

## CITY COUNCIL PROCEEDINGS

April 12, 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 April 6, 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, Jim Angell, 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: Police Chief Marla Schnell, Recreation Coordinator Will Reiter, Special Projects Coordinator Dana Trowbridge, Wastewater Supervisor/Water Operator In Charge Dan Sobota, Ethan Joy with JEO Engineering, Ruth & Victor Thoendel, Louise Niemann, Mark & Willow Holoubek, Jan Sypal and Jerry Kosch. Dave Samson, Senior Field Sales Representative for ActiveNet, Ryan Cameron, CMBA Architects and Kyle Crouch, JEO, were present via Zoom.

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. Mayor Miller read the speaking guidelines for the City Council meeting. 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.

Council member Pat Meysenburg made a motion to approve the minutes of the March 22 and April 5, 2023 minutes 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

Mayor Jessica Miller stated that the next item on the agenda was approval of claims.

Council member James Angell stated that he has a conflict of interest with the claims because his business, D-Sign Shop, has a claim that is being presented for payment.

Council member Pat Meysenburg made a motion to approve the claims as presented. Council Member Kevin Woita seconded the motion. The motion carried.  
Jim Angell: Abstain (With Conflict), Tom Kobus: Yea, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 4, Nay: 0, Absent: 1, Abstain (With Conflict): 1

Mayor Miller stated that the next item on the agenda was Committee and Officers reports.

Interim City Administrator/City Clerk Tami Comte stated that they hired Elizabeth Parker to fill the Account Clerk vacancy and she will start on April 17, 2023.

Council member Tom Kobus made a motion to approve the committee and officer reports as presented. 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

Mayor Miller stated that the next item on the agenda was discussion/action concerning purchasing ActiveNet for use at the swimming pool, auditorium/Schweser House, ball and soccer programs.

David Samson, Senior Field Sales Representative, was present via Zoom. David introduced himself and gave a brief presentation on the ways that their programming could be of assistance to the City. The program would allow the public to access and pay for programs online instead of having to physically bring paperwork to the City Office. It can also be used to a great extent at the swimming pool.

Special Projects Coordinator Dana Trowbridge introduced himself and asked if the program could be used to book and pay for the campsites at the new RV Campground.

David Samson stated that it could be used for that as well. There are a number of City programs that their program could be of assistance.

Council member Kevin Woita made a motion to approve the purchase of ActiveNet for use at the swimming pool, auditorium, schweser house, ball programs and soccer programs. 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

Essentials Tier: Activity/Program Registration, Facility Reservation, Point of Sale, Marketing and Communications

• Standard 3 Implementation \$18,375 (one-time fee) **Now \$10,900!**

• Subscription: \$4,688 (annual) **Now 3,750!**

• Merchant Fees:

o Transaction Fee: .9%

o CC%: 2.05%

o E-Check: .5%

This package will help you achieve the goals you shared with me:

1. A more modern, time saving way to manage the aquatics facility in the summer, as well as an auditorium and other facilities that are available for rent.
2. A more streamlined Point of Sale system minimizing cash and provides daily financial reports. Eliminates the manual cash register.
3. An online facility rental solution, which should minimize people calling in to reserve a facility to manually reserve. Citizens can reserve the facility, pay for it, and sign any waivers that may apply.
4. Successful users in your area like the City of Wahoo.
5. The ability to import daily financials into your current financial system, saving time entering in the long cash tape each day. Less time waiting in line.
6. A great system to manage Rec programs like soccer, baseball, tball, softball, and flag football. Saves time for the Rec Coordinator doing all the registrations on paper for each league.
7. A system to collect payments for all concessions, family passes, swim lessons, etc.
8. A Point of Sale system that also manages inventory and equipment rentals.
9. Allows you to meet your goal of moving to a fulltime credit card and online registration system.
10. Allows you to start tracking your fields.
11. Provides you a Marketing tool to promote your programs and activities

Mayor Miller stated that the next item on the agenda was Ordinance No. 1436 adopting an updated sewer rate schedule. Mayor Miller stated that she and Council member Bruce Meysenburg had discussed the proposed \$4.14/1,000 gallons rate and decided that was too large of an increase at one time.

Council member Bruce Meysenburg stated that he felt more comfortable with the \$3.60/1,000 gallons rate for this year.

Council member Bruce Meysenburg introduced Ordinance No. 1436 adopting an updated sewer rate schedule. Mayor Jessica Miller read Ordinance No. 1436 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 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 pass on 3rd & Final reading Ordinance No. 1436 adopting an updated sewer rate. 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. 1436**

AN ORDINANCE SETTING THE MONTHS THAT WILL BE USED TO CALCULATE SEWER RATES; EFFECTIVE DATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 7-313 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA.

Section 1. For residential customers, the monthly sewer rate fee shall be based on the average quantity of water **used during the time period of December 20<sup>th</sup> thru March 19<sup>th</sup>, preceding April of the current year**. Customers who move within the City shall pay the same Sewer Use Fee at their new location as they paid for at their former location until which time the sewer rate fees are recalculated. For new residential customers in the City, an appropriate Sewer Use Fee will be determined by the Water/Sewer Supervisor.

Section 2. For commercial customers, who use water in a commercial business, industrial, or other non-residential way, a monthly Sewer Use Fee will be calculated monthly based on the current month's water usage. Commercial customers who do not want to pay a sewer use fee for water used for watering lawns or shrubs will be responsible, at their own cost, to hire a licensed plumber to install a separate water meter to separately meter such water usage.

Section 3. Notwithstanding Section 3, commercial customers who use more than 2,000,000 gallons of water per month, on average (referred to herein as "High Volume Commercial Customers"), shall have the option to install, at its own cost and subject to inspection/oversight by the Water/Sewer Supervisor, a separate meter to measure the outflow of wastewater, in which case the monthly Sewer Use Fee will be calculated monthly based on the current month's discharge of waste water.

Section 4. With respect to all residential customers and commercial customers who do not qualify as High Volume Commercial Customers, the following monthly Sewer Rates and customer charges became effective March 19, 2023, billed in April, and due May 1 - 10<sup>th</sup>.

Customer charge of \$11.35 per month  
Plus @ \$3.60 per 1,000 gallons of water used

Section 5. With respect to High Volume Commercial Customers, the following monthly Sewer Rates and customer charges became effective March 19, 2023, billed in April, and due May 1 - 10<sup>th</sup>.

Customer charge of \$11.35 per month  
Plus @ \$3.25 per 1,000 gallons of water used

Section 6. The monthly rates to be charged for sewer usage and customer charges will be reviewed by the City Council on an as needed basis;

Section 7. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 8. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 12th day of April, 2023.

\_\_\_\_\_  
Mayor Jessica Miller

(ATTEST)

\_\_\_\_\_  
City Clerk Tami Comte

Recreation Coordinator Will Reiter introduced himself presented a softball agreement and asked for the Council's approval. Will stated that he met with Dr. Denker with the Public School and he approved of the agreement. Will also had City Attorney David Levy approve the agreement. Will will meet with Ron Mimick with Aquinas Catholic to try to get an agreement worked out with them in the near future.

Council member Tom Kobus made a motion to approve the softball agreement with David City Public Schools. 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

## ***The City of David City & David City Public Schools***

### ***Softball Field Rental Agreement***

This facility rental agreement entered into by the City of David City (Lessor) and David City Public Schools (Lessee) on April 12, 2023 for the fall softball season of 2023 through the fall softball season of 2025 specifies the responsibilities and duties of each party and the amount owed yearly by the Lessee. The parties represented in this agreement are legally bound, fully recognize, and agree to the following conditions:

### **Date and Times of Permitted Use:**

Access to the David City Ball Complex will commence at the end of the moratorium period prior at the start of the school year and end after the last post season game of the Lessee. In recognition of the Agreement with Aquinas Catholic Schools, the Lessee is given use of Field 1 (one) with shared use of Field 3 (three). Exceptions to this rule can be made for tournaments and conditions of the fields.

The Lessee is permitted to use the David City Ball Complex at any time during the specified period for softball practice.

The Lessee is permitted to use the David City Ball Complex for in season softball games and softball tournaments upon reservation of specified dates. The specified dates must be reserved prior to the commencement of permitted use and must clearly state the following:

1. Date of the event
2. Time of the event
3. Number of fields needed for the event

Post season game reservations must be requested immediately upon the public announcement by the NSSA of hosting schools and must clearly state the following:

1. Date of the event
2. Time of the event
3. Number of fields needed for the event

### **Rental Fee:**

The Lessee shall pay the Lessor a rental fee for use of the Lessor's facility in the amount determined by the following three-part plan:

1. A total of **\$450** for the reservation of softball practices for the entire period of use.
2. A total of **\$720** for the reservation of softball games for the entire period of use.
  - a. This fee of \$720 covers an average of 8 (eight) nights of softball games per season. The Lessee will pay the entire amount regardless of the total number of in season games.
  - b. UNDER THIS SECTION OF THE AGREEMENT, THE LESSEE AGREES TO PAY FOR ANY POST SEASON GAMES AT AN ADDITIONAL CHARGE OF \$80 PER GAME ONLY IF THE STATED POST SEASON GAME GOES BEYOND THE LIMIT OF COVERED GAMES.
  - c. For additional clarification, the Lessee only pays for games beyond the covered 8 games if the additional games are post season games. If the Lessee hosts a post season game and they have not reached their 8-game limitation, the post season game (and any additional post season games) shall be of no charge to the Lessee until the amount is beyond the 8-game limitation.
3. A total of **\$500** for each softball tournament hosted over the entire period of use.

The balance of the rental fee shall be paid in full by the Lessee to the Lessor no later than the end of December of the current year.

### **Responsibilities of Each Party:**

The Lessor shall be responsible for the following actions, services, equipment, and property:

- Maintenance of the grounds
  - Spraying, mowing, routine dragging, field repair, irrigation, fertilizing, etc.
- Maintenance of equipment
  - Concession stand equipment, maintenance equipment, screens/nets, bases, banners, etc.
- Maintenance of buildings/structures
  - Main building, maintenance shed, garage, bleachers, fences, batting cage, scoreboards, cleaning bathrooms, lights, post holes for snow fence, etc.
- Game day preparation:
  - Dragging field, marking/chalking field, painting field, ensuring field dimensions, ensuring concession stand is stocked (through Didiers), providing access to score boards, etc.
- Weekend tournament preparation and on-site field maintenance:
  - Dragging field prior to tournament, raking and marking/chalking prior to and during the tournament (as needed DETERMINED BY THE FIELD CREW), painting field prior to tournament, ensuring field dimensions, ensuring concession stands are stocked, cleaning the main building for hospitality (per request by school), providing access to scoreboards, etc.

The Lessee is responsible for the following actions, services, equipment, and property:

- Reservation of proper game dates and tournament dates prior to the commencement of the use of the facility
- Payment of the lease bill no later than the end of December of the current year
- Maintenance of school owned shed
- Purchase and maintenance of necessary ball equipment, uniforms, and other items for softball activities
- Providing volunteers for concession stands:
  - A concession stand agreement is included in this agreement under the concession stand use section
- Management/Administration of games and tournaments

- Paying Umpires
- Providing hospitality beyond the upper room of the main building
- Setting up/taking down a snow fence in the outfield if team wishes to have one

### **Concession Stand Use by the Lessee:**

All equipment, property, and product within the concession stand is owned and maintained by the Lessor at the Lessor's expense. Any damage, neglect, destruction, or vandalism done to the property, equipment, or product within the concession stand by the Lessee, its agents, employees, contractors, lessees, invitees, or representatives shall be compensated for in full by the Lessee. The Lessee understands and accepts any and all risks of operating the concession stands and agrees to indemnify the Lessor from any damages clarified under the *Indemnification* section of this agreement.

The Lessor is responsible for providing change/starting cash and stocking the concession stand prior to any in season or post season games reserved by the Lessee. The Lessee is responsible for recording a starting inventory of the product in the concession stand, selling the product in the concession stand, recording an ending inventory of the product in the concession stand, running the equipment in the concession stand, cleaning any equipment used in the concession stand, and returning the change/starting cash to the Lessor. The change/starting cash shall be returned to the Lessor no later than next business day of the Lessor.

The Lessor is responsible for counting the profit of the concession stand and paying the Lessee the proper share of the profit.

1. The Lessee shall receive 80% of the profit. The Lessor shall withhold 20% of the profit.  
(Profit=Revenue-Expense of Product)
2. The Lessor shall pay the Lessee its share of the profit no later than the end of December of the current year.

The Lessee is not allowed to sell any product not already purchased through the Lessor without receiving approval from the Lessor prior the date of usage.

### **Indemnification:**

To the fullest extent applicable law permits, the Lessee shall indemnify, defend and hold harmless the Lessor, its officers, agents and employees from and against any and all loss, cost (including attorneys' fees), damage, expense, and liability (including statutory liability and liability under workers' compensation laws) in connection with claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings, arising out of or in connection with any occurrence, injury, damage or claim occurring in, on or about the David City Ball Complex at any time during Lessee's use or occupation thereof. This Indemnity shall survive the termination of this Agreement. The Lessee hereby releases the Lessor from any and all liability or responsibility to the Lessee and anyone claiming through or under



Lessee by way of subrogation or otherwise for any loss or damage to the equipment or property of the Lessee covered by any insurance then in force.

### **Assignment and Sublicensing:**

The Lessee shall not assign any interest in this Agreement or otherwise transfer or sublicense the David City Ball Complex or any part thereof or permit use of the Facility to any party other than the Lessee.

### **Procedures for Rainouts, Weather Restraints, or Unforeseen Events/Limitations**

The Lessor reserves the right to cancel any practice, game, or tournament at the David City Ball Complex due to excessive rain. The Lessee WILL NOT be reimbursed for the first rainout of the season. The Lessee WILL be reimbursed for any rainout following the first rainout of the season. The reimbursement will be determined as follows:

1. If a single game, double header, or triangular is rained out, the Lessee shall be reimbursed \$90.
2. If a tournament is rained out, the following rules shall apply:
  - a. If the tournament is over halfway completed, there will be no refund given.
  - b. If the tournament is under halfway completed, \$250 will be refunded.
  - c. If the tournament is never started, \$500 will be refunded.

If the field for the game is prepped before the rainout occurs, the Lessee will receive no reimbursement regardless of the total number of rainouts. If the Lessor can prep another field that is in better condition to allow the Lessee to play, the Lessor shall reserve the right to do so regardless of whether the Lessor has already prepped another field.

Any weather restraints that occur during the competition of the Lessee shall be handled by the Lessee, its officials, and invitees. The Lessor is not responsible for any damage or injury caused by negligence of the weather by the Lessee.

In the event of an unforeseen restraint or limitation, this Agreement can be reevaluated upon the Lessor's consent.

### **Termination and Renewal:**

The Lessor may terminate this Agreement at any time if the Agreement is breached by the Lessee.

This Agreement shall be renewed every 3 (three) years upon reevaluation unless one of the two parties wishes to end the Agreement.

***Both parties have read, understand, agree with, and acknowledge the terms and conditions listed in this Agreement and herby willingly enter into this Agreement with the opposing party.***

\_\_\_\_\_  
Chad Denker, DCPS Superintendent

\_\_\_\_\_  
Jessica Miller, Mayor

\_\_\_\_\_  
Ernie Valentine, DCPS Athletic Director

\_\_\_\_\_  
Tami Comte, City Clerk

Ryan Cameron with CMBA Architects and Kyle Crouch, with JEO were present via Zoom. They introduced themselves and gave a presentation regarding Bone Creek Museum’s project on 5<sup>th</sup> Street. They stated that they want to make some upgrades including a zero-entry (handicap accessible) entrance to the building, planting wild grass and an EV charging station as some of the upgrades.

Council member Bruce Meysenburg made a motion to approve the Bone Creek Museum project noting that they will be required to obtain the appropriate permits. 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 Jim Angell made a motion to approve entering into an Interlocal Agreement with Butler County for dispatch services. 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

## INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (the “**Agreement**”) is entered into by and between the County of Butler, Nebraska, a political subdivision of the State of Nebraska (the “**County**”) and the City of David City, in Butler County, Nebraska, a municipal corporation (the “**City**”) this 1<sup>st</sup> day of April, 2023 (the “**Effective Date**”). County and City may be referred to herein as the “**Party**” or collectively as the “**Parties**”, WITNESSETH:

WHEREAS, the City has reinstated the David City Police Department to operate within the city limits of David City, Nebraska; and

WHEREAS, to function efficiently, the David City Police Department is in need of dispatch services; and

WHEREAS, it is recognized by both Parties that the dispatch services needed by the David City Police Department would be best accomplished jointly because of certain cost savings and efficiencies or certain hardships which might be experienced if undertaken singularly; and

WHEREAS, Sections 13-804 through 13-814 of the Nebraska Revised Statutes authorize the joint exercise of powers, privileges and authority by agreement of two or more public agencies of any power common the them; and

WHEREAS, the parties agree that the solution to this problem lies in cooperative action; and

WHEREAS, it is the desire of the parties hereto signed to participate in the joint use of trained dispatch personnel, operational equipment and resources.

NOW, THEREFORE, BE IT RESOLVED that the County of Butler and the City of David City hereto signed do agree to the following:

1. Information and Access and Equipment: Each signature agency will provide all necessary information and access to its respective departments that is needed. The dispatch office and equipment will remain the property of Butler County.
2. Administration of the Agreement: A separate entity is not created by this Agreement, and the dispatch services provided for by this Agreement will be

administered by the Butler County Board of Supervisors, the Butler County 911 Coordinator and/or the NCIC Control Board.

3. City of David City Police Department: The purpose of this Agreement is to provide emergency and non-emergency dispatch services to the David City Police Department. The County will provide continuous answering and dispatch services to the David City Police Department using qualified dispatch personnel that are trained to a competent level and meet all legally-required standards.

4. Fees for Services: The charge for services provided in the first year will be Seven Thousand One Hundred Fifty-five dollars (\$7,155.00) per year (April 1 – March 31) payable at a rate of Five Hundred Ninety-six and 25/100 dollars (\$596.25) per month for the purpose of covering the cost for dispatch service provided from the period of April 1, 2023 to March 31, 2024. This amount is based upon the City paying twenty percent (20%) of the cost of the Motorola console maintenance agreement, SUA/SUG services from the state and TTY services from the State. Twenty percent (20%) is based on an estimate of the total calls that will be received by the 911 center for dispatch services to the David City Police Department. This number will be reviewed every year by the Parties on or before March 15 of each year and the City's percentage of the costs will be based on the total number of calls received by the 911 center for the City applied to the costs of the Motorola console maintenance agreement, SUA/SUG services from the state and TTY services from the State. The payments made by the City to the County under this Agreement shall be paid to Butler County and remitted to the Butler County Treasurer.

5. Agreement Duration: The term of this Agreement will be from April 1, 2023 through March 31, 2024. It shall automatically renew and continue to be in effect until such time either party terminates the Agreement as provided herein.

6. Agreement Amendments: This Agreement may be amended at any time by the written agreement of the Parties.

7. Termination. This Agreement may be terminated by either Party by giving written notice to the other party no later than April 1 of the year in which the party wishes to terminate. Termination shall be effective and provision of services shall terminate at 12:00 a.m. on July 1 of the year in which a timely notice of termination is given. For example, a termination notice given on March 15, 2029 would result in termination as of 12:00 a.m. on July 1, 2029.

8. Notices. Any notices required to be sent hereunder shall be given by mailing or delivering written notice as follows:

**Notices to the County:**

Butler County Clerk  
451 N 5<sup>th</sup> Street  
David City NE 68632

**Notices to the City:**

City of David City Clerk  
490 E Street  
PO Box 191  
David City NE 68632

9. Hold Harmless: Butler County and the City of David City agree to indemnify and hold each other harmless from any and all liability arising from the actions of each party's employees or agents.

Signature page follows.

IN WITNESS WHEREOF, the Parties hereto have respectively signed this Agreement as of the dates written herein.

ATTEST:

CITY OF DAVID CITY  
BUTLER COUNTY, NEBRASKA

\_\_\_\_\_  
CITY CLERK

BY: \_\_\_\_\_  
MAYOR

ATTEST:

COUNTY OF BUTLER, NEBRASKA  
A political subdivision of the  
State of Nebraska

\_\_\_\_\_  
COUNTY CLERK

BY: \_\_\_\_\_  
BOARD CHAIRMAN

Council member Pat Meysenburg made a motion to approve the trade-in of the bobcat for a new bobcat for the water/sewer departments. 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



**Product Quotation**

Quotation Number: 34568D035779  
 Date: 2023-03-23 11:50:33

Ship to	Bobcat Dealer	Bill To
City of David City Water Dept. Attn: John 1220 E ST David City, NE 68632 Phone: (402) 367-2339 Email: dcwatersup@davidcityne.com	Central Nebraska Bobcat, Grand Island, NE 3809 WESTGATE ROAD GRAND ISLAND NE 68803-4927 Phone: (308) 384-9222 Fax: (308) 384-1491 ----- Contact: Rick Kraft Phone: (308) 384-9222 Fax: (308) 384-1491 Cellular: (308) 390-9010 E Mail: rick@cnebobcat.com	City of David City Water Dept. Attn: John 1220 E ST David City, NE 68632 Phone: (402) 367-2339

Description	Part No	Qty	Price Ea.	Total
<b>T66 T4 Bobcat Compact Track Loader</b> 74.0 HP Tier 4 V2 Bobcat Engine Auxiliary Hydraulics: Variable Flow Backup Alarm Bob-Tach Bobcat Interlock Control System (BICS) Controls: Bobcat Standard Cylinder Cushioning - Lift, Tilt Engine/Hydraulic Performance De-rate Protection Glow Plugs (Automatically Activated) Horn Instrumentation: Standard 5" Display (Rear Camera Ready) with Keyless Start, Engine Temperature and Fuel Gauges, Hour meter, RPM and Warning Indicators. Includes maintenance interval notification, fault display, job codes, quick start, auto idle, and security lockouts. Lift Arm Support	M0349	1	\$70,495.00	\$70,495.00
	Lift Path: Vertical Lights, Front and Rear LED Operator Cab Includes: Adjustable Suspension Seat, Top and Rear Windows, Parking Brake, Seat Bar and Seat Belt Roll Over Protective Structure (ROPS) meets SAE-J1040 and ISO 3471 Falling Object Protective Structure (FOPS) meets SAE- J1043 and ISO 3449, Level I; (Level II is available through Bobcat Parts) Parking Brake: Spring Applied, Pressure Released (SAPR) Solid Mounted Carriage with 4 Rollers Tracks: Rubber, 12.6" Wide Warranty: 2 years, or 2000 hours whichever occurs first			
P29 Performance Package Power Bob Tach Attachment Control Two-Speed	M0349-P06-P29	1	\$5,828.00	\$5,828.00
	Dual Direction Bucket Positioning Automatic Ride Control Reversing Fan			
C68 Comfort Package "Enclosed Cab with HVAC Sound Reduction Touch Display with Radio & Bluetooth	M0349-P07-C68	1	\$7,772.00	\$7,772.00
	Heated Cloth Air Ride Suspension Seat Premium LED Lights Rear View Camera"			
Selectable Joystick Controls	M0349-R01-C04	1	\$811.00	\$811.00
15.7" C-Pattern Rubber Track	M0349-R09-C02	1	\$1,597.00	\$1,597.00
15.7" C-Pattern Rubber Track				
74" Heavy Duty Bucket	7272680	1	\$1,861.00	\$1,861.00
--- Bolt-On Cutting Edge, 74"	6718007	1	\$303.00	\$303.00
<b>Total of Items Quoted</b>				<b>\$88,667.00</b>
Dealer P.D.I.				<b>\$200.00</b>
Freight Charges				<b>\$1,641.00</b>
Dealer Assembly Charges				<b>\$65.00</b>
Trade-in 2019yr T595 W/BKT				<b>(\$46,000.00)</b>

Other Charges:	Material and Logistics	\$0.00
Discount	Muni Discount	(\$26,398.00)
Quote Total - US dollars		\$18,175.00

Notes:

All prices subject to change without prior notice or obligation. This price quote supersedes all preceding price quotes.

<b>Customer Acceptance:</b>	Purchase Order: _____
<b>Authorized Signature:</b>	
<b>Print:</b> _____	<b>Sign:</b> _____ <b>Date:</b> _____

Council member Kevin Woita made a motion to recess the Council meeting at 8:09 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

Mayor Jessica Miller declared the City Council meeting reconvened at 8:12 p.m.

Mayor Jessica Miller declared the public hearing open at 8:13 p.m. to consider and possibly take action on an amendment to a redevelopment plan entitled: Amendment to Redevelopment Plan for the Northwest Industrial Area," for redevelopment pursuant to the Community Development Law, Nebraska Revised Statutes, sections 18-2101, et seq., within the



blighted and substandard Northwest Redevelopment Area, approximately located to the west of Road "M", between Road 37 and Road 36, in David City, Nebraska.

Special Projects Coordinator Dana Trowbridge asked what the amendment was to the plan.

City Attorney David Levy explained that the Redevelopment Plan for a redevelopment area sets forth how tax increment financing is to be used in that area. This is essentially amending the existing redevelopment plan for that area to put in that plan the specifics of the use of tax increment financing associated mostly with AGP project but other infrastructure within the area that was described, Road M, Road 36, and Road 37, that will be paid for in whole or in part with tax increment financing. So, we're amending the plan to say how the City is going to use tax increment financing in that area.

Hearing no further comment, Mayor Jessica Miller declared the public hearing closed at 8:18 p.m.

Council member Bruce Meysenburg made a motion to pass and adopt Resolution No. 15-2023 approving and adopting the Amendment to the "Redevelopment Plan for the Northwest Industrial Area". 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

### **RESOLUTION NO. 15-2023**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, APPROVING AN AMENDMENT TO A REDEVELOPMENT PLAN ENTITLED, "AMENDMENT TO THE redevelopment plan FOR THE NORTHWEST INDUSTRIAL AREA".

**WHEREAS**, on December 14, 2022, via Resolution No. 29-2022, the Mayor and City Council for the City of David City, Nebraska (the "City"), approved and adopted a redevelopment plan entitled, "Redevelopment Plan for the Northwest Industrial Area" for redevelopment in blighted and substandard areas in the City (the "Redevelopment Plan"), all in compliance with sections 18-2101 et seq., of Chapter 18, Article 21, Nebraska Reissue Revised Statutes, as amended, known as the Community Development Law (the "Act"); and

**WHEREAS**, attached hereto as Exhibit 1 and incorporated herein, is an amendment to the Redevelopment Plan, setting forth certain changes to the terms and provisions of the Redevelopment Plan (the "Amendment"); and

**WHEREAS**, such changes to the Redevelopment Plan set forth in the Amendment constitute a substantial modification of the Redevelopment Plan under section 18-2115.01 of the Act; and

**WHEREAS**, in accordance with the foregoing, and in conformance with the Act, on April 8, 2023, the Planning Commission of the City held a duly-notice public hearing on the Amendment, and provided written findings on and recommended the Mayor and City Council's adoption and approval of the Amendment; and

**WHEREAS**, in conformance with the Act, on April 12, 2023, the Community Development Agency of the City provided written findings on and recommended the Mayor and City Council's adoption and approval of the Amendment; and

**WHEREAS**, in conformance with the Act, on April 12, 2023, the Mayor and City Council held a duly-noticed public hearing on the Amendment; and

**WHEREAS**, all conditions precedent under the Act for the Mayor and City Council's final approval of the Amendment have occurred; and

**WHEREAS**, after public hearing and review of the Amendment, the Mayor and City Council determined that the Redevelopment Plan, as amended by the Amendment, complies with the comprehensive land use plan of the City (the "Comprehensive Plan") and will result in the elimination and prevention of blight; and

**WHEREAS**, after public hearing and review of the Amendment, the Mayor and City Council determined that the redevelopment contemplated in the Redevelopment Plan, as amended by the Amendment, would not occur and would not be economically feasible without the use of tax-increment financing.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA:**

Section 1. The Redevelopment Plan, as amended by the Amendment, complies with the Comprehensive Plan of the City.

Section 2. Based on the substantial evidence in the record of this proceeding, the Mayor and City Council finds as follows:

(a) The proposed land uses and building requirements in the redevelopment area as described in the Redevelopment Plan, as amended by the Amendment, are designed with the general purpose of accomplishing, in conformance with the City's Comprehensive Plan, a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with the present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development; that under the Redevelopment Plan, as amended by the Amendment, adequate provision is made for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of populations, the provision of adequate transportation, water, sewage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds and the elimination of, or prevention of the recurrence of, insanitary or unsafe dwelling accommodations or conditions of blight.

(b) The Redevelopment Plan, as amended by the Amendment, contains a satisfactory statement of the proposed method and estimated cost of acquisition and preparation for redevelopment of the redevelopment area; that no public improvements are required to be provided except as set forth in the Redevelopment Plan, as amended by the Amendment, with

respect to the redevelopment project set forth therein; that except as set forth therein, there are no estimated proceeds or revenue expected to be obtained by the City from disposal of property to the redeveloper; that the Redevelopment Plan, as amended by the Amendment, sets forth a satisfactory method of financing for the proposed redevelopment, which method of financing is the issuance by the City of its tax increment revenue bond(s) to provide funds to pay for the costs of certain public improvements by grant assistance; and that there are no families currently living within the redevelopment area, as set forth in the Redevelopment Plan, as amended by the Amendment, which are currently expected to be displaced from such area.

(c) The cost-benefit analysis prepared in conjunction with the Redevelopment Plan, as adopted and approved via Resolution No. 29-2022, is unaffected by the Amendment and shall therefore remain applicable to both the Redevelopment Plan and Amendment.

Section 3. The redevelopment set forth in the Redevelopment Plan, as amended by the Amendment, would not be economically feasible without the use of tax-increment financing; would not occur in the redevelopment area described in the Redevelopment Plan, as amended by the Amendment, without the use of tax-increment financing; and the costs and benefits of the Redevelopment Plan, as amended by the Amendment, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the City and have been found to be in the long-term best interest of all those impacted by the Redevelopment Plan, as amended by the Amendment.

Section 4. The findings of Resolution No. 29-2022, adopting and approving the Redevelopment Plan, shall remain in effect, as of the date of its adoption, with respect to the Redevelopment Plan, as amended by the Amendment, and are incorporated hereby.

Section 5. Based on the foregoing and substantial evidence in the record of this proceeding, the Mayor and City Council hereby approves and adopts the Amendment, and the Amendment shall be incorporated as part of the Redevelopment Plan to the extent provided therein.

INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_

PASSED AND ADOPTED THIS 12TH DAY OF APRIL, 2023.

\_\_\_\_\_  
MAYOR JESSICA MILLER

ATTEST:

\_\_\_\_\_  
CITY CLERK TAMI COMTE

**EXHIBIT 1**  
**Amendment**

(See Attached)

**AMENDMENT TO THE REDEVELOPMENT PLAN FOR  
THE NORTHWEST INDUSTRIAL AREA**

**PREPARED NOVEMBER, 2022  
AMENDED APRIL, 2023**

**BY THE COMMUNITY DEVELOPMENT AGENCY  
OF THE CITY OF DAVID CITY, NEBRASKA**

**A. Introduction**

On December 14, 2022, via Resolution No. 29-2022, the Mayor and City Council for the City of David City, Nebraska (the "City"), approved and adopted a redevelopment plan entitled "Redevelopment Plan for the Northwest Industrial Area" for redevelopment in blighted and substandard areas in the City (the "Redevelopment Plan"). This amendment to the Redevelopment Plan ("Amendment") submits certain changes to the Redevelopment Plan, as highlighted below. This Amendment incorporates the terms of the Redevelopment Plan as if fully set forth herein; provided, however, that if the terms of this Amendment conflict with the Redevelopment Plan, this Amendment shall control. Any capitalized terms not otherwise defined herein shall have the meaning set forth in the Redevelopment Plan.

**B. Purpose and Necessity of Amendment**

Due to rising costs, changing market conditions and other extraneous factors, AGP anticipates a higher (as-built) assessed valuation for the AGP processing facilities to be constructed on Parcels 120008436 and 120008570 (the "AGP Improvements"), than that originally set forth in the Redevelopment Plan. Such increased valuation would result in additional TIF Revenues generated by the AGP Improvements. Accordingly, the City and AGP wish to modify the estimated future assessed valuation for the AGP Improvements, and in association therewith, increase the TIF Indebtedness authorized under the Redevelopment Plan, all in accordance with the terms of this Amendment.

**C. General Amendments**

The following provisions shall generally amend the Redevelopment Plan (inclusive of exhibits) with respect to such coinciding terms therein, as applicable:

- (1) The following items undertaken by AGP in relation to the AGP Improvement shall be included as part of, and supplement, the Public Improvements set forth in the Redevelopment Plan: (a) land acquisition for the site of the AGP Improvements; (b) site preparation undertaken in relation to the AGP Improvements; and (c) engineering and legal fees incurred in association with the AGP Improvements.
- (2) The parcel numbers on which the AGP Improvements will occur shall be 120008436 and 120008570. Such parcels shall amend and replace the references to Parcels 120033187 and 120033159 in the Redevelopment Plan.
- (3) The total estimated cost of the Redevelopment Project is \$93,133,910.
- (4) It is anticipated that the Private Improvements (inclusive of the AGP Improvements) will result in a future tax assessed valuation of \$195,000,000 for the Redevelopment Area.
- (5) In accordance with Section C(4) above, the City and Agency contemplate and authorize the issuance of TIF Indebtedness in an aggregate principal amount not to exceed \$47,006,363, at a rate of interest determined by the Agency in its discretion.

**D. Amendment to Exhibit "C" of Redevelopment Plan**

Exhibit "C" of the Redevelopment Plan shall amended in its entirety and replaced by Exhibit "1", attached hereto and incorporated herein.

**E. Amendment to Exhibit "D" of Redevelopment Plan**

Exhibit "D" of the Redevelopment Plan shall amended in its entirety and replaced by Exhibit "2", attached hereto and incorporated herein.

**F. Miscellaneous**

Headings of sections of this Amendment and the exhibits attached hereto are for convenience of reference only and do not form a part of the Redevelopment Plan and do not in any way modify the Redevelopment Plan except as otherwise provided in this Amendment. In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Redevelopment Plan, the terms and provisions of this Amendment shall supersede and control. Except as explicitly modified or amended in this Amendment, all terms and conditions of the Redevelopment Plan are incorporated herein and shall remain in full force and effect.

**Exhibit "1"**

**Amendment to Exhibit "C"**

(See Attached)

**EXHIBIT "C"**

**Estimate of Construction Costs**

Land Acquisition for Infrastructure	\$150,000
Land Acquisition for AGP Improvements Site	\$7,000,000
Site Preparation Costs for AGP Improvements	\$40,000,000
A/E & Legal Fees for AGP improvements	\$15,000,000
Water Extension	\$4,200,000
Sewer Extension	\$2,383,920
Timpte Road	\$1,800,000
Rd 37/4th St Connecting Road	\$19,020,000
Financing Costs	\$3,549,990
City Fees	<u>\$30,000</u>
<b>TOTAL</b>	<b><u>\$93,133,910</u></b>

\* The above figures are estimated values based on current pricing. These preliminary estimates are subject to change, as Redeveloper has no control over the change in cost of materials and services between the time of the approval of this Redevelopment Plan and commencement of construction.



**Exhibit "2"**

**Amendment to Exhibit "D"**

(See Attached)

**EXHIBIT "D"**

**Sources and Uses of TIF**

**USES:**

Land Acquisition for Infrastructure	\$150,000
Land Acquisition for AGP Improvements Site	\$7,000,000
Site Preparation Costs for AGP Improvements	\$40,000,000
A/E & Legal Fees for AGP improvements	\$15,000,000
Water Extension	\$4,200,000
Sewer Extension	\$2,383,920
Timpte Road	\$1,800,000
Rd 37/4th St Connecting Road	\$19,020,000
Financing Costs	\$3,549,990
City Fees	<u>\$30,000</u>
<b>TOTAL</b>	<b>\$93,133,910</b>

\* The above "Uses" are preliminary estimates based on current pricing and are subject to change.

**SOURCES:**

**General Assumptions:**

Base Value:	\$2,482,475
Final Value:	\$195,000,000**
Tax Levy (2021):	1.64422
TIF Indebtedness Principal:	NTE \$47,006,363
Interest Rate:	TBD

\* The above figures are estimates based upon the assumptions in this Exhibit "D" and are subject to change.

\*\* The above final value is based upon the following estimates related to the buildout of the Private Improvements:

- Parcels 120008436 and 120008570 (AGP Improvements) - \$178,000,000
- Parcel 120008565 (Timpte facilities expansion) – \$2,000,000
- Parcel 120008567 (AKRS Equipment Solutions project) – \$5,000,000
- Remaining parcels (commercial/industrial development TBD) – \$10,000,000

Council member Pat Meysenburg made a motion to approve Certificate of Payment #2 in the amount of \$13,300 to Velocity Constructors Inc for the 2022 Water Treatment Plant Upgrades. 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

**Contractor's Application for Payment**

<b>Owner:</b> <u>City of David City</u>	<b>Owner's Project No.:</b> _____
<b>Engineer:</b> <u>JEO Consulting Group, Inc.</u>	<b>Engineer's Project No.:</b> <u>202024.00</u>
<b>Contractor:</b> <u>Velocity Constructors Inc.</u>	<b>Contractor's Project No.:</b> _____
<b>Project:</b> <u>2022 Water Treatment Plant Upgrades, SRF Project No. D311686</u>	
<b>Contract:</b> <u>2022 Water Treatment Plant Upgrades, SRF Project No. D311686</u>	
<b>Application No.:</b> <u>2</u>	<b>Application Date:</b> <u>4/6/2023</u>
<b>Application Period:</b> From <u>3/4/2023</u> to <u>4/6/2023</u>	

1. Original Contract Price	\$ 10,562,772.00
2. Net change by Change Orders	\$ -
3. Current Contract Price (Line 1 + Line 2)	\$ 10,562,772.00
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)	\$ 183,676.30
5. Retainage	
a. 5% X \$ 183,676.30 Work Completed =	\$ 9,183.82
b. 5% X \$ - Stored Materials =	\$ -
c. Total Retainage (Line 5.a + Line 5.b)	\$ 9,183.82
6. Amount eligible to date (Line 4 - Line 5.c)	\$ 174,492.48
7. Less previous payments (Line 6 from prior application)	\$ 161,192.48
8. Amount due this application	\$ 13,300.00
9. Balance to finish, including retainage (Line 3 - Line 4 + Line 5.c)	\$ 10,388,279.52

**Contractor's Certification**

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

**Contractor:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Recommended by Engineer</b>	<b>Approved by Owner</b>
<b>By:</b> _____	<b>By:</b> _____
<b>Title:</b> _____	<b>Title:</b> _____
<b>Date:</b> _____	<b>Date:</b> _____

Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner:	City of David City	Owner's Project No.:	
Engineer:	JEO Consulting Group, Inc.	Engineer's Project No.:	202024.00
Contractor:	Velocity Constructors Inc.	Contractor's Project No.:	
Project:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		
Contract:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		

Application No.: 2 Application Period: From 03/04/23 to 04/06/23 Application Date: 04/06/23

A	B	C	D		F	G	H	I
			(D + E) From Previous Application (\$)	This Period (\$)				
Item No.	Description	Scheduled Value (\$)			Currently Stored (not in D or E) (\$)	Work Completed and Materials Stored to Date (D + E + F) (\$)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) (\$)
Original Contract								
<b>BASE BID GROUP A - General Water Plant Improvements<sup>1</sup></b>								
B-1.01	Mobilization	1,030,293.00	103,029.30			103,029.30	10%	927,263.70
B-1.02	Bonding and Insurance	66,647.00	66,647.00			66,647.00	100%	-
B-1.03	Aerator Rehabilitation and Cleaning	114,481.00				-	0%	114,481.00
B-1.04	Existing Pipe Cleaning & Repainting	57,573.00				-	0%	57,573.00
B-1.05	Electrical Improvements, Complete	1,840,041.00		11,000.00		11,000.00	1%	1,829,041.00
B-1.06	Demolition of Exterior Infrastructure	32,732.00				-	0%	32,732.00
B-1.07	Demolition of Interior Infrastructure	90,500.00				-	0%	90,500.00
B-1.08	Building Improvements (Doors/Windows)	80,036.00				-	0%	80,036.00
B-1.09	Building Improvements (Interior Painting)	523,405.00				-	0%	523,405.00
B-1.10	First Floor Roof Membrane Replacement	174,179.00				-	0%	174,179.00
B-1.11	Skylight Replacement	48,568.00				-	0%	48,568.00
B-1.12	HVAC Improvements	148,128.00				-	0%	148,128.00
B-1.13	Plumbing Improvements	92,021.00				-	0%	92,021.00
B-1.14	Lab Improvements	21,099.00				-	0%	21,099.00
B-1.15	Hardness Monitoring Equipment and Meters	77,743.00				-	0%	77,743.00
B-1.16	Site Paving and Grading	58,690.00				-	0%	58,690.00
B-1.17	Fencing and Gates	58,513.00				-	0%	58,513.00
B-1.18	Misc. Site Improvements	148,846.00				-	0%	148,846.00
B-1.19	Exterior Piping Improvements	338,959.00				-	0%	338,959.00
B-1.20	Seeding, Fertilizer and Mulch	6,610.00				-	0%	6,610.00
B-1.21	Erosion Control	5,751.00				-	0%	5,751.00
<b>BASE BID GROUP B - Gravity Filter System Improvements<sup>1</sup></b>								
B-1.22	New Gravity Filter Equipment, Complete (Media/Wash Troughs/ Air Blower/ Control Panel / Solenoid Panel / Instrumentation / Piping / Valves / Media Strainers)	693,132.00				-	0%	693,132.00
B-1.23	Gravity Filter Equipment Installation	45,979.00				-	0%	45,979.00
B-1.24	Electrical	25,200.00				-	0%	25,200.00

Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner:	City of David City	Owner's Project No.:	
Engineer:	JEO Consulting Group, Inc.	Engineer's Project No.:	202024.00
Contractor:	Velocity Constructors Inc.	Contractor's Project No.:	
Project:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		
Contract:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		

Application No.: 2 Application Period: From 03/04/23 to 04/06/23 Application Date: 04/06/23

A Item No.	B Description	C Scheduled Value (\$)	D + E Work Completed (D + E) From Previous Application (\$)		F Currently Stored (not in D or E) (\$)	G Work Completed and Materials Stored to Date (D + E + F) (\$)	H % of Scheduled Value (G / C) (%)	I Balance to Finish (C - G) (\$)
			(D + E) From Previous Application (\$)	This Period (\$)				
<b>BASE BID GROUP C - Reverse Osmosis<sup>1</sup></b>								
B-1.25	CCRO and CIP Tank Skids (Equipment Only)	2,126,760.00				-	0%	2,126,760.00
B-1.26	CCRO and CIP Tank Skids (Installation)	7,208.00				-	0%	7,208.00
B-1.27	Existing Maintenance Facility Demolition	27,093.00				-	0%	27,093.00
B-1.28	RO Room Expansion, Block Construction	245,926.00				-	0%	245,926.00
B-1.29	New Existing Maintenance Facility Floor Pavement	3,174.00		500.00		500.00	16%	2,674.00
B-1.30	New Existing Maintenance Facility Roof	28,709.00				-	0%	28,709.00
B-1.31	Overhead Doors	22,781.00				-	0%	22,781.00
B-1.32	Access Doors	8,791.00				-	0%	8,791.00
B-1.33	Single Girder Bridge Crane & Hoist (Equipment Only)	20,361.00				-	0%	20,361.00
B-1.34	Single Girder Bridge Crane & Hoist (Installation)	12,387.00				-	0%	12,387.00
B-1.35	Below Grade CCRO Skid Piping, Complete	57,740.00				-	0%	57,740.00
B-1.36	Above Grade CCRO & CIP Skid Piping, Complete	129,743.00				-	0%	129,743.00
B-1.37	Electrical	10,080.00				-	0%	10,080.00
<b>BASE BID GROUP D - Intermediate Clearwell<sup>1</sup></b>								
B-1.38	Intermediate Clearwell Structural Concrete	170,506.00		500.00		500.00	0%	170,006.00
B-1.39	Clearwell Hatches	15,613.00				-	0%	15,613.00
B-1.40	Vertical Turbine Pumps	113,608.00				-	0%	113,608.00
B-1.41	Degassifier (Equipment Only)	112,153.00				-	0%	112,153.00
B-1.42	Degassifier (Installation)	6,407.00				-	0%	6,407.00
B-1.43	Pump Building, Block Construction	116,781.00				-	0%	116,781.00
B-1.44	Stairs and Miscellaneous Metals	4,603.00				-	0%	4,603.00
B-1.45	Clearwell Ladders	4,749.00				-	0%	4,749.00
B-1.46	Fluid Applied Exterior Membrane	103,757.00				-	0%	103,757.00
B-1.47	Intermediate Clearwell Piping, Fittings, Valves, Meters, Complete	77,335.00				-	0%	77,335.00
B-1.48	Weir Plate and Weir Window	4,398.00				-	0%	4,398.00
B-1.49	Electrical	50,400.00				-	0%	50,400.00

Progress Estimate - Lump Sum Work

Contractor's Application for Payment

Owner:	City of David City					Owner's Project No.:			
Engineer:	JEO Consulting Group, Inc.					Engineer's Project No.:	202024.00		
Contractor:	Velocity Constructors Inc.					Contractor's Project No.:			
Project:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686								
Contract:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686								
Application No.:	2		Application Period:	From	03/04/23	to	04/06/23	Application Date:	04/06/23
A	B	C	D		E	F	G	H	I
Item No.	Description	Scheduled Value (\$)	Work Completed		Currently Stored (not in D or E) (\$)	Work Completed and Materials Stored to Date (D + E + F) (\$)	% of Scheduled Value (G / C) (%)	Balance to Finish (C - G) (\$)	
			(D + E) From Previous Application (\$)	This Period (\$)					
<b>BASE BID GROUP E - Chemical Feed System Improvements<sup>1</sup></b>									
B-1.50	Chemical Feed System Improvements	149,305.00				-	0%	149,305.00	
B-1.51	Gas Chlorine System Improvements	62,365.00				-	0%	62,365.00	
B-1.52	Electrical	15,120.00				-	0%	15,120.00	
<b>BASE BID GROUP F - Backwash Improvements<sup>1</sup></b>									
B-1.53	Backwash Waste Pump and Piping Improvements, Complete	161,971.00				-	0%	161,971.00	
B-1.54	Proposed Manhole Improvements	1,551.00				-	0%	1,551.00	
B-1.55	Backwash Pit Access Hatch	3,727.00				-	0%	3,727.00	
B-1.56	Backwash Supply Pump and Piping Improvements, Complete	103,300.00				-	0%	103,300.00	
B-1.57	Electrical/Generator	252,000.00		2,000.00		2,000.00	1%	250,000.00	
<b>Bid Alternate #1</b>									
BA1-1	Gravity Filter Effluent Valve Replacement <sup>1</sup>	220,730.00				-	0%	220,730.00	
<b>Bid Alternate #2</b>									
BA2-1	Demolish Existing Upflow Clarifier Unit, Complete <sup>1</sup>	113,190.00				-	0%	113,190.00	
<b>Original Contract Totals</b>		<b>\$ 10,343,448.00</b>	<b>\$ 169,676.30</b>	<b>\$ 14,000.00</b>	<b>\$ -</b>	<b>\$ 183,676.30</b>	<b>2%</b>	<b>\$ 10,159,771.70</b>	
<b>Original Contract and Change Orders</b>									
<b>Project Totals</b>		<b>\$ 10,343,448.00</b>	<b>\$ 169,676.30</b>	<b>\$ 14,000.00</b>	<b>\$ -</b>	<b>\$ 183,676.30</b>	<b>2%</b>	<b>\$ 10,159,771.70</b>	

<sup>1</sup> Sales Tax for Materials & Equipment Included

Progress Estimate - Unit Price Work

Contractor's Application for Payment

Owner:	City of David City	Owner's Project No.:	
Engineer:	JEO Consulting Group, Inc.	Engineer's Project No.:	202024.00
Contractor:	Velocity Constructors Inc.	Contractor's Project No.:	
Project:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		
Contract:	2022 Water Treatment Plant Upgrades, SRF Project No. D311686		

Application No.: 2 Application Period: From 03/04/23 to 04/06/23 Application Date: 04/06/23

A	B	C	D	E	F	G	H	I	J	K	L
Bid Item No.	Description	Contract Information				Work Completed		Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)
		Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E) (\$)	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) (\$)				
<b>Original Contract</b>											
<b>Base Bid<sup>1</sup></b>											
B-2	Install Aggregate Surfacing	358.00	TONS	42.50	15,215.00		-		-	0%	15,215.00
B-3	Final Clearwell Roof Slab Rehabilitation	100.00	SF	140.30	14,030.00		-		-	0%	14,030.00
<b>Bid Alternate #3</b>											
BA3-1	Install 6" Concrete Pavement <sup>1</sup>	1,324.00	SY	143.56	190,079.00		-		-	0%	190,079.00
<b>Original Contract Totals</b>					<b>\$ 219,324.00</b>		<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ 219,324.00</b>
<b>Original Contract and Change Orders</b>											
<b>Project Totals</b>					<b>\$ 219,324.00</b>		<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ 219,324.00</b>

<sup>1</sup> Sales Tax for Materials & Equipment Included

Stored Materials Summary							Contractor's Application for Payment										
Owner: <u>City of David City</u>						Owner's Project No.: _____											
Engineer: <u>JEO Consulting Group, Inc.</u>						Engineer's Project No.: <u>202024.00</u>											
Contractor: <u>Velocity Constructors Inc.</u>						Contractor's Project No.: _____											
Project: <u>2022 Water Treatment Plant Upgrades, SRF Project No. D311686</u>																	
Contract: <u>2022 Water Treatment Plant Upgrades, SRF Project No. D311686</u>																	
Application No.:	<u>2</u>		Application Period:	From	<u>03/04/23</u>	to	<u>04/06/23</u>	Application Date:	<u>04/06/23</u>								
A	B	C	D	E	F	G H		I J K L			M						
Item No. (Lump Sum Tab) or Bid Item No. (Unit Price Tab)	Supplier Invoice No.	Submittal No. (with Specification Section No.)	Description of Materials or Equipment Stored	Storage Location	Application No. When Materials Placed in Storage	Materials Stored		Incorporated in Work			Materials Remaining in Storage (I - L) (\$)						
						Previous Amount Stored (\$)	Amount Stored this Period (\$)	Amount Stored to Date (G + H) (\$)	Amount Previously Incorporated in the Work (\$)	Amount Incorporated in the Work this Period (\$)		Total Amount Incorporated in the Work (J + K) (\$)					
<b>Totals</b>						\$		\$		\$		\$		\$		\$	

Council member Bruce Meysenburg made a motion to approve the engineering agreement with JEO for Arps Sanitary Sewer Service Design. 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: Abstain (Without Conflict)  
 Yea: 4, Nay: 0, Absent: 1, Abstain (Without Conflict): 1





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

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

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

David City Sanitary Sewer Service Improvements ARPS ("Project").

JEO Project Number: 230416.00

Owner and Engineer further agree as follows:

**ARTICLE 1 - SERVICES OF ENGINEER**

---

**1.01 Scope**

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

**ARTICLE 2 - OWNER'S RESPONSIBILITIES**

---

**2.01 Owner Responsibilities**

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

**ARTICLE 3 - COMPENSATION**

---

**3.01 Compensation**

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.
- B. The fee for the Project is:

Project Management	\$ 1,500.00	Lump Sum
Design	\$14,500.00	Lump Sum
Bidding and Negotiation	\$ 4,000.00	Lump Sum
Construction Administration	\$ 4,500.00	Lump Sum
Resident Project Representation:	\$ 3,500.00*	Hourly [25 Hours Estimated]
<b>Total Estimated Fee:</b>	<b>\$28,000.00</b>	

\*Engineer's estimate of the amount that will become payable are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

When nearing estimated compensation amounts stated herein and it subsequently becomes apparent to Engineer that the total compensation amount estimated will be exceeded, Engineer shall give Owner written notice thereof. Should the Owner determine services shall be reduced or concluded to keep budget close to the estimate, Owner shall notify Engineer and Engineer shall reduce or conclude services accordingly. If Engineer exceeds the total estimated amount before Owner notifies the Engineer, the Engineer shall be paid for all services rendered up to being notified.

- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

#### ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

---

##### 4.01 Exhibits

Exhibit A – Scope of Services  
Exhibit B – General Conditions

##### 4.02 Total Agreement

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

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

Owner: City of David City, Nebraska

Engineer: JEO Consulting Group, Inc.

\_\_\_\_\_

  
\_\_\_\_\_

By: \_\_\_\_\_

By: Ethan E. Joy, PE

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

Title: Branch Manager

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

Date Signed: April 10, 2023

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

JEO Consulting Group, Inc.

\_\_\_\_\_

1909 Dakota Avenue

\_\_\_\_\_

South Sioux City, NE 68776

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

**PROJECT DESCRIPTION:**

The project includes the design and construction of sanitary sewer service improvements to serve the property owned by ARPS Red-E-Mix on the northwest corner of M Road and 37 Road. The project consists of a package lift station and approximately 3,500 linear feet of small diameter forcemain. It is anticipated that the small diameter forcemain alignment will follow M Road to the east approximately 1,750 linear feet, and then south approximately 1,750 linear feet to connect to the existing sanitary sewer collection system installed as part of the AKRS Water and Sewer Utility Extension project. The following key assumptions apply to the project.

- The topographic survey collected for the Water Main Improvements North Loop project will be utilized and no additional topographic survey will be necessary.
- The sanitary sewer service improvements will serve ARPS Red-E-Mix only. A sanitary sewer service that serves a single user does not require an NDEE construction permit.

The work to be performed by the Engineer shall generally include the development of front-end contract documents, drawings, and technical specifications detailing the work. The improvements will be completed by a Contractor under a separate construction contract with the City, which will be awarded through a formal bidding process. The City may also explore other alternatives for bidding and/or construction of the work.

**BASIC SCOPE OF SERVICES**

**PROJECT MANAGEMENT:**

- A. Provide project management oversight over all facets and phases of the project. Project management shall include the following services:
  1. Coordinate design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors in the plans and specifications as well as ensure a timely project design.
  2. Provide timely and coordinated communication to and from the City for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
  3. Provide oversight, monitor staff, and ensure proper staffing levels are maintained to ensure scope of services and schedule are met. Review billed hours by design team and prepare invoice statements for the City.

**DESIGN PHASE:**

**60% Design Process:**

- A. Review information provided by the Owner showing the existing sanitary sewer infrastructure to be connected to.
- B. Develop 60% specifications and drawings. The 60% Drawings to include project location map, small diameter forcemain plan and profile, and details for the package lift station.

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

- C. Conduct an internal 60% QA/QC of the design documents and provide design documents to the City for review and comment .
- D. Revise design documents following receipt of 60% review comments from internal QA/QC and comments from City's representatives.

90% Design Process:

- A. Develop 90% specifications and drawings. The 90% Drawings to include project location map, small diameter forcemain plan and profile, and details for the package lift station.
- B. Conduct an internal 90% QA/QC of the design documents and provide design documents to the City for review and comment .
- C. Revise design documents following receipt of 90% review comments from internal QA/QC and comments from City's representatives.

Design Finalization Process:

- A. Develop final design documents and sign and seal by engineer registered in the State of Nebraska.
- B. Prepare a Storm Water Pollution Prevention Plan for the project and submit the Notice of Intent (NOI) to NDEE for NPDES Construction Site Stormwater Permit.
- C. Prepare a Permit to Construct Utilities on County Right-of-Way for the project and submit to Butler County Department of Roads for review and approval.

BIDDING AND NEGOTIATION PHASE:

- A. Provide assistance to the City with authorizing advertisement for bids and setting the bid date, location, and time. It is assumed that there will be one bid opening for the project.
- B. Provide assistance to the City with providing the Invitation to Bid to official media outlet for publication.
- C. Furnish copies of the plans, specifications, and contract documents to prospective bidders, materials suppliers, and other interested parties upon their request.
- D. Review inquiries from prospective bidders and prepare and issue any addenda required to address these inquiries.
- E. Assist the Owner at the bid opening. Following the bid opening tabulate the construction bids and prepare and submit necessary information to the Owner for project award. **[1 Meeting]**
- F. Following project award, prepare and distribute contract documents for execution by the Owner and the Contractor.

CONSTRUCTION ADMINISTRATION PHASE:

- A. Provide interpretation of the plans and specifications to the City and Contractor.
- B. Review shop drawings and related data supplied by the Contractor.
- C. Review Contractor's payment estimates and provide to City for review and approval.
- D. Review change orders, if necessary, and provide to City for review and approval.
- E. Consult with and advise City during construction.

**Exhibit A**

**JEO Consulting Group, Inc.  
SCOPE OF SERVICES**

- F. Conduct a final inspection of project with the Contractor and City.
- G. Compile record drawings and submit to NDEE along with notice of completion.
- H. Recommend to the City the acceptance of the project and complete the necessary certificates.

**CONSTRUCTION OBSERVATION [RPR] PHASE:**

- A. JEO will furnish a part-time Resident Project Representative [RPR] to observe construction progress and quality of the work. The duties and responsibilities of the RPR are described as follows:
  - a. Review of contractors work for general compliance with the plans and specifications.
  - b. Complete Construction Observation Reports when on site.
  - c. Coordinate pay quantities with Contractor and Engineer.
  - d. Review of materials delivered to the site for specification compliance.
  - e. Assist the Engineer in providing interpretation of the plans and specifications to the Contractor and City.
  - f. Review and coordinate materials testing by assigned testing firm, if applicable.
  - g. Compile records for use in preparing record drawings.

**MEETINGS INCLUDED WITHIN SCOPE OF SERVICES:**

- A. Bid Opening [*1 Meeting*]

**ADDITIONAL SERVICES [NOT INCLUDED, BUT CAN BE INCLUDED VIA AMENDMENT UPON REQUEST]:**

- A. Review and/or analysis of alternative small diameter forcemain alignments.
- B. Environmental assessment report and/or environmental permitting.
- C. Geotechnical investigation, report, and/or testing services.
- D. Construction materials testing and verification.
- E. Temporary easement document preparation and/or negotiation.
- F. Meetings not outlined in the scope of services.

**ESTIMATED TIME FRAME:**

- A. Design Phase: 45 days from effective date of agreement
- B. Bidding Phase: 45 days from Owner authorization to bid the project
- C. Construction Administration and RPR: Concurrent with construction

## JEO CONSULTING GROUP INC ☐ JEO ARCHITECTURE INC

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

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

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

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

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

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

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

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

**6. STANDARD OF CARE:** The standard of care for all services performed or furnished by JEO under the agreement

shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

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

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

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

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

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

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

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

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

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

**10. INDEMNIFICATION:** To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other

**JEO CONSULTING GROUP INC ☐ JEO ARCHITECTURE INC**

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

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

- a. Workers' Compensation: Statutory
- b. Employer's Liability
  - i. Each Accident: \$500,000
  - ii. Disease, Policy Limit: \$500,000
  - iii. Disease, Each Employee: \$500,000
- c. General Liability
  - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - ii. General Aggregate: \$2,000,000
- d. Auto Liability
  - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

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

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

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

- a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.
- b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
- c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

**15. PRECEDENCE:** These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

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

**17. NON-DISCRIMINATION CLAUSE:** Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

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

Council member Pat Meysenburg made a motion to approve the engineering agreement with JEO for Water Tower Repainting. 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

(This space left intentionally blank)





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

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

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

David City Water Tower Repainting ("Project").

JEO Project Number: 230622.00

Owner and Engineer further agree as follows:

**ARTICLE 1 - SERVICES OF ENGINEER**

---

**1.01 Scope**

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

**ARTICLE 2 - OWNER'S RESPONSIBILITIES**

---

**2.01 Owner Responsibilities**

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

**ARTICLE 3 - COMPENSATION**

---

**3.01 Compensation**

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.

- B. The fee for the Project is:

Project Management	\$ 2,500.00	Lump Sum
Design	\$15,500.00	Lump Sum
Bidding and Negotiation	\$ 5,000.00	Lump Sum
Construction Administration	\$ 6,500.00	Lump Sum
<u>Resident Project Representation:</u>	<u>\$ 5,500.00*</u>	<u>Hourly [40 Hours Estimated]</u>
<b>Total Estimated Fee:</b>	<b>\$35,000.00</b>	

\*Engineer's estimate of the amount that will become payable are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

When nearing estimated compensation amounts stated herein and it subsequently becomes apparent to Engineer that the total compensation amount estimated will be exceeded, Engineer shall give Owner written notice thereof. Should the Owner determine services shall be reduced or concluded to keep budget close to the estimate, Owner shall notify Engineer and Engineer shall reduce or conclude services accordingly. If Engineer exceeds the total estimated amount before Owner notifies the Engineer, the Engineer shall be paid for all services rendered up to being notified.

- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

**ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS**

---

**4.01 Exhibits**

Exhibit A – Scope of Services  
Exhibit B – General Conditions

**4.02 Total Agreement**

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

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

Owner: City of David City, Nebraska

Engineer: JEO Consulting Group, Inc.

\_\_\_\_\_

  
\_\_\_\_\_

By: \_\_\_\_\_

By: Ethan E. Joy, PE

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

Title: Branch Manager

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

Date Signed: April 10, 2023

Address for giving notices:

Address for giving notices:

\_\_\_\_\_

JEO Consulting Group, Inc.

\_\_\_\_\_

1909 Dakota Avenue

\_\_\_\_\_

South Sioux City, NE 68776

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

**PROJECT DESCRIPTION:**

The project includes the rehabilitation of the existing 750,000-gallon elevated water storage tank located on the east side of N 11<sup>th</sup> Street north of O Street. The proposed rehabilitation consists of cleaning and repainting of the tank interior and exterior along with repairs identified during a recent inspection by Viking Industrial Painting, as outlined below.

- Install couplers and gromets at the dry access tube and interior wet area at the roof to properly secure the power cord for the mixing system.
- Remove the damaged gasket at the floating dry riser and replace with a new gasket at the same location.
- Remove the dirty and damaged screens at the vent and replace with new screens at the same location.
- Remove existing tube style safety climb device at the tank ladders and install modern cable style fall protection system.

The work to be performed by the Engineer shall generally include the development of front-end contract documents, drawings, and technical specifications detailing the work. It is anticipated that the project will be funded by the State Revolving Fund [SRF] and compliance with Build America Buy America [BABA] will be required.

The improvements will be completed by a Contractor under a separate construction contract with the City, which will be awarded through a formal bidding process. It is anticipated that the project will occur the fall of 2024 to coincide with the Water Treatment Plant Upgrade project and that there will be one Contractor working to complete the project.

**BASIC SCOPE OF SERVICES**

**PROJECT MANAGEMENT:**

- A. Provide project management oversight over all facets and phases of the project. Project management shall include the following services:
  1. Coordinate design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors in the plans and specifications as well as ensure a timely project design.
  2. Provide timely and coordinated communication to and from the City for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
  3. Provide oversight, monitor staff, and ensure proper staffing levels are maintained to ensure scope of services and schedule are met. Review billed hours by design team and prepare invoice statements for the City.

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

DESIGN PHASE:

60% Design Process:

- A. Attend and facilitate project kickoff meeting with City to review the project scope, schedule, and project requirements. **[1 Meeting]**
- B. Coordinate with City to obtain the following documents, if available:
  1. Original storage tank construction drawings
  2. Previous storage tank inspection reports
  3. Shop drawings from most recent storage tank recoating project
- C. Coordinate with coating manufacturers and storage tank contractors to evaluate coating systems as it relates to surface prep, application procedures, and requirements.
- D. Prepare summary of evaluation and provide recommendations for the proposed coating system to be used. Submit to City for review and input.
- E. Coordinate with manufacturer representatives to obtain the necessary installation details and specifications for maintenance items outlined in the project description.
- F. Utilize available GIS data to prepare a site plan that identifies physical constraints of the storage tank site including adjacent structures, existing utilities, property/ROW boundaries, etc.
- G. Create a detail of the existing elevated storage tank structure and include location of repairs to be made to the storage tank.
- H. Coordinate with the City regarding the proposed logo and size/orientation on the tank. The City shall provide a digital image of a proposed logo, if desired.
- I. Develop 60% specifications and drawings that include existing site plan and repair detail sheet(s).
- J. Conduct an internal 60% QA/QC of the design documents and provide design documents to the City for review and comment .
- K. Revise design documents following receipt of 60% review comments from internal QA/QC and comments from City's representatives.

90% Design Process:

- A. Develop 90% specifications and drawings that include existing site plan and repair detail sheet(s).
- B. Conduct an internal 90% QA/QC of the design documents and provide design documents to the City for review and comment .
- C. Revise design documents following receipt of 90% review comments from internal QA/QC and comments from City's representatives.

Design Finalization Process:

- A. Develop final design documents and sign and seal by engineer registered in the State of Nebraska.
- B. Prepare NDEE construction permit application and coordinate with City for submittal to NDEE. City to pay review fees.
- C. Review comments from NDEE, if any, and prepare and issue any addenda required to address these comments.

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

**BIDDING AND NEGOTIATION PHASE:**

- A. Provide assistance to the City with authorizing advertisement for bids and setting the bid date, location, and time. It is assumed that there will be one bid opening for the project.
- B. Provide assistance to the City with providing the Invitation to Bid to official media outlet for publication.
- C. Furnish copies of the plans, specifications, and contract documents to prospective bidders, materials suppliers, and other interested parties upon their request.
- D. Review inquiries from prospective bidders and prepare and issue any addenda required to address these inquiries.
- E. Assist the Owner at the bid opening. Following the bid opening tabulate the construction bids and prepare and submit necessary information to the Owner for project award. **[1 Meeting]**
- F. Following project award, prepare and distribute contract documents for execution by the Owner and the Contractor.

**CONSTRUCTION ADMINISTRATION PHASE:**

- A. Schedule and conduct a pre-construction meeting. **[1 Meeting]**
- B. Provide interpretation of the plans and specifications to the City and Contractor.
- C. Review shop drawings and related data supplied by the Contractor.
- D. Review Contractor's payment estimates and provide to City for review and approval.
- E. Review change orders, if necessary, and provide to City for review and approval.
- F. Consult with and advise City during construction.
- G. Conduct a final inspection of project with the Contractor and City.
- H. Compile record drawings and submit to NDEE along with notice of completion.
- I. Recommend to the City the acceptance of the project and complete the necessary certificates.

**CONSTRUCTION OBSERVATION [RPR] PHASE:**

- A. JEO will furnish a part-time Resident Project Representative [RPR] to observe construction progress and quality of the work. The duties and responsibilities of the RPR are described as follows:
  - a. Review of contractors work for general compliance with the plans and specifications.
  - b. Complete Construction Observation Reports when on site.
  - c. Coordinate pay quantities with Contractor and Engineer.
  - d. Review of materials delivered to the site for specification compliance.
  - e. Assist the Engineer in providing interpretation of the plans and specifications to the Contractor and City.
  - f. Review and coordinate materials testing by assigned testing firm, if applicable.
  - g. Compile records for use in preparing record drawings.

Exhibit A

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

**MEETINGS INCLUDED WITHIN SCOPE OF SERVICES:**

- A. Project Kickoff Meeting *[1 Meeting]*
- B. Bid Opening *[1 Meeting]*
- C. Pre-Construction Meeting *[1 Meeting]*

**ADDITIONAL SERVICES [NOT INCLUDED, BUT CAN BE INCLUDED VIA AMENDMENT UPON REQUEST]:**

- A. Inventory of existing communication equipment currently located on the storage tank and any contract(s) with respective utilities for installation of equipment.
- B. Contact with utilities with infrastructure on the storage tank to determine purpose of existing infrastructure, ability to be relocated and any future changes they have planned.
- C. Design, modeling, or analysis associated with pressure boosting while storage tank is out of service.
- D. Environmental assessment report and/or environmental permitting.
- E. Federal Aviation Administration [FAA] permitting.
- F. Geotechnical investigation, report, and/or testing services.
- G. Services of specialty contractor/consultant to conduct storage tank inspection/testing.
- H. Construction materials testing and verification.
- I. Temporary easement document preparation and/or negotiation.
- J. SWPPP permitting, inspections, and/or reporting.
- K. Design of tank mixing system.
- L. Design of tank lighting system.
- M. Meetings not outlined in the scope of services.

**ESTIMATED TIME FRAME:**

- A. Design Phase: 180 days from effective date of agreement
- B. Bidding Phase: 60 days from Owner authorization to bid the project
- C. Construction Administration and RPR: Concurrent with construction

**JEO CONSULTING GROUP INC ☐ JEO ARCHITECTURE INC**

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

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

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

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

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

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

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

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

**6. STANDARD OF CARE:** The standard of care for all services performed or furnished by JEO under the agreement

shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

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

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

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

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

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

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

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

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

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

**10. INDEMNIFICATION:** To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other

**JEO CONSULTING GROUP INC ☐ JEO ARCHITECTURE INC**

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

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

- a. Workers' Compensation: Statutory
- b. Employer's Liability
  - i. Each Accident: \$500,000
  - ii. Disease, Policy Limit: \$500,000
  - iii. Disease, Each Employee: \$500,000
- c. General Liability
  - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - ii. General Aggregate: \$2,000,000
- d. Auto Liability
  - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

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

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

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

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

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

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

**15. PRECEDENCE:** These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

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

**17. NON-DISCRIMINATION CLAUSE:** Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

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



Mayor Jessica Miller declared the public hearing open at 8:25 p.m. to consider the detachment plat containing part of the Mark and Willow Holoubek property located in part of the Northeast Quarter of Section 24, All in Township 15 North, Range 2 East of the 6<sup>th</sup> P.M., all in Butler County, Nebraska, to-wit: PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 15 NORTH, RANGE 2 EAST OF THE SIXTH, P.M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE S00°00'00"E (ASSUMED BEARING) ON THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 810.80 FEET TO THE SOUTHERLY RIGHT OF THE WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE N87°55'04"W ON SAID SOUTHERLY RAILROAD RIGHT OF WAY LINE, A DISTANCE OF 250.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N87°55'04"W ON SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 740.49 FEET TO THE EXISTING CORPORATE LIMITS LINE OF DAVID CITY PER ORDINANCE NO. 1413; THENCE S00°00'00"E ON SAID EXISTING CORPORATE LIMITS LINE, A DISTANCE OF 282.93 FEET; THENCE S87°55'04"E CONTINUING ON SAID EXISTING CORPORATE LIMITS LINE, A DISTANCE OF 740.49 FEET; THENCE N00°00'00"E, PARALLEL WITH AND 250 FEET DISTANT FROM SAID EAST LINE, A DISTANCE OF 282.93 FEET TO THE POINT OF BEGINNING, CONTAINING 4.80 ACRES, MORE OR LESS.

Mark Holoubek introduced himself and stated that he was opposed to the detachment because he asked that their entire property be deannexed from the City.

Hearing no further comment, Mayor Jessica Miller declared the public hearing closed at 8:29 p.m.

Council member Bruce Meysenburg introduced Ordinance No. 1437 to detach from the corporate limits of David City, Nebraska, Butler County, Nebraska, certain property as described. Mayor Jessica Miller read Ordinance No. 1437 by title.

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1437 adopting the Holoubek Detachment Plat on 1st Reading only. 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. 1437**

AN ORDINANCE TO DETACH FROM THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA, BUTLER COUNTY, NEBRASKA, CERTAIN PROPERTY AS DESCRIBED; TO PROVIDE FOR SEVERABILITY; TO HARMONIZE POTENTIALLY CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE HEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. It is hereby found and determined by the Mayor and City Council that:

(a) The tract of real estate described in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth (the "Real Estate") is urban and suburban in character and contiguous and adjacent to the corporate limits of said City of David City, Nebraska (the "City");

- (b) By Ordinance No. 1413, the City properly and legally annexed the Real Estate and other, adjacent territory;
- (c) The City later determined that while legal and proper, it did not intend to include the Real Estate in the annexation because it would cause difficulty for the owner of the Real Estate if annexed; and
- (d) In good faith and comity to the owner of the Real Estate, the City desires to detach the Real Estate from the corporate limits of the City;
- (e) The City has provided all legally-required notices and has followed all legally-required procedures with respect to this detachment, which Nebraska law authorizes at Nebraska Revised Statutes section 18-3316.

SECTION 2: That the boundaries of the City of David City, Nebraska, be and hereby are, reduced so as to exclude, detach and deannex from the corporate limits of said City the Real Estate.

SECTION 3: That a certified copy of this Ordinance, together with the map of the territory, be filed on record in the Offices of the County Clerk of Butler County, Nebraska.

SECTION 4: That said territory is hereby detached from the corporate limits of the City of David City, Nebraska, along with all rights and obligations appurtenant thereto and arising by virtue of exclusion from the corporate limits of the City.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance or the deannexation of the territory by this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the annexation of other tracts of land, streets or highways by this Ordinance or other ordinances, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately and to annex or deannex each tract of land separately.

SECTION 6: As effectively modified by this Ordinance, Ordinance 1413 [the Holoubek annexation ordinance] remains in full force and effect and is intended to coexist in harmony with this Ordinance.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

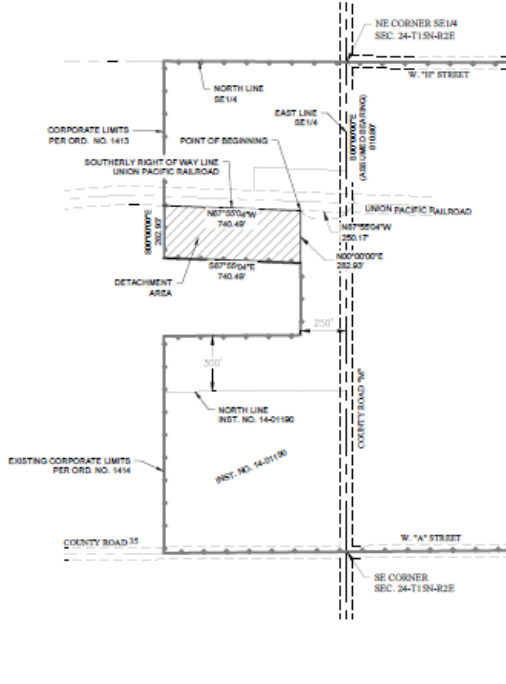
PASSED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading only  
Mayor Jessica M. Miller

\_\_\_\_\_  
Passed on 1<sup>st</sup> reading only  
City Clerk Tami Comte

# EXHIBIT "A"

## DETACHMENT PLAT CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA ORDINANCE NO. \_\_\_\_\_



**DETACHMENT DESCRIPTION:**

PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 15 NORTH, RANGE 3 EAST OF THE SIXTH, 4<sup>TH</sup> M., BUTLER COUNTY, NEBRASKA, BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE S00°00'00\"/>

**APPROVAL OF THE CITY COUNCIL OF DAVID CITY, NEBRASKA:**

THIS DETACHMENT PLAT WAS APPROVED AND ACCEPTED BY THE CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

MAYOR \_\_\_\_\_ DATE \_\_\_\_\_

**SURVEYOR'S STATEMENT:**

I, BRIAN J. FORAL, A REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE PLAT OF THE PROPERTY DESCRIBED IN THE ATTACHED DETACHMENT DESCRIPTION. THE INFORMATION PERTAINING TO THE PERIMETER OF THIS DETACHMENT IS BASED ON RECORD DEEDS AND SURVEYS.

BRIAN J. FORAL, LS 583 \_\_\_\_\_ DATE \_\_\_\_\_

PART OF THE SE 1/4  
SEC. 24-T15N-R3E  
BUTLER COUNTY, NEBRASKA

DETACHMENT PLAT  
CITY OF DAVID CITY  
BUTLER COUNTY, NEBRASKA  
ORDINANCE NO. \_\_\_\_\_

**VICINITY SKETCH**



PROJECT NO. 220781  
DATE 5/15/2022  
DRAWN BY AMH  
FILE NAME D:\Surveying  
BUTLER CO. 83  
FIELD OFFICE  
SUBMIT FILE NO. \_\_\_\_\_  
**1 OF 1**

Council member Kevin Woita made a motion to recess the City Council meeting at 8:32 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

Mayor Jessica Miller declared the City Council meeting reconvened 8:52 p.m.

Council member Bruce Meysenburg made a motion to go into closed session to discuss contracts, real estate and pending litigation. 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

Mayor Miller stated, "Now, at 8:53 p.m., we are going into closed session to discuss contracts, real estate and pending litigation." Mayor Miller, all of the Council members, City Attorney David Levy and City Clerk Comte went into closed session at 8:53 p.m. Council member Keith Marvin was absent.

Council member Tom Kobus made a motion to come back into open session at 9:44 p.m. 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 Jim Angell made a motion to adjourn. Council Member Bruce Meysenburg seconded the motion. The motion carried and Mayor Jessica Miller declared the meeting adjourned at 9:44 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  
April 12, 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 April 12, 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