

## CITY COUNCIL PROCEEDINGS

March 1, 2023

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 490 E Street, David City, Nebraska. The Public had been advised of the special meeting by publication of notice in The Banner Press on February 16<sup>th</sup>, 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 during regular office hours. 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 members Thomas Kobus, Keith Marvin, Patrick Meysenburg, Kevin Woita, Jim Angell, Bruce Meysenburg, City Attorney Michael Sands and Interim Administrator/City Clerk Tami Comte.

Also present for the meeting were: Butler Public Power District General Manager Mark Kirby and Ag Processing, Inc. Director of Engineering Bryan Sharp, P.E.

The meeting opened with the Pledge of Allegiance.

Mayor Jessica Miller informed the public of the "Open Meetings Act" posted on the east wall of the meeting room asked those present to please silence their cell phones. Mayor Miller read the Speaking Guidelines for Council Meetings.

Mayor Jessica Miller opened the public hearing at 7:02 p.m. to consider amending the Official Zoning Map by changing the zoning classification from TA -Transitional Agriculture to I-2 – Heavy Industrial as requested by Ag Processing Inc. for the following real estate, to wit: : PART OF THE EAST HALF OF SECTION 13, PART OF THE SOUTHEAST QUARTER OF SECTION 12, PART OF THE NORTHEAST QUARTER OF SECTION 24, ALL IN TOWNSHIP 15 NORTH, RANGE 2 EAST OF THE SIXTH P.M., ALL IN BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2631.23 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE N00°00'34"W ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 2634.07 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE N00°00'34"W ON THE NORTHERLY EXTENSION OF SAID WEST LINE, A DISTANCE OF 33.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD 37; THENCE N89°56'25"E ON SAID NORTH RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1233.68 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN SANTA FE RAILWAY; THENCE S30°24'38"E ON SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 2762.01 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE S00°26'22"W ON SAID EAST LINE, A DISTANCE OF 270.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE S00°27'47"W ON THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2611.99 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE CONTINUING S00°27'47"W ON THE SOUTHERLY EXTENSION OF SAID EAST LINE, A DISTANCE OF 33.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 36; THENCE S88°30'33"W ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 2608.32 FEET TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W ON SAID SOUTHERLY EXTENSION, A

DISTANCE OF 66.02 FEET TO THE POINT OF BEGINNING, CONTAINING 283.02 ACRES, MORE OR LESS.

Hearing no comment, Mayor Miller declared the public hearing closed at 7:03 p.m.

Council member Keith Marvin introduced Ordinance No. 1431 and Mayor Jessica Miller read Ordinance No. 1431 by title.

Council member Keith Marvin made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1431 on 3rd and Final reading amending the Official Zoning Map by changing the zoning classification from TA -Transitional Agriculture to I-2 - Heavy Industrial for the following real estate as requested by Ag Processing Inc. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

### **ORDINANCE NO. 1431**

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED BELOW FROM TA – TRANSITIONAL AGRICULTURE TO I-2 HEAVY INDUSTRIAL, FOR THE FOLLOWING REAL ESTATE DESCRIBED AS PART OF THE EAST HALF OF SECTION 13, PART OF THE SOUTHEAST QUARTER OF SECTION 12, PART OF THE NORTHEAST QUARTER OF SECTION 24, ALL IN TOWNSHIP 15 NORTH, RANGE 2 EAST OF THE SIXTH P.M., ALL IN BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2631.23 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE N00°00'34"W ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 2634.07 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE N00°00'34"W ON THE NORTHERLY EXTENSION OF SAID WEST LINE, A DISTANCE OF 33.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD 37; THENCE N89°56'25"E ON SAID NORTH RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1233.68 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN SANTA FE RAILWAY; THENCE S30°24'38"E ON SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 2762.01 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE S00°26'22"W ON SAID EAST LINE, A DISTANCE OF 270.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE S00°27'47"W ON THE EAST LINE OF SAID SOUTHEAST QUARTER, A

DISTANCE OF 2611.99 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE CONTINUING S00°27'47"W ON THE SOUTHERLY EXTENSION OF SAID EAST LINE, A DISTANCE OF 33.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 36; THENCE S88°30'33"W ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 2608.32 FEET TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W ON SAID SOUTHERLY EXTENSION, A DISTANCE OF 66.02 FEET TO THE POINT OF BEGINNING, CONTAINING 283.02 ACRES, MORE OR LESS; REPEALING ANY ORDINANCES IN CONFLICT HERewith; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

To amend the zoning classification of real estate from TA – Transitional Agriculture to I-2 Heavy Industrial for the following real estate: PART OF THE EAST HALF OF SECTION 13, PART OF THE SOUTHEAST QUARTER OF SECTION 12, PART OF THE NORTHEAST QUARTER OF SECTION 24, ALL IN TOWNSHIP 15 NORTH, RANGE 2 EAST OF THE SIXTH P.M., ALL IN BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2631.23 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE N00°00'34"W ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 2634.07 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE N00°00'34"W ON THE NORTHERLY EXTENSION OF SAID WEST LINE, A DISTANCE OF 33.00 FEET TO THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD 37; THENCE N89°56'25"E ON SAID NORTH RIGHT OF WAY LINE, PARALLEL WITH AND 33.00 FEET DISTANT FROM THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1233.68 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN SANTA FE RAILWAY; THENCE S30°24'38"E ON SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 2762.01 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE S00°26'22"W ON SAID EAST LINE, A DISTANCE OF 270.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE S00°27'47"W ON THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2611.99 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE CONTINUING S00°27'47"W ON THE SOUTHERLY EXTENSION OF SAID EAST LINE, A DISTANCE OF 33.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 36; THENCE S88°30'33"W ON SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 2608.32 FEET TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE N00°00'34"W ON SAID SOUTHERLY EXTENSION, A DISTANCE OF 66.02 FEET TO THE POINT OF BEGINNING, CONTAINING 283.02 ACRES, MORE OR LESS.



Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

Section 3. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted this 1st day of March, 2023.

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Mayor Jessica Miller

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City Clerk Tami Comte

Council member Bruce Meysenburg introduced Ordinance No. 1432 Updating the Electric Rate Ordinance by adding a High Tension Rate. Mayor Jessica Miller read Ordinance No. 1432 by title.

Council member Bruce Meysenburg made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Keith Marvin seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1432 on 3rd and Final Reading updating the Electric Rates by adding a High Tension rate. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

### **ORDINANCE NO. 1432**

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

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

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

A. **Residential Service**

Availability. To any residential customer in the established service area of David City.

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

Character of Service. AC 60 Hertz, single phase 120 volt, 2 wire or 120/240 volts, 3 wire.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

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

<u>Summer</u>	<u>Winter</u>	
\$0.1125	\$0.1100	First 500 kWh, per kWh
\$0.1000	\$0.0900	Next 500 kWh, per kWh
\$0.0950	\$0.0790	Excess, per kWh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge.

**B. Residential Summer Controls**

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

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

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

<u>Summer</u>	<u>Winter</u>	
\$0.1125	\$0.1100	First 500 kWh, per kWh
\$0.0925	\$0.0900	Next 500 kWh, per kWh
\$0.0875	\$0.0790	Excess, per kWh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge.

**C. Street Light / Alley Light Rentals**

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

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

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

**Customer Service Charge - \$6.64 per fixture per month (or partial month)**

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

**D. Commercial Service**

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

Applicability. To any non-residential customer for lighting, heating and power purposes where the customer's billing demand does not exceed 35 kW or 10,000 kWh for three (3) consecutive months.

Character of Service. AC 60 Hertz, single phase or three phase at any of the City's standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Single Phase Rate Effective October 19, 2019**

**Customer Service Charge - \$28.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1200	\$0.1175	First 1,000 kWh, per kWh
\$0.0950	\$0.0925	Next 1,000 kWh, per kWh
\$0.0925	\$0.0800	Excess, per kWh

**Three Phase Rate Effective October 19, 2019**

**Customer Service Charge - \$37.00 per month (or partial month)**

<u>Summer</u>	<u>Winter</u>	
\$0.1200	\$0.1175	First 1,000 kWh, per kWh
\$0.0950	\$0.0925	Next 1,000 kWh, per kWh
\$0.0925	\$0.0800	Excess, per kWh

Minimum Bill. The minimum bill shall be the sum of the Customer Charge or \$2.20 per month per horsepower for the first 10 horsepower and \$1.26 per horsepower of connected load thereafter, whichever is the highest.

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

**E. Industrial Service**

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

Applicability. To any customer whose monthly consumption equals or exceeds 10,000 kWh or whose monthly peak demand equals or exceeds 35 kW for three (3) consecutive months.

Character of Service. AC 60 Hertz, single phase or three phase at any of the City's standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

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

**Demand Charge**

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

**Energy Charge**

Summer	\$0.0520 per kWh used
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**Winter            \$0.0485 per kWh used**

Minimum Bill. The minimum bill shall be the Customer Charge or the billing Demand Charge, whichever is greater.

Determination of Billing Demand. The maximum demand for any billing period shall be the larger of (1) the highest integrated kilowatt load registered on the meter during any 30 minute period occurring in the billing period or (2) 54% of the highest kilowatt average demand registered on the meter during the preceding months of May 20<sup>th</sup> thru September 19<sup>th</sup>.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test or metering that the power factor at the time of the customer's peak load is less than 90%, the Utility Department will adjust the monthly billing demand by the ratio of 0.90 divided by the power factor (expressed as a decimal) at the time of the customer's maximum hourly usage.

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

**F.      Off-Peak Industrial Service**

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

Applicability. To any customer whose monthly consumption equals or exceeds 10,000 kWh or whose monthly peak demand equals or exceeds 35 kW for three (3) consecutive months and whose peak demand during the winter season exceeds the peak demand experienced during the preceding summer season.

Character of Service. AC 60 Hertz, single phase or three phase at any of the City's standard voltages.

Rate. Subject to application of Production Cost Adjustment (PCA).

**Rate Effective October 19, 2019**

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

**Demand Charge**

**Summer            \$23.00 per kW of maximum billing demand**

**Winter            \$13.00 per kW of maximum billing demand**

**Energy Charge**

**Summer            \$0.0520 per kWh used**

**Winter            \$0.0485 per kWh used**

Minimum Bill. The minimum bill shall be the Customer Charge or the billing Demand Charge, whichever is greater.



Determination of Billing Demand. The maximum demand for any billing period shall be the larger of (1) the highest integrated kilowatt load registered on the meter during any 30-minute period occurring in the billing period or (2) 54% of the highest kilowatt average demand registered on the meter during the preceding months of June, July, August or September.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% leading or lagging at all times. If it is determined by test or metering that the power factor at the time of the customer's peak load is less than 90%, the Utility Department will adjust the monthly billing demand by the ratio of 0.90 divided by the power factor (expressed as a decimal) at the time of the customer's maximum hourly usage.

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

**G. Irrigation Service**

Availability. To irrigation customers in the established service area of David City.

Applicability. **Off-Peak:** During the irrigation season, the Utility may interrupt pump service during peak hours. Peak hours shall be those hours designated as "on-peak" by Nebraska Public Power District and are typically between 8:00 a.m. and 10:00 p.m. Central Daylight Savings Time, Monday through Saturday, excluding holidays and up to four (4) hours on Sunday. The City, at their sole discretion, may change the period of interruptible hours.

Rate.

**Rate Effective October 19, 2019: On-Peak Irrigation (Firm)**

**\$58.00 per HP connected per year. Energy consumed shall be billed at the rate of \$0.0800 per kWh per month, payable as used.**

**Rate Effective October 19, 2019: Off-Peak Irrigation (Non-Firm)**

**\$25.00 per HP connected per year. Energy consumed shall be billed at the rate of \$0.0600 per kWh per month, payable as used.**

Minimum Bill. The minimum bill shall be the Horsepower Charge.

Determination of Connected Load. The connected load in horsepower shall be taken from the name plates of the motors or from an actual measurement of horsepower input to the motor, or motors, operating under maximum load conditions. The City reserves the right at any time to check the customer's load for recalculation of the connected load.

Terms of Payment. The total Horsepower Charge shall be billed on approximately April 25<sup>th</sup> of each year and total amount payable upon receipt. It shall become due the first day of May each year and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of May. A 10% penalty is imposed on all delinquent bills.

Bills for the kWh usage are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. They become due the 1<sup>st</sup> day of each month and become delinquent at 5:00 p.m. on the 10<sup>th</sup> day of each month. A 10% penalty is imposed on all delinquent bills.

Power Factor Adjustment. The rates set forth in this schedule are based on the maintenance by the customer of a power factor of not less than 90% whether leading or lagging at all times. Power factor adjustments will be made in the horsepower billing, when the power factor, as determined by test, at the time of the maximum use is less than 90%. The measured maximum horsepower will be multiplied by 90% and divided by the customer's power factor expressed in percent.

Fluctuating Loads. Customers operating equipment having a highly fluctuating or large instantaneous demand, such as welders and x-ray machines, will be charged \$1.78 per month per KVA of such nameplate rating of such equipment or other equipment for energy used, and such charges will be in addition to the bill determined by the kilowatt-hours recorded by the meter and billed at scheduled rates. It will be added to the minimum bill for services in the event the energy for other services does not equal the amount of a minimum bill for such other services.

#### H. **High Tension Rate**

Availability. Available for commercial and industrial services with contracted monthly peak demand greater than 5,000 kW at a voltage of 34,500 volts or greater where the customer has executed a contract for service under this rate schedule.

Character of Service. Three-phase, 60 cycles, at available subtransmission voltages of 34,500 volts or greater.

##### Rate Effective February 1, 2023

Customer Service Charge:  
\$1,000 per month (or partial month)

Demand Charge:  
NPPD and Butler PPD Actual Cost \* 110% (1)

Energy Charge:  
NPPD Actual Cost \* 110% (2)

Facilities Charge:  
As set forth in contract for service.

Minimum Bill:  
As set forth in contract for service.

(1) Actual NPPD and Butler PPD costs include customer, demand, demand ratchets, transmission, sub-transmission and ancillary service charges incurred by the City to serve customer, without markup, based on General Firm Power Service rate (NPPD) or sub-

transmission rate schedule (Butler PPD). City will provide a copy of NPPD invoice or other documentation evidencing NPPD and Butler PPD customer, demand, transmission, and ancillary service charges passed through to customer for verification purposes.

(2) Actual NPPD energy charges (including fuel and production cost adjustments) incurred by the City to serve customer, without markup, based on General Firm Power Service rate. City will provide a copy of NPPD invoice or other documentation evidencing NPPD energy charges passed through to customer for verification purposes.

Power Factor Adjustment. Power factor adjustments will be made on pass-through basis from NPPD. The customer's billing demand is subject to adjustment if the power factor at the time of the customer's maximum use is less than 90%.

**Section 2. Seasonal Billing Periods.** The *summer* period is for the meter readings obtained during the four-month period of May 19<sup>th</sup> through September 19<sup>th</sup>. The *winter* period is for the meter readings obtained during the eight-month period of September 19<sup>th</sup> through May 19<sup>th</sup>.

**Section 3. Terms of Payment.** Utility bills are mailed on approximately the 25<sup>th</sup> day of each month and are payable upon receipt. Utility bills become due the 1<sup>st</sup> day of each month and become delinquent if not received in the City Office by 5:00 p.m. on or before the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> of the month falls on a weekend, customers will be given until the following regular business day. A 10% penalty is imposed on all delinquent bills.

**Section 4. Production Cost Adjustment (PCA).** Whereas the rates offered to the customer by the City is based upon the current rate being paid by the City to its wholesale supplier, the City shall reserve the right, during the term of the rates, to adjust said rates to the consumer by an amount not to exceed two (2) mills per kilowatt hour greater than the adjustment to the City by its wholesale supplier.

**Section 5.** Any other ordinance or section 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 6.** This Ordinance shall be published in pamphlet form and all rates included in this Ordinance shall be effective as of March 19, 2023.

PASSED AND ADOPTED this 1st day of March, 2023.

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Mayor Jessica Miller

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City Clerk Tami Comte

Council member Tom Kobus made a motion to approve the Aid in Construction agreement with Butler Public Power District. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0

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**AID IN CONSTRUCTION AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between **BUTLER PUBLIC POWER DISTRICT**, a political subdivision of the State of Nebraska with its principal place of business located at 1331 North 4th Street, David City, Nebraska hereinafter referred to as "District", and the **CITY OF DAVID CITY, NEBRASKA**, a municipal corporation with its principal place of business located at 490 E Street, David City, Nebraska, hereinafter referred to as "City".

**WHEREAS, BUTLER** is a public power district organized and existing under the laws of the State of Nebraska under Chapter 70, Article 6 of the Revised Statutes of Nebraska, and operates an electric distribution system primarily in Butler and Saunders Counties, Nebraska, and

**WHEREAS, CITY** is organized as a second class City under Chapter 17, Article 1 of the Revised Statutes of Nebraska and operates an electric distribution system primarily within the city limits of City, and

**WHEREAS, BUTLER'S** retail service territory as established by the State of Nebraska Power Review Board is attached hereto as Exhibit "A" and authorizes **BUTLER** to provide electric power and energy to persons requesting such service within said territory, and

**WHEREAS, CITY'S** retail service territory as established by the State of Nebraska Power Review Board is attached hereto as Exhibit "B" and authorizes City to provide electric power and energy to persons requesting such service within said territory, and

**WHEREAS, CITY** wishes to construct, own and operate an electric distribution substation located within **BUTLER'S** service territory located in the northeast corner of the Northeast Quarter of Section Thirteen (13) Township Fifteen (15) North, Range Two (2), East of the 6<sup>th</sup> P.M., Butler County, Nebraska as shown on Exhibit "C" attached hereto, to provide electric power and energy to Ag Processing Inc. ("AGP"), an entity desiring to construct, own and operate a soybean processing facility located in the Northeast Quarter of Section Thirteen (13) Township Fifteen (15) North, Range Two (2), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, and its successors and assigns (the "Facility"), and

**WHEREAS,** to provide sufficient electric power and energy to operate the Facility, **CITY** is requesting from **BUTLER** that **BUTLER** extend an 34.5 kV electric transmission line owned by **BUTLER** from the south line of the middle of Section Thirteen (13) Township Fifteen (15) North, Range Two (2), East of the 6<sup>th</sup> P.M. Butler County Nebraska and running north approximately one mile to the electric substation to be constructed by **CITY** and also to extend an 69kV transmission line owned by **BUTLER** from the Northwest corner of the Northwest Quarter of the identical section running east approximately slightly in excess of one-half mile to connect with the substation to be constructed by City, both of which are also shown on Exhibit "C" attached hereto, and

**WHEREAS, BUTLER** requires payment from **CITY** in advance of commencing engineering services in the form of plans and specifications, preparation of bid documents award of the construction project and actual construction thereof, and

**WHEREAS, CITY** is willing to pay for all costs incurred by **BUTLER** in connection with the construction of the extension of both transmission lines, and

**WHEREAS, BUTLER AND CITY** desire to set forth their respective obligations and responsibilities to construct said transmission line extensions and to pay in advance therefore in this Agreement.

**NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS** and in further consideration of the terms and conditions set forth herein, it is hereby agreed between **DISTRICT** and **CITY**, as follows, to wit:

1. **PAYMENT IN ADVANCE.** Within 45 days from the date of the execution of this Agreement by both parties, **CITY** shall pay to **BUTLER** the sum of \$137,160 representing **CITY'S** portion of the total estimated cost of construction in the amount of \$423,300. **BUTLER** will pay its maximum allowable investment in the amount of \$286,140. Each party hereby stipulates and agrees that the amounts represents the best estimate of the total cost of construction for the one mile extension of the 34.5kV transmission line and the half mile extension of the 69kV transmission line as well as the **CITY'S** aid to construction and **BUTLER'S** allowable investment as determined by the joint collaboration of the electrical engineers and rate consultants employed by **BUTLER** and **CITY**.
2. **DEPOSIT OF FUNDS.** **BUTLER** agrees to deposit said funds in a restricted account. Expenditures from this account shall only be authorized for costs related to the construction of the extensions of the 34.5kV line and the 69kV line owned by **BUTLER**.
3. **PLANS AND SPECIFICATIONS, BID LETTING, AWARD OF CONTRACT.** Within 90 days from the payment by **CITY** to **BUTLER**, engineers for **BUTLER** shall prepare plans and specifications along with bidding documents for the construction of the extension of the transmission lines. **BUTLER** shall give notice to **CITY** of bidding results and engineers recommendation for awarding the contract.
4. **CONSTRUCTION COSTS.** Construction costs shall include, but not be limited to, all engineering costs to include construction supervision, right of way acquisition costs, construction costs including add-ons to the original contract, costs to energize the two transmission lines and all other expenses directly related to construction of the extension of the two transmission lines.

5. **PAYMENT OF ADDITIONAL COSTS/REFUND OF EXCESS COSTS.** In the event the actual cost of construction exceeds \$423,300 as estimated in paragraph #1 herein, CITY shall pay to BUTLER the difference between the estimated cost of construction and the actual cost of construction within 45 days of presentation of an invoice showing the increase in City's portion of its aid to construction of the extension line project and the amount paid in paragraph #1. BUTLER will not energize either transmission line until this amount is paid. In the event the actual cost of construction is less than the estimated amount, BUTLER will refund to CITY the difference between the estimated cost of construction and the actual cost of construction, not to exceed \$137,160 within 45 days of payment by BUTLER of the final construction costs. The formula for determining both the CITY'S aid to construction and BUTLER'S allowable investment is contained in a letter dated January 16, 2023 from Utility Financial Solutions, LLC and is attached hereto as Exhibit "D".
6. **OWNERSHIP OF THE EXTENDED TRANSMISSION LINES. CITY AND BUTLER** agree that the extended 34.5kV transmission line and the extended 69kV transmission line shall be owned solely and completely by BUTLER and CITY shall pay to BUTLER its normal and customary wheeling charges for electrical power and energy delivered over said lines to CITY'S electric substation in addition to the normal and customary charges for the energy service and related charges for delivering electric power and energy to the substation.
7. **LIMITATION OF DAMAGES.** In no event shall BUTLER be liable to CITY for any damages, whether legal or equitable, for delays in construction of the extension of the two transmission lines. Both parties hereto acknowledge that a host of reasons could delay the construction, including but not limited to, supply chain issues, labor strikes, weather events, vandalism or terrorism, fires, or other casualties.
8. **ANNEXATION AND EXTENSION OF CITY'S SERVICE TERRITORY.** BUTLER agrees that it will not object to the annexation of the Northeast Quarter of Section Thirteen (13) Township Fifteen (15) North, Range Two (2) East of the 6<sup>th</sup> P.M. by CITY and the subsequent inclusion of the real estate within CITY'S electric service territory as established by the Nebraska Power Review Board.
9. **EXHIBITS.** This agreement includes the Exhibits listed below which are incorporated into a form apart of this Agreement:
  1. Exhibit "A": BUTLER'S retail service area map.
  2. Exhibit "B": CITY'S retail service area map.
  3. Exhibit "C": map showing extension of 34.5kV and 69kV transmission lines and location of substation.
10. **NOTICES.** All notices pursuant to this agreement shall be in writing and maybe delivered by ordinary, certified, or registered mail, electronic email, or in person.

All notices to **CITY** shall be delivered to:

Tami Comte, City Administrator  
490 E Street  
David City, Nebraska 68632  
Email: tcomte@davidcityne.com

All notices to **BUTLER** shall be delivered to:

Mark Kirby, General Manager  
1331 Fourth Street  
David City, Nebraska 68632  
Email: mkirby@bppd.com

11. **SEVERABILITY.** Should any part, term or provision of this Agreement be, by a court of competent jurisdiction, decided to be illegal or in conflict with any applicable law, the validity of the remaining portions or provisions shall not be affected thereby.
12. **HEADINGS.** The insertions of headings to the provisions of this Agreement is for convenience of reference only and shall not be used to construe or interpret this Agreement or any portion thereof.
13. **ENTIRE AGREEMENT.** This agreement represents the entire Agreement between the parties with respect to only the matters addressed in this Agreement and may not be modified or amended except by subsequent written agreement signed by both parties.

**IN WITNESS WHEREOF**, the parties have signed this agreement in the State of Nebraska on the date set forth in the respective acknowledgments.

**“BUTLER PUBLIC POWER DISTRICT”**

**“CITY OF DAVID CITY, NEBRASKA”**

By: Mark Kirby  
Mark Kirby, General Manager

By: \_\_\_\_\_  
Jessica Miller, Mayor

Date: FEBRUARY 15, 2023

Date: \_\_\_\_\_, 2023



Exhibit 'A'

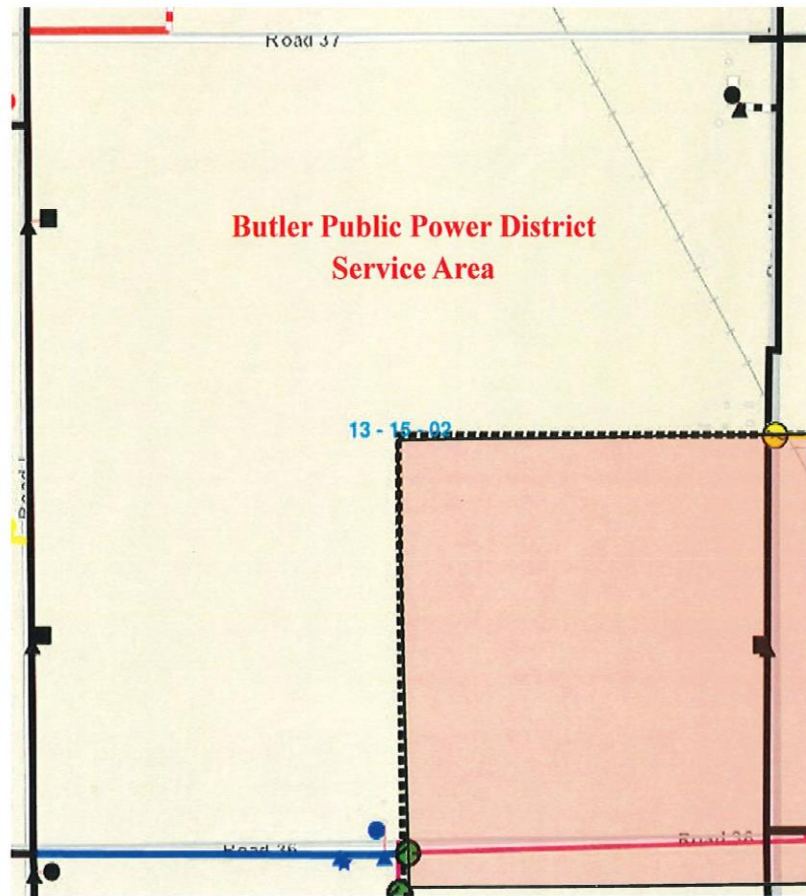


Exhibit 'B'

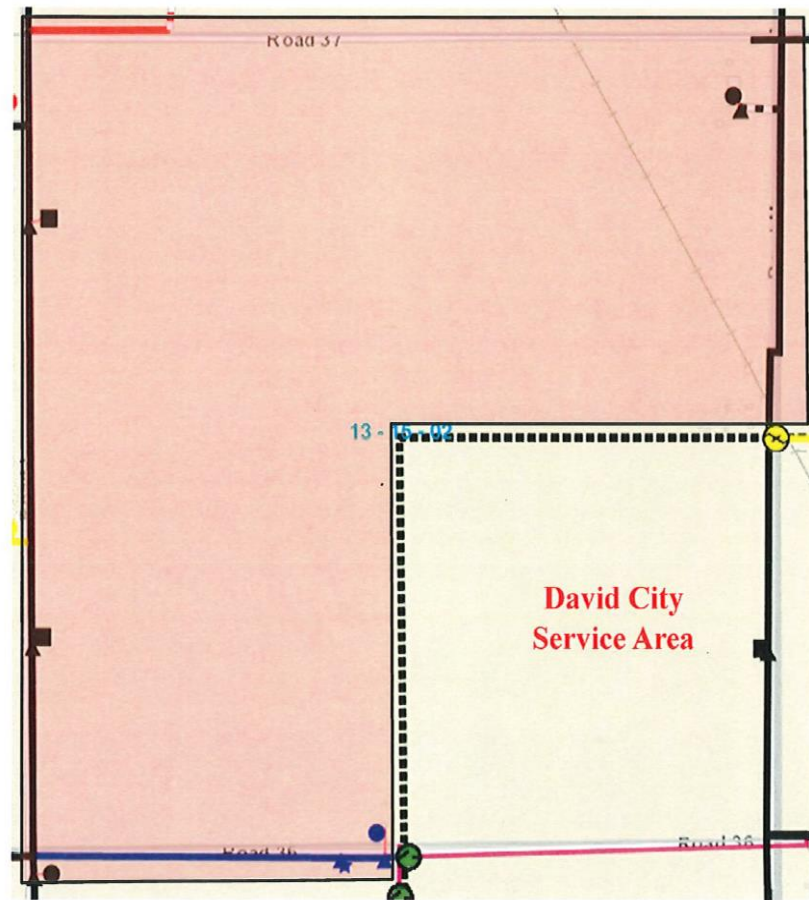


Exhibit 'C'



Council member Keith Marvin made a motion to adjourn. Council Member Jim Angell seconded the motion. The motion carried and Mayor Jessica Miller declared the meeting adjourned at 7:14 p.m.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 6, Nay: 0



CERTIFICATION OF MINUTES  
March 1, 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 March 1, 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