUILD CONCRETE OUTFALL	104 SY	0.00	\$ 67.00	\$ -
6	DETECTABLE WARNING PANEL	180 SF	0.00	\$ 51.00	\$ -
7	BUILD 3" CRUSHED ROCK DRIVEWAY	34.4 TON	0.00	\$ 61.00	\$ -
8	BUILD AREA INLET	8 EA	7.00	\$ 3,933.00	\$ 27,531.00
9	BUILD CURB INLET	8 EA	0.00	\$ 5,892.00	\$ -
10	BUILD STORM SEWER MANHOLE	11 EA	11.00	\$ 6,639.00	\$ 73,029.00
11	BUILD CONCRETE COLLAR	1 EA	1.00	\$ 3,976.00	\$ 3,976.00
12	BUILD 18" FES	2 EA	1.00	\$ 1,234.00	\$ 1,234.00
13	BUILD 24" RE FES	13 EA	14.00	\$ 1,423.00	\$ 19,922.00
14	BUILD STORM SEWER TAP	1 EA	1.00	\$ 4,104.00	\$ 4,104.00
15	INSTALL 15" STORM SEWER PIPE	459 LF	459.00	\$ 64.00	\$ 29,376.00
16	INSTALL 18" STORM SEWER PIPE	2293 LF	2,293.00	\$ 67.00	\$ 153,631.00
17	INSTALL 24" RE STORM SEWER PIPE	190 LF	206.00	\$ 133.00	\$ 27,398.00
18	BUILD FIRE HYDRANT ASSEMBLY	2 EA	0.00	\$ 7,799.00	\$ -
19	RECONSTRUCT 1" WATER SERVICES	1 EA	0.00	\$ 285.00	\$ -
20	12" WATER MAIN LOWERING	1 EA	0.00	\$ 7,692.00	\$ -
21	4" WATER MAIN LOWERING	1 EA	0.00	\$ 3,479.00	\$ -
22	ADJUST FIRE HYDRANT TO GRADE	2 EA	0.00	\$ 1,122.00	\$ -
23	ADJUST VALVE TO GRADE	7 EA	5.00	\$ 432.00	\$ 2,160.00
24	ADJUST CURB STOP TO GRADE	5 EA	0.00	\$ 484.00	\$ -
25	ADJUST MANHOLE TO GRADE - TYPE 1	5 EA	4.00	\$ 315.00	\$ 1,260.00
26	ADJUST MANHOLE TO GRADE - TYPE 2	2 EA	1.00	\$ 420.00	\$ 420.00
27	REMOVE PAVEMENT	7663 SY	7,500.00	\$ 11.00	\$ 82,500.00
28	REMOVE DRIVEWAY	664 SY	500.00	\$ 21.00	\$ 10,500.00
29	REMOVE SIDEWALK	70 SY	20.00	\$ 21.00	\$ 420.00
30	REMOVE STORM SEWER PIPE	1155 LF	1,155.00	\$ 12.00	\$ 13,860.00

31 REMOVE FES	2 EA	2.00	\$ 308.00	\$ 616.00
32 REMOVE & SALVAGE FIRE HYDRANT	2 EA	0.00	\$ 1,283.00	\$ -
33 REMOVE FENCE	442 LF	442.00	\$ 8.00	\$ 3,536.00
34 REMOVE TREE	3 EA	5.00	\$ 2,731.00	\$ 13,655.00
35 REMOVE & RESET MAILBOX	15 EA	7.00	\$ 525.00	\$ 3,675.00
36 SEEDING	10140 SY	0.00	\$ 1.70	\$ -
37 INLET SEDIMENT FILTER	9 EA	9.00	\$ 281.00	\$ 2,529.00
38 EROSION CONTROL MAT, CLASS 1D	2468 SY	0.00	\$ 2.20	\$ -
39 BUILD FABRIC SILT FENCE	731 LF	0.00	\$ 6.00	\$ -
40 GENERAL CLEARING & GRUBBING	1 LS	1.00	\$ 7,159.00	\$ 7,159.00
41 EARTHWORK	1 LS	1.00	\$ 36,347.00	\$ 36,347.00
42 OVER-EXCAVATION	5900 CY	5,900.00	\$ 5.00	\$ 29,500.00
43 IMPORT	4100 CY	4,100.00	\$ 12.00	\$ 49,200.00
C/O 3 Water Main Taps	3.00 EA	3.00	15,750.00	\$ 47,250.00
C/O Water Restraints & Fence Installation	1.00 LS	0.40	\$ 9,100.00	\$ 3,640.00

<i>Previous Requested Amounts:</i>	TOTAL EARNED TO DATE:	\$ 1,475,745.75
Estimate #1: \$9,064.80	Retainage 10%	\$ (92,421.70)
Estimate #2: \$189,875.93	Other Deductions	\$ -
Estimate #3: \$116,932.09	NET ESTIMATE TO DATE:	\$ 1,383,324.05
Estimate #4: \$79,720.20	Less Previous Requests:	\$ 939,530.25
Estimate #5: \$543,593.02	TOTAL DUE THIS ESTIMATE:	\$ 443,793.80
Estimate #6: \$443,793.80		

Estimate Prepared by :

Amy Nisley

16-Dec-22

Council member Bruce Meysenburg made a motion to approve the appointment of Marla Schnell as a Code Enforcement Officer/Animal Control Officer. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1425 on third and final reading updating the employee's pay scale. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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ORDINANCE NO. 1425

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

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

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

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

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

SECTION 4. This ordinance shall be published in pamphlet form and shall be in full force and effect on January 24, 2023 following its passage, approval, and publication as provided by law and city ordinance.

PASSED AND APPROVED this 11th day of January, 2023.

Mayor Jessica Miller

City Clerk Tami Comte

City Council Proceedings
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<u>Department</u>											
<u>Position</u>	1	2	3	4	5	6	7	8	9	10	
<u>City Hall</u>											
Clerical I	\$13.88	\$14.41	\$14.92	\$15.43	\$15.96	\$16.46	\$16.98	\$17.49	\$18.01	\$18.53	
Acct Clerk I	\$19.86	\$20.42	\$20.97	\$21.52	\$22.06	\$22.61	\$23.16	\$23.70	\$26.26	\$24.80	
Acct Clerk II	\$23.70	\$24.51	\$25.29	\$26.10	\$26.89	\$27.69	\$28.48	\$29.29	\$30.07	\$30.88	
(incl .50/hr if CMC; Ord. 1192)	\$24.20	\$25.01	\$25.79	\$26.60	\$27.39	\$28.19	\$28.98	\$29.79	\$30.57	\$31.38	
<u>Power Plant</u>											
Power Plant Op I	\$23.88	\$24.85	\$25.84	\$26.81	\$27.79	\$28.77	\$29.74	\$30.71	\$31.70	\$32.67	
Power Plant Supervisor	\$33.91	\$35.01	\$36.10	\$37.20	\$38.28	\$39.38	\$40.45	\$41.55	\$42.64	\$43.74	
<u>Electric</u>											
Apprentice Lineman	\$23.72	\$24.49	\$25.25	\$26.02	\$26.78	\$27.55	\$28.32	\$29.08	\$29.85	\$30.61	
Lineman 2nd Class	\$26.39	\$27.04	\$27.68	\$28.33	\$28.98	\$29.64	\$30.28	\$30.92	\$31.57	\$32.22	
Lineman 1st Class	\$31.19	\$31.99	\$32.78	\$33.60	\$34.39	\$35.20	\$35.99	\$36.79	\$37.58	\$38.39	
Line Foreman	\$36.80	\$37.45	\$38.11	\$38.76	\$39.42	\$40.07	\$40.73	\$41.36	\$42.02	\$42.67	
Electric Supervisor	\$41.10	\$42.07	\$43.02	\$43.98	\$44.95	\$45.90	\$46.86	\$47.82	\$48.78	\$49.74	
<u>Water/Wastewater</u>											
Water/Wastewater Operator I	\$21.51	\$22.23	\$22.93	\$23.65	\$24.37	\$25.08	\$25.80	\$26.52	\$27.23	\$27.95	
Water/Wastewater Operator II	\$25.27	\$25.91	\$26.57	\$27.22	\$27.86	\$28.53	\$29.17	\$29.82	\$30.48	\$31.13	
Water Field Supervisor	\$25.34	\$25.99	\$26.62	\$27.26	\$27.90	\$28.54	\$29.17	\$29.82	\$30.45	\$31.09	
Water Supervisor	\$31.01	\$32.04	\$33.07	\$34.10	\$35.13	\$36.16	\$37.18	\$38.22	\$39.24	\$40.28	
Wastewater Supervisor	\$30.19	\$31.17	\$32.16	\$33.13	\$34.12	\$35.10	\$36.08	\$37.05	\$38.03	\$39.10	
<u>Street</u>											
Maintenance Worker I	\$19.08	\$20.31	\$20.79	\$21.30	\$21.79	\$22.30	\$22.79	\$23.30	\$23.79	\$24.30	
Maintenance Worker II	\$21.28	\$21.83	\$22.37	\$22.91	\$23.45	\$23.99	\$24.53	\$25.07	\$25.62	\$26.16	
Street Foreman	\$24.97	\$25.51	\$26.04	\$26.58	\$27.11	\$27.65	\$28.18	\$28.72	\$29.24	\$29.77	
Street Supervisor	\$28.92	\$29.70	\$30.49	\$31.27	\$32.05	\$32.84	\$33.63	\$34.41	\$35.19	\$35.97	
<u>Parks</u>											
Park Laborer	\$18.48	\$19.13	\$19.79	\$20.44	\$21.09	\$21.75	\$22.40	\$23.05	\$23.70	\$24.36	
Parks & Auditorium Supervisor	\$21.73	\$22.47	\$23.21	\$23.95	\$24.68	\$25.45	\$26.19	\$26.92	\$27.66	\$28.40	
<u>Recreation</u>											
Recreation Coordinator	\$23.55	\$24.30	\$25.05	\$25.83	\$26.58	\$27.33	\$28.08	\$28.84	\$29.59	\$30.34	
Recreation Director	\$26.94	\$27.64	\$28.36	\$29.06	\$29.78	\$30.50	\$31.20	\$31.91	\$32.63	\$33.34	
<u>Part-Time</u>											
Part-Time Workers	\$15.34	\$15.75	\$16.15	\$16.55	\$16.97	\$17.38	\$17.79	\$18.20	\$18.60	\$19.01	
Summer Help	\$11.09	\$11.70	\$12.32	\$12.94	(No more than 4 steps)						
Salaried Staff Pay Plan (Annual Rate of Pay)											
<u>Position</u>			Minimum		Mid-Point		Maximum				
Clerk/Treasurer			\$71,086		\$84,291		\$97,396				

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.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1426 on third and final reading selling the building at 557 N. 4th Street. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

ORDINANCE NO. 1426

AN ORDINANCE TO CONFIRM THE SALE OF PROPERTY LEGALLY DESCRIBED AS THE 19 15 3 DAVID CITY LOTS 5 & 6, BLOCK 19, ORIGINAL TOWN OF DAVID CITY, BUTLER COUNTY, NEBRASKA TO SARAH NEUJAHN, DBA STUDIO 343, FOR THE PURCHASE PRICE OF ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00) PLUS CLOSING COSTS; TO REPEAL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE THEREOF.

BE IT ORDERED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA.

SECTION 1: Resolution #27-2022 was passed by the City Council approving sale for the following described real estate, to-wit:

19 15 3 DAVID CITY LOTS 5 & 6 BLK 19 ORIG TOWN (CITY OFFICE) 557 N. 4th STREET, DAVID CITY, NE

hereinafter the "Premises".

SECTION 2: The appropriate publication of notice of the proposed sale has been completed.

SECTION 3: The appropriate passage of the thirty-day (30) right-of-remonstrance period has passed.

SECTION 4: The City Council did accept the offer of SARAH NEUJAHN, DBA STUDIO 343, for the purchase price of ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00) PLUS CLOSING COSTS, at the City Council Meeting held November 9, 2022, with appropriate public notice.

SECTION 5: Sale of the Premises is hereby confirmed, by the Mayor and City Council, to, SARAH NEUJAHN, DBA STUDIO 343 for the purchase price of ONE HUNDRED

THOUSAND DOLLARS AND NO CENTS (\$100,000.00) PLUS CLOSING COSTS.

SECTION 6: The terms of the sale are contained in a Purchase Agreement attached hereto, marked Exhibit "A", and incorporated herein by reference as if fully set forth.

SECTION 7: The Mayor and City Clerk may take all actions and execute all documents necessary to complete the sale of the Premises consistent with Resolution #27-2022, this Ordinance, the Purchase Agreement and applicable law.

SECTION 8: That any other Ordinances or parts of Ordinances passed and approved prior to the passage, approval, and publication of this Ordinance and in conflict within provisions are hereby repealed.

SECTION 9: This Ordinance stated shall take effect and be in full force and effect immediately after its passage, approval, and publication as required by law and City Ordinance.

PASSED AND ADOPTED this 11th day of January, 2023.

Mayor: JESSICA J. MILLER

ATTEST:

City Clerk: TAMI L. COMTE

(SEAL)

Council member Pat Meysenburg made a motion to approve the assignment of a commercial lease by RAS, Inc. f/k/a Roth Aerial Spraying Inc. to Roth Aerial Spraying, LLC. Council Member Kevin Woita seconded the motion. The motion carried.
Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

ASSIGNMENT OF COMMERCIAL LEASE

RAS, Inc., f/k/a Roth Aerial Spraying, Inc., a Nebraska Corporation (**ASSIGNOR**), hereby sells, conveys, transfers and assigns to Roth Aerial Spraying, LLC, a Nebraska Limited Liability Company (**ASSIGNEE**), all rights to a certain Commercial Lease with the City of David City, Nebraska, a Nebraska Municipal Corporation, Lessor. Said Commercial Lease is attached hereto, marked as **EXHIBIT "B"** and incorporated herein by reference as if fully set forth.

DATED: December 31, 2022.

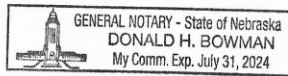
ASSIGNOR:

RAS, Inc., f/k/a Roth Aerial Spraying, Inc.

By 
David A. Roth, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing Assignment of Commercial Lease was acknowledged before me on December 31, 2022 by David A. Roth, President of RAS, Inc., f/k/a Roth Aerial Spraying, Inc., a Nebraska Corporation, Assignor.





Notary Public

ACCEPTANCE OF ASSIGNMENT

The undersigned, Roth Aerial Spraying, LLC (ASSIGNEE) hereby accepts the foregoing Assignment of Commercial Lease and agrees to assume all rights, privileges and obligations therein, and agrees to indemnify and hold Assignor, its officers, shareholders and directors harmless from all obligations thereunder.

DATED: December 31, 2022.

ROTH AERIAL SPRAYING, LLC

By  _____
Jackson D. Roth, Manager

APPROVAL OF ASSIGNMENT OF COMMERCIAL LEASE

The City of David City, Nebraska, a Nebraska Municipal Corporation, being advised of the desire of RAS, Inc., f/k/a Roth Aerial Spraying, Inc., a Nebraska Corporation, to assign the Commercial Lease marked **Exhibit "B"** attached hereto, hereby approves such Assignment of Commercial Lease by RAS, Inc., f/k/a Roth Aerial Spraying, Inc., a Nebraska Corporation, to Roth Aerial Spraying, LLC, a Nebraska Limited Liability Company, and releases Assignor from any further obligations thereunder. This approval given after duly approving the same as an Agenda Item at the City Council Meeting of said City held _____, 20_____.

CITY OF DAVID CITY, NEBRASKA, a Nebraska
Municipal Corporation

By _____
Name: _____
Title: Mayor

ATTEST:

_____, City Clerk

Ethan Joy, Engineer with JEO presented the bid tabulations for the Water Treatment Plant upgrades.

There was discussion regarding the project and the cost. It was determined that the Council would meet with Ethan Joy in small groups prior to the next Council meeting to review the project and the bids.

Council member Jim Angell made a motion to table accepting the low bid for the water plant update project. Council Member Kevin Woita seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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MEMO

To: Mayor and City Council
From: Ethan E. Joy, PE
Date: January 6, 2023
Subject: David City Water Treatment Plant Bid Results and Recommendation

Mayor and City Council Members:

The 2022 Water Treatment Plant Upgrade project was advertised, and bids were received on December 1, 2022 at 2 PM. A copy of the bid tab is attached to this memo. As a reminder, this project improves the water plant by eliminating lime softening and transitioning to Reverse Osmosis (RO) water softening along with quite a few other treatment, building, and electrical improvements to the 40 year old facility.

Unfortunately, the bids did exceed the engineer's opinion of cost. The post design opinion of cost prepared in April of 2022 was approximately \$6.6 million. Below is a summary of the bids received:

Bidder	Total Base Bid	Total Bid Alternate #1	Total Bid Alternate #2	Total Bid Alternate #3	Total Base Bid Plus Alternates
Velocity Constructors Inc. Englewood, CO	\$10,038,773.00	\$220,730.00	\$113,190.00	\$190,079.00	\$10,562,772.00
Walters-Morgan Construction, Inc. Manhattan, KS	\$10,272,800.00	\$175,000.00	\$35,000.00	\$121,808.00	\$10,604,608.00

Bid solicitations were sent to approximately 180 contractors and vendors for this project. Due to the current market conditions, only two bids were received. Feedback from various contractors indicated that the construction economy is very busy in the region and due to prior commitments, other contractors did not have capacity to bid this project. In addition, it appears it was difficult to find subcontractors for electrical, painting, and HVAC portions of the project.

These dynamics combined with the supply chain and inflationary factors in the economy has caused the project price to increase. Given that the two bids received were very close (less than 0.5% difference), this indicates that the bid prices received reflect the current project value.

JEO has not worked on a project in the past with Velocity Constructors. In our due diligence, JEO reached out to 5 of the contractor references and received 3 responses. All references were good with no major issues noted. Based upon these references, the information provided in the bid, and JEO's discussions with the contractor; JEO would recommend Velocity Constructors as a responsive, responsible bidder.

Mayor and City Council

January 6, 2023

RE: David City Water Treatment Plant Bid Results and Recommendation

Page 2 of 2

The proposed funding for the project is via the Nebraska State Revolving Loan Fund (SRF) as administered by the Nebraska Department of Environment & Energy (NDEE). JEO worked with the SRF to revise the funding offer for the city after the receipt of bids. The city is being offered loan forgiveness (grant) of 53.84% to 55.46% on the entire project (construction, engineering, & administration). Thus, the proposed grant range is approximately \$6,147,333 to \$6,332,188 with the remaining amount being a low interest loan at 1% interest for a term of 20 to 30 years. The term length will be determined by the city when the formal funding offer is accepted. A copy of the email from SRF is attached to this memo for reference to explain the loan forgiveness range.

Within the project design, JEO, in conjunction with city staff, included three alternative bids on the project.

- Bid Alternate #1 - Gravity Filter Effluent Valve Replacement: Includes work necessary to remove and replace four (4) total 18" butterfly valves and appurtenances adjacent to the gravity filters. These valves are very hard to access and are original to the water plant.
- Bid Alternate #2 - Demolish Existing Upflow Clarifier Unit: Includes removal of the old clarifier unit that will not be needed anymore due to the elimination of lime softening.
- Bid Alternate #3 - Install 6" Concrete Pavement: Includes paving the driveway and parking area of the water treatment plant instead of using gravel.

After final review of the bids, project scope, and available funding, JEO would recommend award of the base bid and all three alternatives to Velocity Constructors, LLC. Despite the high bid prices, the funding package offered to the city is very attractive and the interest rate on the loan is also very low when compared to current interest rates.

It is understood that another consultant is currently working on a water rate study for the community. Final water rates necessary to ensure adequate coverage of existing water systems costs and new debt service costs will need to be confirmed by the other consultant. However, it is anticipated that the water rates will not be excessive, especially in light of AGP starting up and being a very large water user.

Should the City of David City choose to award the project and move forward, the next steps would be a formal contract being signed with the low bidder. JEO has also had preliminary discussions with Velocity about potential value engineering items that would be able to lower the project costs, but those discussions will have to occur after award.

Thank you for the opportunity to serve the City of David City. If there are any questions or concerns about this project, please feel free to reach out to me anytime at 402.241.7409 or ejov@jeo.com.

Sincerely;



Ethan E. Joy, PE
Branch Manager



Bid Tab

PROJECT | 2022 Water Treatment Plant Upgrades, SRF Project No. D311686

JEO PROJECT NO. | 202024.00

LOCATION | David City, NE

LETTING | December 1, 2022 @ 2:00 PM

OPINION OF PROBABLE COST | \$6,660,000.00

Bidder	Total Base Bid	Total Bid Alternate #1	Total Bid Alternate #2	Total Bid Alternate #3
Velocity Constructors Inc. Englewood, CO	\$10,038,773.00	\$220,730.00	\$113,190.00	\$190,079.00
Walters-Morgan Construction, Inc. Manhattan, KS	\$10,272,800.00	\$175,000.00	\$35,000.00	\$121,808.00



Tab Sheet

PROJECT | 2022 Water Treatment Plant Upgrades, SRF Project No. D311686

JEO PROJECT NO. | 202024.00

LOCATION | David City, NE

		Velocity Constructors Inc.			Walters Morgan Construction Inc.		
BASE BID							
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total
1	Water Treatment Plant Upgrades, Complete	1	LS		\$9,891,296.00		\$10,197,000.00
2	Install Aggregate Surfacing	358	TONS	\$42.50	\$15,215.00	\$100.00	\$35,800.00
3	Final Clearwell Roof Slab Rehabilitation	100	SF	\$140.30	\$14,030.00	\$400.00	\$40,000.00
SUBTOTAL BASE BID					\$9,720,541.00		\$10,272,800.00
SALES TAX FOR MATERIALS & EQUIPMENT ON BASE BID @ 7.5% (SHOWN SEPARATELY BY OPTION 1 CONTRACTORS ONLY)					\$318,232.00		Not Applicable
TOTAL BASE BID					\$10,038,773.00		\$10,272,800.00

BID ALTERNATE #1							
Item	Description	Qty.	Unit	Unit Price	Total	Unit	Total
1	Gravity Filter Effluent Valve Replacement	1	LS		\$208,002.00		\$175,000.00
SUBTOTAL BASE BID					\$208,002.00		\$175,000.00
SALES TAX FOR MATERIALS & EQUIPMENT ON BASE BID @ 7.5% (SHOWN SEPARATELY BY OPTION 1 CONTRACTORS ONLY)					\$12,728.00		Not Applicable
TOTAL BID ALTERNATE #1					\$220,730.00		\$175,000.00

BID ALTERNATE #2							
Item	Description	Qty.	Unit	Unit Price	Total	Unit	Total
1	Demolish Existing Upflow Clarifier Unit, Complete	1	LS		\$110,797.00		\$35,000.00
SUBTOTAL BASE BID					\$110,797.00		\$35,000.00
SALES TAX FOR MATERIALS & EQUIPMENT ON BASE BID @ 7.5% (SHOWN SEPARATELY BY OPTION 1 CONTRACTORS ONLY)					\$2,393.00		Not Applicable
TOTAL BID ALTERNATE #2					\$113,190.00		\$35,000.00

BID ALTERNATE #3							
Item	Description	Qty.	Unit	Unit Price	Total	Unit	Total
1	Install 6" Concrete Pavement	1,324	SY	\$138.00	\$182,712.00	\$92.00	\$121,808.00
SUBTOTAL BASE BID					\$182,712.00		\$121,808.00
SALES TAX FOR MATERIALS & EQUIPMENT ON BASE BID @ 7.5% (SHOWN SEPARATELY BY OPTION 1 CONTRACTORS ONLY)					\$7,367.00		Not Applicable
TOTAL BID ALTERNATE #3					\$190,079.00		\$121,808.00



David City Water Treatment Plant Improvements Project – Contractor References Check

Contractor: Velocity Constructors, LLC

Who Called: Sarah Nguyen

Date: 12.14.2022

Project Experience

Meridian Lake Park Water Treatment Plant Improvements / Crested Butte, CO	
Engineer	Stantec Consulting Services Inc. / Stephanie Elliott / 303.758.4058
General Opinion	Project was done in 2017/2018. Good contractor.
Performance	Did well, no poor comments
Competency	Did well with installations
Schedule / Time Management	On schedule, some delays from weather.
Change Orders	Few change orders, some tension to go through change orders. Relatively responsive.
Wastewater Treatment Plant Headworks Improvements / Gillette, WY	
Engineer	HDR / DelRon Peters / 605.977.7745
General Opinion	\$15 mill. – top edge of what they’re capable of doing. Not a lot of spare crews. Owner is currently frustrated with their scheduling, but they’re going to finish the job and it will be good. He would award them again on another project
Performance	Show up and they get the work done, but had to change project manager during the middle of the project, second project manager is better and responds timely. The first project manager was unresponsive and needed some hand holding
Competency	Left a trench open, and needed to be recompacted, but they went back and recompacted when asked. This is one of the largest projects they’ve done, so it’s taken them a little time to get used to the coordination with larger projects.
Schedule / Time Management	Not fast but will get the job done.
Change Orders	Five change orders, still on time with budget. First couple change orders were a little difficult to compromise on a price, but the last couple have gone smooth.
Town of Grandby South Service Area Water Treatment Plant / Grandby, CO	
Engineer	SGM / Warren Swanson / 970-384-9051
General Opinion	Did well on the project, capable to handle up to \$10 million dollar projects. Have worked with them in the past and they are happy when they are the ones trying to win the work.
Performance	Good, quality work on electrical
Competency	Good project manager & superintendent
Schedule / Time Management	Substantial completion and final coating touchup/repair leaks took a while to get them to wrap up and close out the project.
Change Orders	

Water Treatment Plant and Southern Distribution Loop / Larkspur, CO	
Engineer	Wright Water Engineers, Inc. / Jeff Nelson / 303.480.1700
General Opinion	No Response
Performance	
Competency	
Schedule / Time Management	
Change Orders	
Forest Lakes Water Intake and Treatment Plant Project / Monument, CO	
Engineer	Wright Water Engineers / Wayne Lorenz / 303.480.1700
General Opinion	No Response
Performance	
Competency	
Schedule / Time Management	
Change Orders	

Ethan Joy

From: McNulty, Steve <Steve.Mcnulty@nebraska.gov>
Sent: Wednesday, December 21, 2022 2:18 PM
To: Ethan Joy
Cc: Tami Comte (tcomte@davidcityne.com); Steve Locke; Sarah Nguyen; Martinmaas, Cyril
Subject: Re: David City WTP Bid Results

Hi Ethan and Tami,

Ethan, thank you for all of your efforts to pull the information together that we have requested, even in preliminary form it is helpful. Helpful in that I can provide an initial range of what forgiveness percentage the DWSRF can provide in funding this project.

Tami, that forgiveness range based on the preliminary numbers is 53.84% up to 55.46%. Through the DWSRFs current year's funding program, David City is eligible for funding through the Emerging Contaminants program to address elevated levels of manganese at 100%, but that must be blended with our traditional program funds at 45%, and for the cost increase above our Funding List amount at 22.5%. As a blend of 3 different programs, the outcome of the bid and what project phases are included, still can change the final percentage level.

First and most importantly, those numbers provided by Velocity must go from preliminary to final prior to any loan signing. Emerging Contaminants funding has a narrow scope of allowability. If it is determined that the "final" information provided by Velocity were to change later, the forgiveness percentage will reduce at a very significant rate. That negative now being stated, the numbers Velocity provided appear to be very detailed.

Then the City has to decide on an intended project scope, for example will the alternatives bid be accepted, and/or a water tower repainting phase still be included. And an impactful unknown, will the estimated contingency funding ever be used, on what and to what extent.

I apologize that for this project, the laws and rules result in the estimated range. I'd suggest the Council make its decision whether to accept the bid and on project scope relying on the low end, the 53.84%. I will continue to work with JEO throughout to have it end higher, with a repeated last statement that a higher-than-expected contingency use could put it lower.

Please let me know if you have any questions.

Steve McNulty | Supervisor
State Revolving Fund Section
PLANNING & AID DIVISION
Nebraska Department of Environment & Energy
OFFICE/CELL: 402-471-4200 | FAX: 402-471-2909
PO Box 98922, Lincoln, NE 68509
"If you learn one thing, it was worth it"

From: Ethan Joy <ejoy@jeo.com>
Sent: Friday, December 2, 2022 12:34 PM
To: McNulty, Steve <Steve.Mcnulty@nebraska.gov>
Cc: Tami Comte (tcomte@davidcityne.com) <tcomte@davidcityne.com>; Steve Locke <slocke@jeo.com>; Sarah Nguyen

Mayor Jessica Miller stated that the next item on the agenda was discussion/action regarding sidewalks along "O" Street.

Several citizens came forward and expressed concerns regarding the "O" Street project and the placement of the sidewalks.

Council member Pat Meysenburg made a motion to move the sidewalk to the edge of the curb on the "O" Street project. Council Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Kevin Woita made a motion to approve the estimate of Hlavac Welding LLC for a trench packing wheel in the amount of \$1,985. Council Member Jim Angell seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Hlavac Welding LLC
 3420 T RD
 David City, NE 68632

Estimate

Date	Estimate #
12/18/2022	2

Name / Address
David City Water Dept

Description	Qty	Rate	Project	
			Total	
Skid loader blank	1	135.00	135.00	
6' diameter rolled circle 1/4" thick with pads	1	400.00	400.00	
10' 4" x 2" x 1/4" rect tube	1	260.00	260.00	
20' 3/8" x 5" flat	1	510.00	510.00	
Labor	8	85.00	680.00	
Trench packing wheel- 6' diameter				
Total			\$1,985.00	

Council member Bruce Meysenburg made a motion to accept the David City Guidelines for the owner-occupied housing rehabilitation. Council Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
 Yea: 5, Nay: 0, Absent: 1

**THE CITY OF DAVID CITY
OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM**

**Program Guidelines and
Application Packet**

All application materials and questions should be submitted to the Southeast Nebraska Development District (SEND), 7407 O Street, Lincoln, NE 68510, 402-475-2560.

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CITY OF DAVID CITY, NEBRASKA
OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM PROGRAM GUIDELINES:
Adopted by City Council Approval on: _____

INTRODUCTION

The City of David City, Nebraska is receiving funds from the Nebraska Department of Economic Development (NDED) Nebraska Affordable Housing Trust Fund (NAHTF) to implement a program for housing rehabilitation improvements. The following is an outline of the program setting forth the key items, procedures, guidelines and forms.

PROGRAM

The program is based upon the rehabilitation of substandard units through **Conditional Grants depending upon household incomes**. It is anticipated that the total construction related costs for any individual rehabilitation project will not exceed **\$40,000**, not including any costs for lead-based paint situations. The Program will request approval through NDED for proposed projects that may exceed the \$40,000 amount. Assistance may not exceed the maximum per-unit subsidy limit. These limits are available at: <https://opportunity.nebraska.gov/grow-your-community/data-for-applicants-and-grantees/>

1 ADMINISTRATION

The official contact person/office for the Program shall be: Program Manager; Southeast Nebraska Development District, 7407 O Street, Lincoln, NE 68510, (402) 475-2560. This in no way shall be construed to limit other interested parties from distributing information about the Program or receiving suggestions for amendments to the Program.

1.1 Review Committee and Grievances

The David City Housing Advisory Committee shall serve as the Housing Advisory Committee and the Grievance Committee for this program.

1.2 Program Management

The program shall use the services of a Certified Grant Administrator, a qualified Housing Inspector, and a qualified lead paint inspector.

1.3 Program Marketing

Pre-applications indicating homeowner interest were received prior to award of the program. All pre-applicants will be contacted and will be targeted for project funding with an application "round" deadline. If additional funding is available after the first "round" of applications received, the City will provide marketing and promotional materials to news outlets (newspaper, and websites) within the City of David City. The materials will include program summary, how to obtain application forms, "round" deadlines, and contact information. Affirmative marketing efforts will be made to local organizations that represent or provide services to lower income persons/families to reach those persons most likely with need, but least likely to apply.

1.4 Conflict of Interest

This Code of Conduct shall govern the performance of the elected or appointed officials or member of any Council or commission employees or agents of the City of David City, Nebraska

engaged in the award and administration of contracts supported by funds under the Nebraska Affordable Housing Trust Fund.

The provisions and requirements of the Conflicts of Interest, at subpart (d) of the Nebraska Political Accountability and Disclosure Act [such subpart (d) encompassing Sections 49-1493 through 49 14,104 of the Nebraska Revised Statutes], are incorporated in this Code of Conduct by this reference. The provisions and requirements of 2 C.F.R. Section 200.320 (f) are also incorporated in this Code of Conduct by this reference. The requirements of these Nebraska state statutes and federal regulations will be adhered to, and in the event of a conflict in the requirements of any of such state and federal requirements, the stricter of any conflicting provisions will be adhered to.

No employee, officer or agent of the municipality shall participate in the selection, or in the award or administration of a contract supported by State funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when an employee or agent; any member of his or her immediate family; his or her partner; or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The municipal employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from sub-contractors or potential sub-contractors.

Violations of this Code of Conduct will invoke penalties and sanctions consistent with applicable Federal and State laws.

2 ELIGIBILITY CRITERIA

2.1 Household

2.1.1 Income Guidelines

The applicant's annual gross household income cannot exceed the established income guidelines set forth as attached. (Income levels will be verified according to 24 CFR Part 5.609) Income eligibility guidelines are based upon a maximum Median Household Income for various family sizes as established for BUTLER COUNTY from Income Guidelines established by the Nebraska Department of Economic Development (DED). Income limits are based on a maximum of at or below 100% of the area Median Family Income (MFI).

2.1.2 Asset Limit

No person or family shall be eligible to receive assistance under this program who has in excess of Seventy-Five Thousand Dollars (\$75,000) in total assets, excluding: the value of the dwelling and a minimum adequate site, the value of necessary items of personal property, the assets that are part of a business/trade/farming operation in which a member of the household is actively engaged in such operation, or the value of an established trust that is not revocable or is under control of a household member.

2.2 Property

2.2.1 Types and Location

Eligible properties shall be single family, owner occupied dwelling units located within the City of David City. Eligible properties will be the "principal residence of the homeowner applicant."

Homeownership will be verified by written confirmation from the Butler County Register of Deeds under a deed search. Security documents (Promissory Note and Deed of Trust) will include reference to requirements that the housing unit will be the “principal residence” of the participating family. Only owner-occupied units are eligible for rehabilitation. Both units of a duplex are eligible if one is owner-occupied and the second unit is occupied by a member of the owner's family. Mobile homes are ineligible. Rental properties are ineligible for assistance.

2.2.2 Physical Condition

It is the Policy of the City of David City that all housing units assisted with NAHTF funds must meet NDED Housing Rehabilitation Standards after rehabilitation. All units proposed for rehabilitation must be inspected for compliance with DED Rehabilitation Standards by an approved Housing inspector prior to being deemed eligible for the program.

The objective of the Housing Rehabilitation Program is to restore each housing unit receiving financial assistance to a physical condition, which will result in a life expectancy of at least 20-years. A limited number of occupied housing units in the program area may be deteriorated to such an extent that rehabilitation, no matter how extensive, will not achieve this objective. If the Project Inspector determines and the Advisory Committee concurs, that a housing unit will not have a 20-year life expectancy after rehabilitation work is completed, then the Program will determine not to provide financial assistance to that homeowner.

2.2.3 Floodway, Floodplain, and Wetlands

Project will not approve properties located within Floodways. Project may allow non-critical actions for properties located in 500-year floodplain (B Zone or shaded X Zone). Project may allow for improvements in 100-year floodplain (A Zone) on one- to four-family properties that do not meet the thresholds for “substantial improvement” under § 55.2(b)(8). No projects will be approved that are included in designated Wetlands.

2.2.4 Insurance and Property Taxes

Property Taxes must be paid by the homeowner and current. The homeowner will be required to maintain homeowner's hazard insurance, with an amount equal to the replacement value of the dwelling for the duration of a program lien.

2.2.5 Property Maintenance

Properties shall be free and clear of any debris that jeopardizes public safety and/or impairs the appearance of the neighborhood. Properties must remain debris-free for the duration of the program lien period. Debris shall include, but not be limited to: inoperable automobiles, machinery, appliances, tires and accessories, noxious weeds, discarded metal and other unsightly rubble.

2.2.6 After-Rehabilitation Value Limit

It is the Policy of the City of David City that the Housing Rehabilitation Program shall ensure the After-Rehab Value Limit will not exceed 140 percent of the limit for the area. Total after rehab value not to exceed the most current HOME after-rehab value limits as available on the Nebraska Department of Economic Development website. The after-rehabilitation value estimate must be completed prior to investment of NAHTF funds. The published limit identifies maximum amounts for 1-unit and the unadjusted median value. “HUD has used the greater of these two figures as their HOME homeownership value limit for existing housing in each

area.” This level of cost is applicable to the rehabilitation of **existing homes only**. See **Purchase Price or After-Rehab Value Limit for NAHTF, CDBG, and HOME at: <https://opportunity.nebraska.gov/grow-your-community/data-for-applicants-and-grantees/>**

3 TYPES OF ASSISTANCE

It is the expressed intent of this rehabilitation program to benefit low-and moderate-income owner-occupants within the program area. Actions taken by or on behalf of owner occupants to circumvent this intent are prohibited. To affect this intent, owner-occupants receiving housing rehabilitation assistance under this program shall immediately advise the Program of any event that may alter this intent.

Conditional Grant: The owner shall personally and at all times occupy and live in the rehabilitated structure as a “principal residence” for a period of **six (6) years** or seventy-two (72) months after the completion of the rehabilitation work.

In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required six (6) year period, the Program shall be reimbursed at the monthly pro-rata rate for the seventy-two (72) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs.

3.1 Maximum Subsidy

The maximum amount of these conditional grants will be \$40,000 per home. Any and all work to be completed must meet the NDED Rehabilitation Standards. The City of David City reserves the right to deny assistance in the event that the rehabilitation work required to bring the home up to Standards exceeds the maximum allowable grant amount of \$40,000 and/or the home cannot be brought up to the Standards. In no case shall assistance exceed NAHTF maximum per unit subsidy. A listing of subsidy limits by county can be found at: <https://opportunity.nebraska.gov/programs/housing/nahtf/#data>

The program will collaborate with other agencies or organizations which provide housing rehabilitation related services. The program will also coordinate with other programs for eligible weatherization activities.

3.2 Terms

The City of David City may provide funds to complete minor repair and/or rehabilitation work in the form of a **conditional grant** to meet Nebraska Department of Economic Development (NDED) Minimum Standards for Rehabilitation. No interest will accrue on the conditional grant. The conditional grant shall be secured through a Promissory Note in an amount equal to the program subsidy and a property lien in the form of a Deed of Trust. This Deed of Trust in favor of the City of David City will take a subordinate position to the permanent financing instrument.

The conditional grant lien shall be in effect for a six (6) year term. Payment of the note is required upon sale, transfer of ownership, non-occupancy or renting out the property if occurring during the six-year term.

4 ELIGIBLE REHABILITATION PRIORITIES

4.1 Code Deficiencies

The property must conform to municipal building codes and NDED Minimum Standards for Rehabilitation (attached) after rehabilitation work is complete. The correction of code deficiencies is given top priority in the rehabilitation process. When necessary to meet specific requirements of a local minimum housing code, program funds may be used for:

- The provision, rehabilitation or removal of structural elements of the dwelling, including the repair or replacement of basic equipment, outbuildings, fences, steps, and walks. The term basic equipment refers to such items as furnaces, water heaters, plumbing, electrical fixtures, foundations, etc.
- The provision of sanitary and related facilities, including the provision, expansion, and finishing of space necessary to accommodate such facilities;
- The provision of additional or enlarged bedrooms; and,
- The grading, filling, or landscaping of the lot for other than purely aesthetic purposes.

4.2 Incipient Deficiencies

Program funds may be used to correct incipient deficiencies of the local minimum housing code. An incipient deficiency exists if, at the time the house is inspected, it is determined that the physical condition of a particular structural element will deteriorate to an actual deficiency in the reasonable future (one or two years). An example of an incipient deficiency would be a leaky roof that could be patched at low cost, but would probably continue to develop additional leaks, and would eventually have to be totally replaced. Program funds could be used to replace the entire roof in this situation. Incipient deficiencies may be corrected after existing code deficiencies are corrected and the property conforms to the Minimum Property Rehabilitation Standards.

4.3 Energy Conservation

Once all local Program Area building codes and Minimum Property Rehabilitation Standards have been met and incipient code violations have been corrected, program funds may be used to finance energy conservation measures. Energy conservation refers to steps taken to lessen the consumption of fuels and electricity. Housing Rehabilitation Program resources may be used to finance such energy conservation measures as:

1. The insulation of attics and sidewalls, or increasing the amount of existing insulation;
2. The provision of storm windows and doors; and
3. The elimination of leaks in structural openings through the installation of weather-stripping, caulking, etc.

4.4 Fire Protection

Fire protection involves the provision of devices to warn dwelling occupants in the event of fire. Early warning fire alarm devices may be provided and installed using program funds.

4.5 General Improvements

General improvements include any rehabilitation work that does not fit into any of the previously discussed eligible cost categories. Only after all eligible applicant's needs, relative to the previous five categories have been met, will consideration be given to any general improvement

work items. Typically, general improvements will not materially contribute to structural integrity or long-term preservation of the unit and might include, but not be limited to: interior painting, paneling, carpeting, closets, shelving, cabinets, air conditioning, landscaping, etc.

The above paragraph does not prevent the homeowner from undertaking any general improvement work items, provided they supply whatever additional funds are necessary to finance that portion of the project.

5 APPLICATION PROCESS

The application process for assistance under the Housing Rehabilitation Program has two stages: the application and the applicant interview. The rationale for this approach centers on saving the time and trouble of filling out a rather lengthy application when it is possible to determine the homeowner's basic eligibility through a streamlined preliminary application process.

5.1 Initial Review

The application consists of questions related to family size and composition, income, housing-related expenses, etc. Application information will be reviewed and evaluated by the Program Management Staff, on a confidential basis.

The review process includes verification of income, housing expenses, bank deposits, employment, etc. All applications will be rated on the project rating scale, as attached. Homeowners who do not meet basic eligibility requirements will be notified in writing, including a statement of the reason they are ineligible for assistance.

The program will collaborate with other agencies or organizations which provide housing rehabilitation related services. The Program will also coordinate with Southeast Nebraska Community Action (SENCA) and other programs for eligible weatherization activities.

5.2 Application Rating and Selection

All applications received during a "round" will be reviewed together and rated on the priority rating scale below. In cases in which this rating yields equivalent scores, priority will be determined in accord with "first ready, first served." Applicants not selected in one round will be automatically considered in subsequent rounds and will be notified, in writing, of such action.

Applicants will be rated and selected by Program Management Staff with review and approval by the Advisory Committee.

INCOME and FINANCING CATEGORY

1. Applicant's annual gross income meets Very Low Income threshold.....30
2. Applicant's annual gross income meets Low Income threshold.....20
3. Applicant's annual gross income meets Moderate Income threshold.....0 or 10

Income guidelines are based on Department of Housing and Urban Development (HUD) Housing Assistance programs as approved by the Nebraska Department of Economic Development (DED). Limits may be updated annually as they are received from HUD and approved by DED. (Income levels will be verified according to 24 CFR Part 5.)

Financing Categories

1. Conditional Grant: (at or below 100% Area Median Family Income)

100% of project amount is a Conditional Grant and is forgiven if the homeowner personally and at all times occupies and lives in the rehabilitated structure as a “principal residence” for a period of **six (6) years** or sixty (72) months after the completion of the rehabilitation work.

In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required six (6) year period, the Program shall be reimbursed at the monthly pro-rata rate for the seventy-two (72) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs.

HOUSEHOLD CHARACTERISTICS

1. Head of household 62 years of age or older 10
2. Handicapped/disabled applicant 5

IMPACT OF ASSISTANCE

1. Eliminate housing overcrowding (over 5 persons) 5
2. Substantial weatherization and energy conservation improvements 5

MAXIMUM TOTAL SCORE 55

If the property has a current lien, deed of trust, note or other loan/grant security instrument from any previous housing rehabilitation programs, the lien, deed of trust and or note cannot have at any given time a combined total over \$40,000.00.

6 Property Inspection and Rehabilitation Procedures

Once basic eligibility has been determined through the initial application review, the Project Inspector will contact the homeowner and arrange for an interview. The interview will take place in the applicant's home, and in addition to obtaining the information necessary to complete the application process, the Project Inspector will perform a preliminary inspection of the structure. This inspection will provide the Advisory Committee an indication of whether the house will stand rehabilitation, the extent of repairs needed, and a preliminary estimate for the cost of those repairs. The interview is to provide more specific information for determining whether the homeowner may take advantage of the Housing Rehabilitation Program. Review of the application and data acquired from the interview will begin as soon as practicable after it is received.

6.1 Comprehensive Property Inspection

All properties will have a comprehensive property inspection conducted. The purpose of this inspection is to compile a comprehensive list of all necessary and desirable repairs, categorize the repairs by type (i.e. code violations, Minimum Rehabilitation Standards, Lead-Based paint hazards mitigation, general improvements, etc.), and estimate the total cost of the work. Essentially, the Project Inspector will assemble all the information necessary for preparation of bid documents. An estimate of the total cost of the work is made so that the homeowner can be counseled on the extent of rehabilitation and the type and cost of the financial assistance. In addition, the Project Inspector shall review the work write-up with the applicant and receive in writing the applicant's concurrence with the identified work items.

6.2 Elimination of Lead-Based Paint Hazards

It is the intent of the housing program to eliminate lead hazards and achieve lead clearance in affected home in a manner consistent with the 2012 HUD Lead Paint Guidelines, to repair, restore, or remodel the home.

6.3 Tier II Environmental Review

All properties will have a Tier II Environmental Review conducted. This review shall, at a minimum include submitting request for review to the State Historical Preservation Office (SHPO), review of location of property in relation to Special Flood Hazard Areas (SFHAs) as identified on the community's FEMA Flood Insurance Rate Map (FIRM), and review of onsite and nearby potential Contamination and Toxic Substances.

6.4 Bid Document Preparation

The Project Inspector will use the information gathered to prepare the Project Specifications, Work-Write ups and/or other documents necessary to obtain bids on the rehabilitation work.

6.5 Sub-Contractor Selection

The solicitation of bids for the rehabilitation work will be conducted in accordance with Federal, State and local requirements for requesting bids. If "Competitive Sealed Bids" are requested for a project, normally the lowest responsible and responsive bid would be accepted. Alternate methods of selecting sub-contractors to allow for quality performance, increased homeowner involvement and the highest level of local sub-contractor participation will be considered.

6.5.1 Pre-Qualified Sub-Contractors List

The City will utilize a pre-qualified list of sub-contractors maintained by the Southeast Nebraska Development District (SEND), who are available to conduct Housing Rehabilitation for projects that are awarded minor rehabilitation conditional grants. The program will be promoted directly to local sub-contractors who are eligible to be added to the pre-qualified list of sub-contractors.

Promotion to sub-contractors may include but is not limited to contractor training, ads in the local newspapers, word of mouth, flyers and brochures requesting sub-contractor assistance for the program. Pre-qualification requirements include submittal of the following documents to the Official Program Contact (SEND):

1. Proof of liability insurance;
2. Lead safe work practices training;
3. Completion of the Sub-Contractor Application (Proof of Responsibility);
4. Proof of State Registration; and
5. Verified through SAM.gov

6.6 Consideration, Recommendation, and Approval or Rejection

Once a sub-contractor has been selected a project summary will be prepared and presented to the Housing Advisory Committee. The Housing Advisory Committee will then consider the project and provide a recommendation of approval or rejection to the City Council.

Nothing herein shall be interpreted to require that the City grant approval to any project. The City reserves the sole right to accept or reject any and/or all of the applications for financial assistance.

The City Council, after consideration and recommendation from the Advisory Committee, shall make the final decision to approve or reject any application within its respective jurisdiction.

It is the policy of the City of David City that all applicants shall be notified of final eligibility or ineligibility in writing within thirty (30) days of the decision of the City Council.

6.7 Contracts

The contract for rehabilitation work will be between the homeowner and sub-contractor, with the program representative as a third party acting as an Operating Agency (OA) to provide for oversight, construction observation and to provide financing, ensuring that the sub-contractor and homeowner meet agreed upon conditions.

6.8 Security Instruments

At the time of contract signing each person listed as a property owner is required to sign a Deed of Trust and Promissory Note for the amount of assistance provided to the property. The Deed of Trust shall be recorded with the County on the borrower's property, which incorporates the following provisions:

- The borrower's household must use the property as its **principal residence**. They must also complete and return the annual occupancy verification document.
- The Program shall be reimbursed at the monthly pro-rata rate for the seventy-two (72) month period. In the event insufficient equity exists in the property at the time of sale, Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs.
- A closing statement from the sale of the subject property will need to be obtained and included within the project files.

6.9 Construction Monitoring

Inspections will be necessary during the construction phase to monitor the rehabilitation. The primary purpose of these inspections is to ensure that materials used and work done is accomplished in compliance with the contract. The Project Inspector shall visit each job site

when necessary to assure adequate job performance. Should change-orders become necessary during the rehabilitation work which would change the total cost of the contract, the Program and the homeowner must agree on said change orders and any modification to the funding prior to the execution of the change-order.

At the completion of construction, the Project Inspector shall inspect the work, in the presence of the homeowner and the sub-contractor, to assure that satisfactory work has been accomplished. If the quality of work is satisfactory to the homeowner and the Project Inspector, and all contract conditions have been met, the Project Inspector will request final payment for the sub-contractor. Any deficiencies must be corrected to the satisfaction of the homeowner and the Program, and all warranties, lien waivers, inspection reports from other Federal/State/Local agencies, etc., must be delivered before final payment will be made.

7 LEAD-BASED PAINT PROCEDURES

The City of David City will work closely with SENDD staff to keep abreast of HUD's lead-based paint regulations. Minimum Qualifications:

- Sub-contractors: All sub-contractors that are awarded a contract must have successfully completed the HUD Sponsored "Lead-Safe Practice Training Course."
- Lead Paint Inspectors: SENDD staff members have successfully completed the necessary coursework and training and are Certified Lead Paint Inspectors. The City will utilize the services of SENDD, or other certified Paint Inspectors and Risk Assessors to perform lead-based paint inspections, risk assessments and clearance examinations.

All homes built before 1978 that are rehabilitated through this Program will be presumed to have lead-based paint.

7.1 Program Operations

The City will follow all applicable rules and regulations to ensure that the lead-based paint issues are addressed on housing units that receive financial assistance. The City will work with the housing program manager and sub-contractors in notifying clients of lead-based paint requirements.

7.2 Specifications and Feasibility

Homeowners participating in the program will be limited in financial assistance. Therefore, each applicant's housing unit will be reviewed on a case-by-case basis to determine the feasibility of addressing lead-based paint issues.

7.3 Client Outreach and Intake

Each potential homebuyer will be notified as to the dangers of lead-based paint, where lead-based paint can be found, measures to protect/reduce lead hazards, and safety measures to undertake should the unit be rehabilitated. Each homeowner will be provided the "Watch Out for Lead-based Painting Poison" and "Protect Your Family from Lead in Your Home" pamphlets. Each homeowner will sign the federal pre-renovation notification form acknowledging that they have received the pamphlet entitled "Protect Your Family from Lead in Your Home" and receive basic instructions as to its contents.

7.4 Bidding and Contracts

The program will consider bids from sub-contractors who have either successfully completed the HUD sponsored "Lead-Safe Practice Training Course", or from sub-contractors who have agreed to attend/complete the workshop. Prior to bid submittal, interested sub-contractors must provide either:

- A certificate showing their company has received and successfully passed a HUD sponsored lead-based paint training course; or,
- Provide proof of registration to attend a HUD sponsored lead-based paint training course. This proof will include, but not be limited to, a copy of the completed registration form and receipt of payment. Upon completion of the course, the sub-contractor must provide a certificate that they have successfully completed the training.

7.5 Construction Monitoring

Upon contract award, the sub-contractor will be reminded that while he/she is addressing lead-based paint issues on the interior/exterior of the house, they must conform to all practices and construction applications that are stated in the work write-up, specifications and training that they have received in the HUD sponsored training course "Lead-Safe Work Practices Training." Monitoring of the sub-contractor's work and corrective measures will be completed at appropriate intervals during the construction phase, and a wipe test will be completed by a certified Risk Assessor at the completion of construction activities. A clearance report must be issued prior to the City approving final payment to the sub-contractor.

7.6 Warranty and Evaluation

At the time of the final inspection, a wipe test will be performed by a certified Risk Assessor to ensure that levels of lead-based paint meet state and federal regulations. The first clearance examination will be paid for by the Program. If the property does not pass the first clearance examination due to the sub-contractor not cleaning properly, the cost of the second, and any subsequent clearance testing, will be paid for by the sub-contractor directly to SENDD until all areas pass.

7.7 Paint/Risk Assessment Report

Under certain conditions, homes may have a Paint/Risk Assessment Report completed by a licensed Risk Assessor. In such cases, areas of the property identified as having a lead hazard in the Paint/Risk Assessment Report will be labeled in the work write-up by numerical XRF readings that were conducted on the property.

8 RADON PROCEDURES

The City of David City will work with SENDD staff to keep abreast of the State of Nebraska's developments regarding radon regulations. The Nebraska Department of Health and Human Services (DHHS) reports that more than half of all home radon tests conducted in the state are reported as testing above the action level of 4.0 pCi/L. As the State continues to investigate options for radon remediation, the City and SENDD staff will provide the following to every homeowner that participates in this program:

- A \$10 radon test kit
- Educational pamphlet detailing the hazardous nature of radon and the appropriate steps to remediation, including information on who to contact to install any necessary radon-reduction equipment.

At this time, The City of David City and SENDD staff will take an educational approach to radon procedure throughout the implementation of this program. As this is an owner-occupied rehabilitation program, there is no scenario in which work completed to each individual home could potentially increase the occupants' exposure to radon. Therefore, the City and SENDD staff will provide each homeowner with a \$10 radon testing kit, which they may choose to use at their discretion. Informational pamphlets will be given to better assist homeowners in understanding the nature and dangers of radon, especially information regarding the 4.0 pCi/L action level. Homeowners will be provided a list of appropriate contractors who can install radon reduction devices in their homes; however, the cost of this remediation will not come from NAHTF dollars, nor will it be part of this program in any way. If a homeowner decides to install a radon reduction device, it will be at their own will and funded by their own dollars.

9 Sale or Refinance of Assisted Unit During Lien Period

9.1 Sale of Assisted Unit

If the owner moves, rents, sells, transfers or otherwise does not occupy the assisted property for the required six (6) year period, the Program shall be reimbursed at the monthly pro-rata rate for the seventy-two (72) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs. A closing statement from the sale of the subject property will need to be obtained and included within the project files.

9.2 Subordination and Refinance

Subordination

Future refinancing, home equity loans and all future liens will be handled on a case by case basis. Any subordination must fall within the guidelines outlined below before any subordination of the second, third, fourth, or fifth line will be considered:

Refinancing with No Cash-Out

A refinance with no cash-out is the situation when a homeowner wishes to refinance their existing first mortgage which may include refinance fees only. This type of subordination may be approved by all secondary lien holders.

Refinancing with Cash-Out

A refinance with cash-out is a situation where the homeowner refinances their existing mortgage and desires to consolidate other outstanding debt or obtain extra funds (cash) to spend on other items. This type of subordination may be approved by all secondary lien holders only if the combined Loan-to-Value of all items is at or below 87.5% of the value of the subject property.

Obtain an Equity/Home Improvement Loan

This scenario is when a homeowner wants to obtain an Equity Loan or Home Improvement Loan and the lender desires to file their lien in second (2nd) position. The type of subordination may be approved by all secondary lien holders only if the combined Loan-to-Value of all liens is at or below 87.5% of the value of the subject property.

10 COMPLAINT PROCEDURE

All grievances and/or complaints must be submitted in writing to the Housing Inspector or Project Administrator. A written response/determination must be provided to the aggrieved

party within fifteen (15) days of receipt of the grievance/complaint. If unsatisfied with the response/determination of the Housing Inspector or Project Administrator, the aggrieved party may appeal the decision to the David City Housing Advisory Committee in writing for their consideration. The appeal must be received by Housing Advisory Committee within 15 calendar days of the initial decision. Housing Advisory Committee will act on the appeal within thirty (30) calendar days of the receipt of the appeal. Final written decision of the Housing Advisory Committee will be provided to the aggrieved party within forty-five (45) days of receipt of the written request for appeal.

In the event of an owner and sub-contractor dispute of any nature, the Housing Advisory Committee's decision on the issue will be accepted as final by both parties.

11 AMENDMENT OF THE GUIDELINES

The above Guidelines for the Housing Rehabilitation Program can be amended only after review by the Housing Advisory Committee and formal action by the City Council, with approval by NDED. Both parties may submit an appeal to NDED.

12 POLICY FOR COLLECTING PROJECT PHOTOGRAPHS / PRINCIPLE RESIDENCY

The City of David City was awarded public funds for this housing rehabilitation program. As such all beneficiaries/recipients are requested to provide a voluntary release and authorization giving consent to the City of David City and its agents to use and publish property photographs taken during the course of providing program assistance in marketing and promotional materials, including but not limited to the Internet, without compensation.

Previews of materials are not provided for approval. All photos used by the City of David City and its agents are owned by the City of David City and they may copyright material. The City of David City and its agents are released, discharged, and held harmless from any liability, including, without limitation, any claims for libel or invasion of publicity/privacy, by virtue of any use of photos, including, any alteration of such Photos, whether intentional or otherwise (Attachment A).

The owner shall personally and at all times occupy and live in the rehabilitated structure as a "principal residence" for a period of **six (6) years** or seventy-two (72) months after the completion of the rehabilitation work. The City will send out a homeowner's certification of principle residence for each assisted applicant on an annual basis for the duration of the affordability period (attachment B). In the event that the owner shall move, rent, sell, transfer or otherwise not occupy said property for the required six (6) year period, the Program shall be reimbursed at the monthly pro-rata rate for the seventy-two (72) month period. Recapture provisions are utilized, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than CDBG, HOME or NAHTF funds) and any closing costs. A closing statement from the sale of the subject property will need to be obtained and included within the project files.

13 UNIFORM RELOCATION AND ASSISTANCE ACT OF 1970 (URA) AND APPLICABILITY TO TITLE 49 PART 24 SUBPART B 24.101

Acquisitions are not an allowable activity within this program. It is the Policy of the City of David City that all transactions proposed for rehabilitation of property by applicants or clients of the housing program shall be voluntary.

It is the Policy of the City of David City that it will not undertake any projects that will result in Displaced Person(s). However, if any project for which relocation would be a potential requirement - in cases where there is any indication of the potential for relocation through either voluntary or involuntary acquisition. Relocation shall be voluntary and the grantee will not be responsible for relocation costs. In cases where either voluntary or involuntary acquisition is anticipated, DED will be contacted prior to any action

Due to the requirements of these program guidelines, relocation due to mitigation of lead paint hazards is anticipated to be a rare occurrence. If a case of mitigation of lead-based paint hazards occurs where the interior work will not be completed within 5 calendar days, the work site is unable to be contained to prevent the release of dust, the worksite and areas within 10 feet of the worksite are unable to be cleaned at the end of each work day to remove any visible dust and debris, and the residents do not have safe access to kitchen, bath and bedrooms, then temporary relocation of homeowners would be required for "safe work practices." Relocation will be voluntary and the grantee will not be responsible for relocation costs. Mitigation of lead-based paint hazards is determined to be a code enforcement activity for purposes of this program. As such, relocation assistance requirements of the URA are not triggered. In cases where either DED will be contacted by the program prior to any action.

14 FAIR HOUSING

It is the Policy of the City of David City that this program will comply with the "Fair Housing Act." The Act prohibits specific kinds of discriminatory acts as described herein, regarding housing if the discrimination is based on race, color, religion, sex handicap, familial status or national origin: Refusal to sell or rent or otherwise deal with a person; Discrimination in the conditions of terms for sale, rental or occupancy; Falsely denying housing is available; Discriminatory advertising; "Blockbusting"; causing person(s) to sell or rent by telling them that members of a minority group are moving into the area; Discrimination in financing housing by a bank, savings and loan association or other business; Denial of membership or participation in brokerage, multiple listing or other real estate service; Interference (intimidation, threats, coercion, etc.) to keep a person from the full benefits of the Federal Fair Housing Law. The City of David City actively supports Fair Housing Activities and will assist applicants in completing Housing Discrimination Complaint forms to the Department of Housing and Urban Development (HUD).

15 RETURN BENEFICIARIES

It is the Policy of the City of David City that all applicants to this program will be reviewed in order to determine whether or not any grant-related liens (whether CDBG, HOME, or NAHTF) are in place against the home. If any grant-related liens are identified against the property, said property will only be eligible to receive assistance from this program in the amount of the declining balance against the prior lien(s). In no case shall a property be eligible to have an outstanding lien balance that is greater than the \$40,000 maximum subsidy. For example, if an applicant to this program has an outstanding lien from a previous grant program in the amount of \$20,000, then said applicant will only be eligible to apply for up to \$20,000 of assistance from this NAHTF program, as that would increase their total lien amount to the maximum of \$40,000.

Ideally, this situation will not occur and previous rehab grant recipients will not need to re-apply for additional funding because their homes will have been brought up to standards from the prior investment of grant funds. However, the City understands that sometimes other items that did not need to be addressed in previous programs have since fallen into disrepair, or perhaps that

unforeseen circumstances, such as a bad wind/hail storm, may have destroyed the roof or siding that was applied during another grant program. These are examples of special circumstances where it would be appropriate to serve return beneficiaries if appropriate projects can be determined and feasible.

The homes of all return beneficiaries served by this program will meet all HQS and NDED Minimum Standards for Rehabilitation with whatever amount is left from the declining balance of their liens. For example, if an applicant is only eligible for \$20,000 worth of rehab through this program (as this was the amount cleared from a prior lien), then their current request will not be funded unless program housing inspectors can verify that the home will meet all HQS and NDED minimum standards with \$20,000.

16 FEDERAL COMPLIANCE

The Housing Program will comply with the administrative requirements of the grant program, those applicable items in the 1995 Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 (including parts not specifically cited below), and the following laws, regulations and requirements, both federal and state, as the pertain to the design, implementation and administration of the local project, if approved:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)

- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)

- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation

LABOR STANDARDS AND PROVISIONS

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act., As Amended (48 Stat. 948.40 U.S.C. 276(c), popularly known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116 Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS

- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards "Cost Principles"
- 78 FR 78589 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards "Administrative Requirements"
- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)

- 24 CFR Subtitle A (4-1-98 Edition) – 85 Administrative requirements for grants and cooperative agreements to State, local and federally recognized Indian tribal governments

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

The 2022 City of David City Housing Rehabilitation Program Guidelines, and Lead Based Paint procedures are adopted by City Council approval this January 11th, 2023 by the City of David City, Nebraska.

Jessica Miller, Mayor

Date

Attest:

Tami Comte, City Clerk

Date

**DAVID CITY, NEBRASKA
OWNER-OCCUPIED HOUSING REHABILITATION PROGRAM
PROGRAM INCOME REUSE PLAN:
Adopted by City Council Approval on**

17 PROGRAM INCOME REUSE PLAN

The City of David City wishes to retain program income funds and reuse those funds for additional housing related activities and agrees to comply with the following NDED provisions:

- 1) The City of David City will use program income directly generated from the use of NAHTF funds to further affordable housing programs eligible under the Nebraska Affordable Housing Act.
- 2) Program Income funds are those funds returned to the City of David City during the Affordability Period when the property is sold or is no longer the initial and subsequent homebuyer's principal residence.
- 3) Program Income funds must be utilized for the current Project if the current Project has not been completed. This program income received must be applied to the current Project prior to requesting additional NAHTF funds.
- 4) The City of David City understands that if program income is utilized for another housing related activity, other than for the same activity from the project which generated the program income, then the Grantee will be responsible for developing and utilizing new Program Guidelines for the new eligible activity.
- 5) Maximum limits for General Administration (8%) and Housing Management (12%) in relation to hard costs (SF Housing Rehabilitation).
- 6) If resale provisions are desired to be utilized, the City of David City Housing Program Guidelines must be amended. If applicable, and resale provisions are utilized for the project and program income is received, then the subsequent purchasers of each unit will be eligible homebuyers and the original homebuyer will receive a fair return on investment.
- 7) If recapture provisions are utilized for the project. If program income is received, then the amount recaptured cannot exceed the net proceeds. Net proceeds are the sales price minus superior loan repayment (other than NATHF funds) and any closing costs. Recaptured Funds may be used for project costs of loans and for Administrative purposes (maximum of 8% of program income) and Project Management (maximum of 12% of program income) for each new unit.
- 8) All program income will be returned to DED for reuse unless DED offers the option to the Grantee to retain the program income or DED approves the grantee's Program Income Reuse Plan prior to receiving Release of Funds.

The 2022 City of David City Housing Rehabilitation Program Income Re-use Plan is adopted by City Council approval this 11th day of January, 2023 by the City of David City, Nebraska.

Jessica Miller, Mayor

Date

Attest:

Tami Comte, City Clerk

Date

Council member Bruce Meysenburg made a motion to pass and adopt Resolution No. 1-2023 approving Electric PCA refunds. Council Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

RESOLUTION NO. 1-2023

RESOLUTION AUTHORIZING REFUNDS TO DAVID CITY ELECTRIC POWER RESIDENTIAL CUSTOMERS AS PART OF PRODUCTION COST ADJUSTMENT AS AUTHORIZED AND ALLOWED BY DAVID CITY ORDINANCE NO. 1183.

WHEREAS, the City of David City, Nebraska, owns and operates an electric distribution system which provides for the electric power needs of its citizens; and,

WHEREAS, the City must purchase the electric commodity from Nebraska Public Power District (NPPD) and must pay for that commodity and associated transmission services based on rates set by the NPPD Board of Directors; and,

WHEREAS, as part of production cost adjustment, the NPPD Board of Directors has issued refunds to the City for the electric commodity and associated transmission services in 2020 and 2021; and,

WHEREAS, David City Ordinance No. 1183 sets electric services rates as subject to production cost adjustment; and,

WHEREAS, as part of production cost adjustment, the City desires to issue refunds to residential customers in the approximate total amount of One Hundred Thousand Dollars and No Cents (\$100,000.00), distributed monthly over a time period of one (1) year beginning usage period January 2023 through December 2023 and based on a resident's total monthly kilowatt hour usage; and,

WHEREAS, the monthly total refund for each residential customer shall be calculated by multiplying .005918 by the customer's total kilowatt hour usage for the corresponding month.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the monthly refund of residential customers, as authorized and allowed as production cost adjustment by David City Ordinance No. 1183, shall be issued monthly and shall be calculated by multiplying .005918 by the customer's total kilowatt hour usage for the corresponding month beginning usage period January 2023 and ending December 2023.

PASSED AND APPROVED January 11, 2023.

CITY OF DAVID CITY, NEBRASKA

By _____
JESSICA MILLER, Mayor

ATTEST:

TAMI COMTE, City Clerk

Council member Pat Meysenburg made a motion to authorize City Clerk Comte and Deputy Clerk Matchett to attend the IIMC Annual Conference on May 14-17, 2023 in Minneapolis, MN. Council Member Kevin Woita seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to reappoint Jim Masek as a regular member of the Planning Commission for a three-year term (May, 2022 - April, 2025). Council Member Jim Angell seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to accept the resignation of Jim Angell from the Board of Zoning Adjustment. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Bruce Meysenburg made a motion to approve a \$50.00 per month cell phone stipend for Council member using a City-use cell phone. Council Member Kevin Woita seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to table Resolution No. 2-2023 adopting Nebraska Class. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Tom Kobus made a motion to accept the quote from the Walling Company for a lime slurry pump in the amount of \$8,900. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

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The Walling Company
 Felbar, LLC
 6103 Irvington Rd
 Omaha, NE 68134
 (402) 571-9600

Quote

Date	Quote #
1/3/23	13058

Name / Address
DAVID CITY UTILITIES 557 N 4TH ST PO BOX 191 DAVID CITY, NE 68632

Ship To
DAVID CITY WATER TREATMENT 1220 E ST DAVID CITY, NE 68632

Please note: There will be a 3.5% transaction fee for invoices paid by credit card (Mastercard and Visa accepted)	Delivery	Terms	Rep	
		Net 30	KW	
Item	Description	Qty	Price	Amount
476.171.656	WARREN RUPP WETTED END KIT	1	755.00	755.00T
476.227.000	WARREN RUPP AIR END KIT	1	700.00	700.00T
INSTALL	INSTALLATION OF KITS INTO PUMP	1	1,200.00	1,200.00T
S30BIIIIEANS000.	WARREN RUPP BALL VALVE PUMP, 3" NPT, CAST IRON CONSTRUCTION, SANTOPRENE ELASTOMERS, EPDM SEATS, TOP DISCHARGE	1	5,680.00	5,680.00T
Factory Warranty Freight: F.O.B. Factory Customer is responsible for all freight charges which will be applied accordingly to invoice unless prior arrangements are made. Quote is firm for 30 days. Please send PO to: kristiw@thewallingcompany.com and reference quote number if available				
Corporate Office 6103 Irvington Rd Omaha, NE 68134 (402) 571-9600 suey@thewallingcompany.com kristiw@thewallingcompany.com jensiferr@thewallingcompany.com		Iowa Branch Office 1325 SW Ordinance Road, Ankeny, IA 50023 (515) 963-4440 mzyk@thewallingcompany.com customerservice@thewallingcompany.com		Sales Tax (7.0%) \$583.45 Total \$8,918.45

Council member Jim Angell made a motion to enter into closed session to discuss personnel. Council Member Pat Meysenburg seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Miller stated, "Now, at 8:38 p.m., we are going into closed session to discuss personnel." Mayor Miller, all of the Council members, City Attorney David Levy and City Clerk Comte went into closed session at 8:38 p.m. Council member Keith Marvin was absent.

Council member Kevin Woita made a motion to come out of closed session at 9:03 p.m. Council Member Jim Angell seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Kevin Woita made a motion to adjourn. Council Member Pat Meysenburg seconded the motion. The motion carried and Mayor Miller declared the meeting adjourned at 9:03 p.m. Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1



CERTIFICATION OF MINUTES
January 11, 2023

I, Tami Comte, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of January 11, 2023; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami Comte, City Clerk