

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING
OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **9th day of December, 2015**, in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 3rd day of December, 2015.

AGENDA AS FOLLOWS:

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| 1. Roll Call; | Mayor Alan Zavodny |
| 2. Pledge of Allegiance; | |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; | Council President Gary L. Kroesing |
| 4. Minutes of the November 12 th , meeting of the Mayor and City Council; | |
| 5. Consideration of Claims; | Council member Michael E. Rogers |
| 6. Committee and Officer Reports; | |
| 7. Consideration of the 2016 Wholesale Power Contract (Option A) between Nebraska Public Power District and the City; | Council member Thomas J. Kobus |
| 8. Consideration of the Capacity Purchase Agreement between Nebraska Public Power District and the City; | Council member Kevin N. Hotovy |
| 9. Consideration of Ordinance No. 1236 amending Ordinance No. 1060 – Zoning Ordinances – by adding Mobile Food Units to Section 2.02 Definitions; adding Section 4.25 Mobile Food Units; and amending Section 5.12 C-2 Downtown Commercial District, 5.12.04 Permitted Temporary Uses - by adding #6 – Mobile Food Units; (Passed on 1 st reading 10/14/15; 2 nd rdg 11/12/15 | Council member Gary D. Smith |
| 10. Consideration of the bids received for windows and doors at the Power Plant; | Council member John P. Vandenberg |
| 11. Consideration of the bids received for the SCADA upgrade at the Power Plant; | City Clerk Joan E. Kovar |

12. Consideration of the request by the Employee Committee to have the City/Utility Departments close at noon on December 24th;
13. Consideration of Resolution No. 18 – 2015 updating the Personnel Manual ;
14. Consideration of the request by Goodwill Industries of Greater Nebraska, Inc. to place a 53' donation trailer in David City;
15. Discussion and consideration of the Airport hangar project; (Resolution No. 19-2015 and 20-2015);
16. Adjourn.

CITY COUNCIL PROCEEDINGS

December 9, 2015

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on December 3rd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council President Gary Kroesing, Council members Thomas Kobus, Gary Smith, Mike Rogers, Kevin Hotovy, and John Vandenberg. Also present were City Attorney Jim Egr, and City Clerk / Interim City Administrator Joan Kovar.

Also present for the meeting were: Jim Vandenberg, David McPhillips, Chad Denker of David City Public Schools and Tim of The Clark Enersen Partners, Chad Podolak Account Manager of Nebraska Public Power District, Banner Press Editor Larry Peirce, Electric Plant Supervisor Eric Betzen, Sewer Supervisor Kevin Betzen, and Water/Sewer employee Matt Fleming.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room.

The minutes of the November 12th, 2015 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Kobus. Voting AYE: Council members Smith, Kroesing, Rogers, Hotovy, Kobus, and Vandenberg. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims and Council member Kobus seconded the motion.

Voting AYE: Council members Vandenberg, Rogers, Kroesing, Hotovy, Smith, and Kobus.
Voting NAY: None. The motion carried.

Mayor Zavodny asked for any comments or questions concerning the Committee and Officer Reports and asked Sewer Supervisor Kevin Betzen to give an overview of what happened to the pump and the water tower.

Sewer Supervisor Kevin Betzen stated: "I received a call at 7:47 p.m. Tuesday, December 1st, from Matt Kracl that he was low on pressure, and immediately after, Todd DeWispelare called me and said the same thing. I went to my faucet and that's when I noticed we had a problem. I went down to the Water Plant, the computer was alarming, and the system pressure was down to 11.4 pounds. It never called out, it never dialed out, it never went to anybody's phone, and with the SCADA System and the LARM system it goes out to the on-call phone which Matt Fleming had, and then it goes to my phone, Matt's personal phone, Travis's phone, and CJ's phone; so it's kind of a back-up for a back-up for a back-up and it never did any of that. The pump wouldn't start up when I got there so I had to kick it into manual, and manually kick the pump in, and right away we had up to 50 pounds of pressure within minutes of getting it started. So at the same time I called Jared Jochum of Olsson's, got him on line on the computer, he started going into the computer trying to figure out what was going on. Same time I was on the phone with the Mayor, and then Scott Steager came down because he knew we were without water, to see if he could help because he's a previous operator, and right away, anything under 20 pounds has to be reported to the State of Nebraska, so he called Bob Byrkit our representative and let him know the situation, what was going on and stuff, and at the same time he helped me out by calling the President of the Council to let him know what was going on too, trying to cover our bases. I was on the phone with Jared for 1½ hours trying to figure stuff out and we can't figure out why the high service pump never kicked in in the first place. There's no fault on it, there's nothing on it. There's no trends in the computer, the computer's flat lined for trending. It's still Windows XP and that's what we're trying to update. He's building right now a new SCADA system that we got approved by you guys, but it won't be ready till mid - January to the end of January. So this computer keeps locking up on us and has no history, no reports, nothing. There are three high service pumps; there's a lead, a lag, and a lag 2. Well when it gets to a certain pressure, the next one's supposed to kick on, and then if that one doesn't kick on then the next one's supposed to kick on. The way the systems set up is, it's got to show a fault on one of the pumps in order for the lags to kick in, the way it was built, so #2 and #3 never detected anything was wrong with #1 and that's why the lag and lag 2 never kicked on. We don't know, there's no history, no report as to why #1 never even went on. The system monitors tower pressure or system pressure. There's two different pressures by the height of the tower and the system pressure and it was just either/or to where it would alarm out if something would drop and it never did it off the tower pressure. Now, Jared went in and reprogramed it to monitor both system and tower pressure so hopefully it has two back-ups; in case one doesn't read the other one will read to the computer. Then a day later, totally unrelated, I had high service pump #2 go down on us and the VFD (Variable Frequency Drive) just totally kicked out and we put \$3,300 into it last August with a new com module, a H.I.M. (Human Interface Module), and a fan drive, and as of today we still don't know what went wrong with it. We had an electrician and a field expert come look at it and they ordered a part for it that's supposed to be in hopefully the end of this week to try to repair that one which is another unrelated problem. SCADA keeps locking up, just like this morning they have a bunch of buttons on the side I can push for data and history; the bottom three buttons kept clicking on high service pumps which had nothing to do with high service pumps until I rebooted the computer again, so.....having a few issues."

Mayor Zavodny stated: "So it's going to be a little scary from now until we get the new computer up and going. You know what, if anybody has an issue with that, if they want to go do it, tell them to feel free."

Sewer Supervisor Kevin Betzen stated: "That night, by 8:00 we had everything running, it was 9:30 by the time I got off the phone with Jared, and I got ahold of Bob Byrkit and he said basically we had to go around to about 8 stations in town, all over, we bled some air out of some hydrants if they had any, which we hardly had anything at all at the north end, and we had to take chlorine residuals right away. Because like I said, once it drops below 20 pounds, you have to report that to the State. If you have total system loss you have to boil water and all that and if you didn't have a residual, which we're good because we disinfect before and after, and everywhere we went the lowest residual we had was point two zero and you need anything above point 1. So, we were really good, we have some point eights so he wasn't afraid of everything being ok. So, I stayed up every hour watching the computer, making sure everything was running properly, and then I ran to Lincoln the next morning and I had to get thirty test kits because we have three zones in town with five sample sites in each zone, and I had to take from every sample site. We had to take samples for bacti (bacterial) tests. We took fifteen samples, put them in the refrigerator, and the next morning we took fifteen more. Then we had to take them all to Lincoln and then everything came back good and everything was ok. Everything came back negative so that cleared us for everything."

Mayor Zavodny stated: "Well I thought the response time was very quick. From the time we didn't have water to the time we did, was just a few minutes. Any other questions of Kevin concerning that incident?" "Ok, since you're on a roll, last month we talked about David City High School's expansion, have you looked to see where we are on those and get an update on that?"

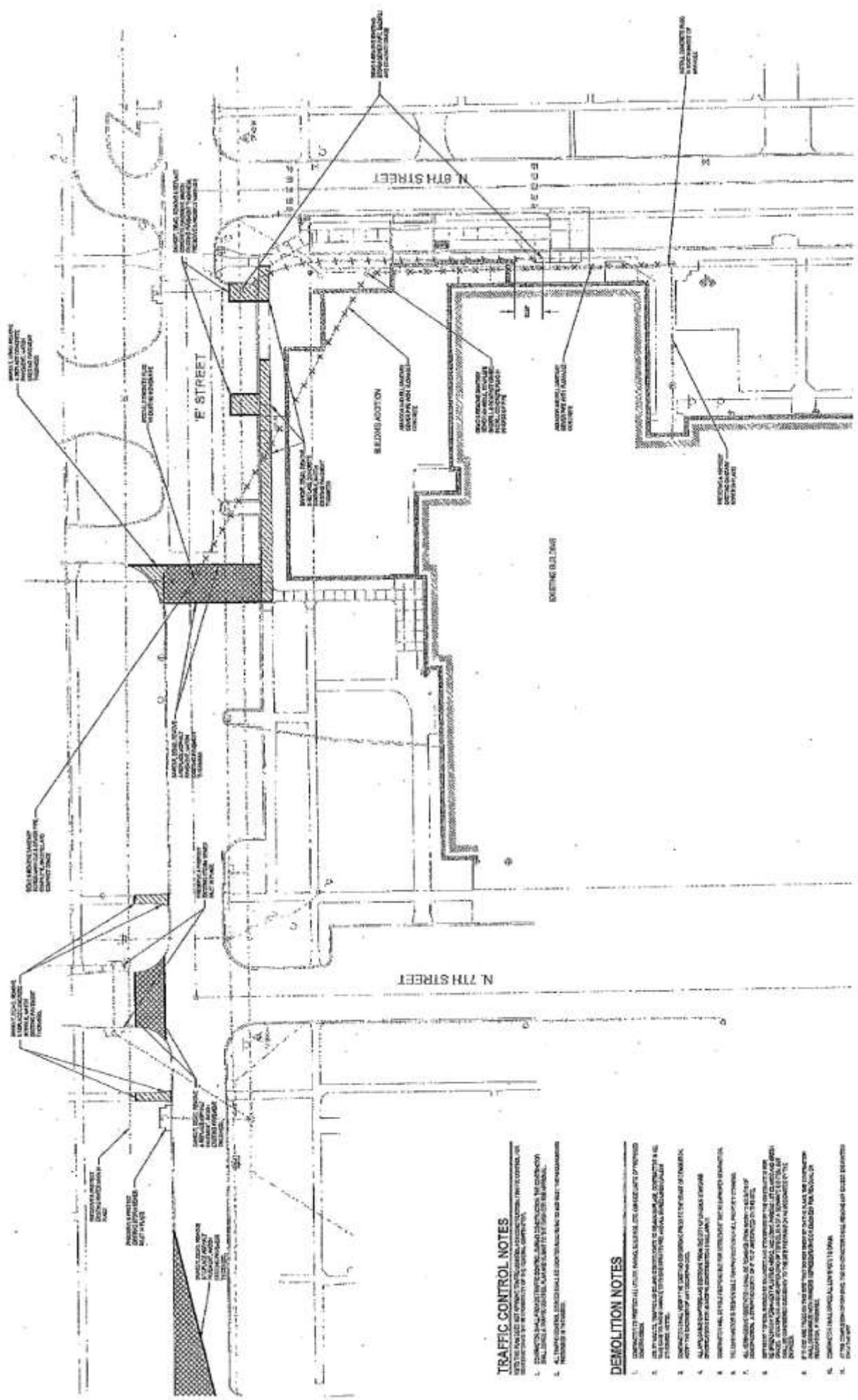
Kevin Betzen stated: "Yes, about a week or so ago, Chad (Denker of DCHS) and I met with some engineers. What they propose is to move the existing sewer line because right now the plans are to build on top of where the existing sewer line is located. The sewer line that runs under the school on the east and north side basically takes care of those houses north of the school along 7th Street from "E" to "F" Street; there aren't too many services. They want to move the sewer from the nearest manhole, which would probably have to get moved up in the right-of-way, and then send it west to the middle of 6th & 7th Street in the alley by Dale's Food Pride (634 E Street), which I don't have a problem with. I think it comes down to cost and who's going to do it. But as far as his concerns with sewer or any flow problems, there's enough elevation, and I don't have any problem with stopping it at that nearest manhole, or at least getting the manhole up in the easement so we do not tear up the street and go down the easement with the sewer over to the alley by Dale's

Tim from The Clark Enersen Partners distributed some plans and stated: "We are going to take that sanitary sewer that's on the north side of the roadway and take that west, and there are no services in the part of the sewer that we are abandoning. We are going to keep that sewer underneath the existing building though and treat it like an existing service for the school. We just don't know what's been tapped into that sewer line that's under the building, we just kind of want to leave that alone as is. We are going to leave the manhole that's out in front of the sidewalk on that east side. We don't want to continue this situation of having other utilities going under the buildings; it's not an ideal situation."

Mayor Zavodny stated: "Well as we continue to progress on this you'll keep us posted and try to figure out from this point forward what we need to do. How much disruption of the street and everything do you anticipate?"

Tim from The Clark Enersen Partners stated: "I anticipate probably a couple days for the manhole tie in, there is one side of the street that can be open so the contractor can have a flagman there to direct traffic there on the south side of the street. With school in progress, this would probably have to be done in the summer."

Council member Smith made a motion to accept the committee and officers reports as presented. Council member Kroesing seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Kobus, Hotovy, Smith, and Kroesing. Voting NAY: None. The motion carried.

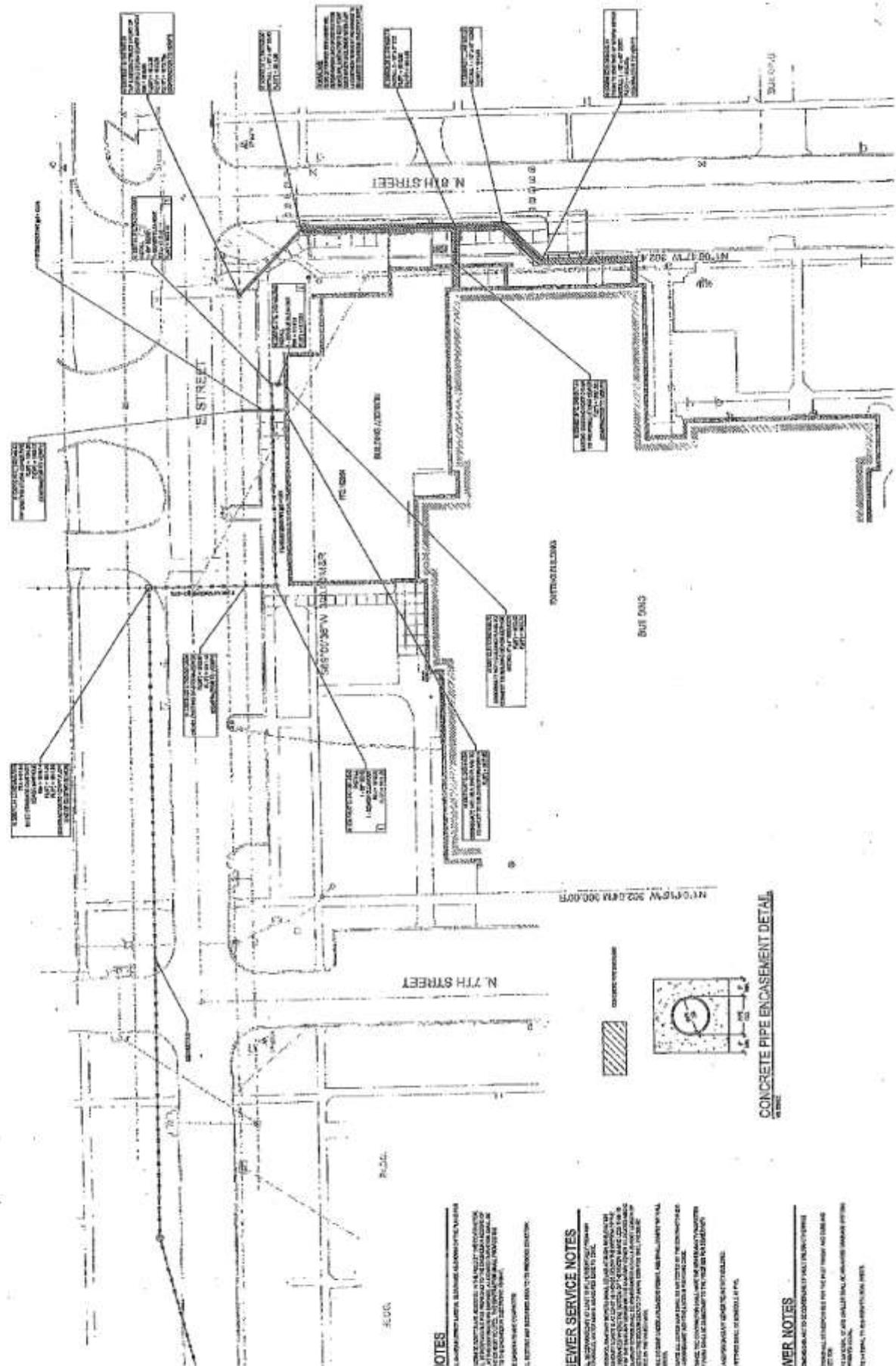


TRAFFIC CONTROL NOTES

1. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT STREETS AND SIDEWALKS AT ALL TIMES.
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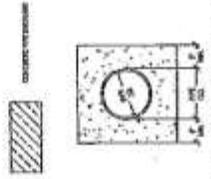
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SEWER SERVICE NOTES

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CONCRETE PIPE ENCASUREMENT DETAIL

Mayor Zavodny stated: Consideration of the 2016 Wholesale Power Contract (Option A) between Nebraska Public Power District and the City. For as short of a time frame as we've worked through, it seems like it's been a long and arduous process, but I think we're at a point where we need to decide, and we recognize that as a Council. We did have some meetings in small groups to discuss this."

Chad Podolak, NPPD Account Manager stated: "I appreciate you guys taking some time and trying to learn about this contract and agreement. It's kind of unique in that we also have the Capacity Purchase piece with that, which allows you to continue to utilize or garner a revenue stream for your generation which is a value to us. A lion's share of our wholesale customers are moving forward with us which is a positive. I think over the long 20 year contract term that we're talking about, even though you may not understand each and every piece of it, I do think in general it provides you with a lot of protection and primarily and in particular, if we don't do our side of the deal from a rate perspective, you have the opportunity to leave; to get out of this contract. I think because of the power position, the generation facilities, the steel in the ground, I think the provisions of this contract provide comfort for most councils. I appreciate the time you guys have taken to ask questions and learn, hopefully we were able to answer most of those, and if not, I'd be happy to answer any others you may have."

Mayor Zavodny stated: "Jim (City Attorney Egr) provided a very detailed summary of looking through it. It will be way past probably our time before ever considering something like this again, but I hope you conveyed some of the concerns we had with the process. I would like to see that NPPD at least listened to us about the time frame we were kind of put under and how it was presented. That's the one part that maybe caused a little hard feelings about this. That being said, I did call Mr. Chris Anderson who is the City Administrator in Central City, and we chose him because he was very involved with several other cities and lawyers in getting this put together; they had input into it. We had a very nice long chat and he was very gracious. I thanked him for taking the time. They had a few things that they weren't thrilled with, like we were, very similar issues, but they did end up signing it. We can go get power elsewhere but I am going to tell you this, we have a known quantity here and we could go with another company that we don't have a relationship with; that we don't know. What if they go belly up? What if they do what insurance companies are fond of doing? They bid you the first year and you are going to save a ton of money. The second year they look at your experience and all of a sudden they can charge you whatever they want. Those kinds of things are real concerns to me going in and, with the Capacity Purchase Agreement which we will consider as the next agenda item, I've come to the conclusion after talking to as many people and beating Chad up four or five times, that this is our best course of action, probably the wisest way for us to go. That's my two cents worth. Any questions of Chad or of this going forward?"

Chad Podolak stated: "Our goals are the same and that's to keep electricity as reliable and as affordable as we possibly can, and yes it is a twenty year contract. In the generation commitment business, when we commit to a generator for forty or fifty years, that's the commitment we're making on this deal, and although this is a twenty year deal, that's a long time from your chair. NPPD takes on some risks on our side of the deal and we're willing to do that and we feel like we can deliver on our side of the deal in the area that really matters and that's the price, and there's protection in this contract that if we don't do our side of the deal you can pursue other options to protect your rate payers and I think that provision in there hopefully will provide some comfort over the duration that we're talking about; that's the intent of it."

Council member Rogers made a motion to approve the 2016 Wholesale Power Contract (Option A) between Nebraska Public Power District and the City. Council member Smith

seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Smith, Kobus, Kroesing, and Rogers. Voting NAY: None. The motion carried.

Chad Podolak stated: "Just a side note, this contract that you are agreeing to will start in the year 2022. We're going to run out the current Capacity Purchase Contract so the pricing will jump in January of 2022."

Council member Smith made a motion to approve the Capacity Purchase Agreement between Nebraska Public Power District and the City. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Vandenberg, Kroesing, Smith, Kobus, and Rogers. Voting NAY: None. The motion carried.

Chad Podolak stated: "We very much appreciate moving forward. We very much appreciate the relationship and look forward to working with you. If you need anything we are just right down the road."

2016 WHOLESALE POWER CONTRACT (OPTION A)

between
Nebraska Public Power District
and
City of David City, Nebraska

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EXHIBITS:

- Exhibits A-1, A-2, A-3, etc., Rate Schedules
- Exhibits B-1, B-2, B-3, etc., Billing Exhibits
- Exhibit C, Contract Rates of Delivery for Western Firm Electric Service
- Exhibit D, Western Irrigation Pumping Allocations
- Exhibit E, Illustrative Example of the Calculation of a Base Monthly Demand Obligation
- Exhibit F, Illustrative Example of the Calculation of NPPD-Supplied Hourly Energy Amounts
- Exhibit G, Illustrative Example of the Accumulation and Use of Performance Credits
- Exhibit H, Illustrative Example of Reduction Amounts Available Due to Exceedance of the Performance Standard

2016 WHOLESALE POWER CONTRACT (OPTION A)

THIS 2016 WHOLESALE POWER CONTRACT (Contract) is made and entered into effective the 1st day of January, 2016, by and between Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska (NPPD), and the City of David City, a municipal corporation and political subdivision of the State of Nebraska (Customer), each sometimes hereinafter referred to singularly as "Party" and collectively as "Parties."

RECITALS

WHEREAS, NPPD owns and operates electric generating facilities together with a transmission system and is engaged in the generation, purchase, transmission and sale of electric power and energy, and

WHEREAS, Customer operates an electric distribution system(s) and is engaged in the purchase, distribution and sale of electric power and energy, and desires to purchase its electric power and energy requirements on a wholesale basis from NPPD, and

WHEREAS, the Parties recognize that the wholesale power contract is a vital part of their long-term relationship and joint strategy, and

WHEREAS, the Parties have identified the need to have flexibility in the wholesale power contract in order to provide a variety of energy products.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, it is mutually agreed as follows:

ARTICLE 1 GENERAL PROVISIONS

Section A, Definitions. The following terms shall have the meanings hereinafter set forth unless the context shall clearly indicate otherwise, to-wit:

1. **Billing Exhibit(s)** - Exhibit(s) shall be provided for wholesale power service to the Customer showing characteristics of service, Point(s) of Delivery, Point(s) of Measurement, delivery voltage, metering, loss factors, and special conditions (if any) applicable to the service provided. Exhibit(s) showing the foregoing matters shall be collectively numbered "B-1", "B-2", "B-3", and upwards consecutively. Exhibits may be added, deleted, or revised from time to time by mutual agreement of the Parties hereto and, when properly executed by the duly authorized officers or agents of the Parties, shall become a part of this Contract.

2. **Calendar Year** - A period of twelve (12) consecutive months commencing on January 1 of said year and extending through December 31 of said year.
3. **Cost-Based Rate** - Rates which, when applied to the forecasted billing units for the General Firm Power Service and Special Power Products, are intended to meet the respective estimated revenue requirements for the study period defined in Article 2, Section E. Specific rate designs may utilize methods other than average embedded costs.
4. **Customer** - Any municipality, public power district (including the NPPD Retail Division) or cooperative that purchases General Firm Power Service and Special Power Products from Nebraska Public Power District at wholesale for resale under this Contract.
5. **Demand** - The number of kilowatts delivered at any point during any specified period of time, as set forth in the applicable wholesale rate schedules, as may be modified from time to time.
6. **Distributed Generation** - A generator or electrical power device designed to produce electrical energy on the End-Use Customer's side of the meter, as allowed under and subject to the provisions of the General Firm Power Service Rate Schedule, and which shall be used for such things as load serving, voltage control and distribution augmentation.
7. **Distributor** - An entity that purchases demand and energy on a wholesale basis for purposes of resale to the end-use loads it serves and that does not contract directly with NPPD for its purchase of demand and energy as a Customer under this Contract nor as a purchaser under a separate other wholesale power contract with NPPD. For purposes of this Contract, members of the Nebraska Electric Generation and Transmission Cooperative, Inc., shall not be deemed to be Distributors.
8. **End-Use Customer** - A customer served at retail by Customer, and whose demand and energy requirements are supplied by the Customer.
9. **Energy** - The number of kilowatthours delivered at any point during any specified period of time, as set forth in the applicable wholesale rate schedules, as may be modified from time to time.
10. **General Firm Power Service** - An NPPD general production pricing product (excluding transmission) purchased by the Customer under a Cost-Based Rate to meet the firm Demand and Energy requirements of its End-Use Customers, including firm Demand and Energy requirements wholesale customers, and exclusive of (i) Special Power Products, (ii) demand and energy purchased from third parties, as allowed under this Contract, (iii) demand and energy purchased by the Customer from Western Area Power Administration (Western) pursuant to Article 2, Section B, and (iv) any Demand and Energy requirements served by Distributed Generation pursuant to Article 2, Section D.

11. **General Firm Power Service Rate Schedule** – The NPPD wholesale rate schedule specifying the rates, terms, conditions, and other provisions of service for Customers.
12. **Loss Adjustment** – It is understood that there are power and energy losses that occur in the transmission and transformation of energy in kilowatthours (kWh) and demand in kilowatts (kW) from the point on the transmission system where rates are based (as specified in the wholesale rate schedules applicable to this Contract) to the Point(s) of Measurement. The losses between those points shall be calculated in a manner agreed upon between NPPD and the Customer. All loss factors shall be shown on the appropriate Billing Exhibit, and may be revised from time to time with changes in load and facility characteristics.
13. **Point(s) of Delivery** - The point(s) of interconnection of the transmission or subtransmission system with Customer's system, where Demand and Energy are delivered to the Customer, as identified on the appropriate Billing Exhibit. For Customers who have exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A, the Point of Delivery shall be the inlet to the transmission system.
14. **Point(s) of Interconnection** – The point(s) at which the electric systems of the Parties are connected, as identified on the appropriate Billing Exhibits.
15. **Point(s) of Measurement** - The point(s) where Demand and Energy are metered for the purpose of billing, as set forth on the appropriate Billing Exhibits.
16. **Public Power Entity** – A non-profit organization engaged in the business of purchasing, generating, transmitting and/or distributing electric power and energy.
17. **Qualifying Local Generation** - A generator (or group of generators) directly interconnected to the Customer's subtransmission or distribution facilities and/or interconnected behind the meter used by NPPD for determining the Customer's wholesale power bill that is not classified by NPPD as Distributed Generation. Such generators must utilize as their energy source either methane, wind, solar, biomass, hydropower, or geothermal resources, or must satisfy the criteria for qualifying status for small power production facilities as set forth in FERC's regulations (CFR 18 CFR Part 292, as amended) and have either followed the FERC's self-certification process or have applied for and received FERC certification as a qualifying facility. The aggregate nameplate rating of all such generators shall be used in determining the applicable requirements and provisions included in this Contract.
18. **Rate Stabilization Account or Accounts** – Financial record-keeping account or accounts established by NPPD against which surplus or deficit net revenues resulting from General Firm Power Service and Special Power Products are credited to or charged, respectively, each Calendar Year. Such amounts in the Rate

Stabilization Account or Accounts will be applied as adjustments to revenue requirements in future years pursuant to Article 2, Section E.

19. **Special Power Products** - Optional production pricing products tailored and designed to meet the specific needs and requirements of specific End-Use Customer groups.
20. **Transmission Rate Schedule** - An NPPD-approved schedule of rates, charges, terms and conditions for transmission and ancillary services. This schedule shall apply to all Customers who have not exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A. The rates and charges included in this schedule shall be set to recover the transmission and ancillary service costs that NPPD incurs from its own system and/or the system of its transmission service provider, as well as NPPD's related administrative costs. The Transmission Rate Schedule is separate and distinct from NPPD's transmission service provider's tariff.
21. **Western** - The Western Area Power Administration, which assumed power marketing and transmission functions of the United States Bureau of Reclamation.
22. **Western UGPR Contract** - The contract between the United States of America (acting through Western Upper Great Plains Region, Department of Energy) and NPPD, executed July 30, 1998, the terms and conditions of which became effective on January 1, 2001, as amended or supplemented, or as it may be renewed, extended or replaced, for the sale of Pick-Sloan Missouri Basin-Eastern Division project power by Western to NPPD and other Preference Eligible Entities (as defined in said Western UGPR Contract) in Nebraska, and other related matters. Defined terms in the Western UGPR Contract, as also used in this Contract regarding the Western UGPR Contract, shall have the same meaning as set forth in the Western UGPR Contract.

Section B, Term of Contract and Eligibility. This Contract shall become effective on January 1, 2016, and shall have a term of twenty (20) years, and shall continue in force thereafter from year to year unless terminated on an anniversary thereof by at least five (5) years' prior written notice given by either Party to the other, which notice may be given at any time on and after the fifteenth (15th) year of the term of this Contract.

In the event NPPD terminates this Contract pursuant to the provisions of this Section B, such termination shall be applicable to all Customers who receive service from NPPD under this Contract, and all such Customers shall be entitled to continue to purchase from NPPD monthly quantities of Demand and Energy under as favorable a Cost-Based Rate and contract terms and conditions as NPPD may provide at that time for any other customer under similar conditions of service; provided:

- (i) A Customer that is purchasing its total monthly Demand and Energy requirements, exclusive of demand and energy purchased by the Customer from Western pursuant to Article 2, Section B, and any Demand and Energy

requirements served by Distributed Generation pursuant to Article 2, Section D, on the effective date of this Contract's termination shall be entitled to continue to purchase its total monthly Demand and Energy requirements from NPPD.

(ii) A Customer that is purchasing a reduced amount of its Demand and Energy requirements, pursuant to Article 2, Section A, on the effective date of this Contract's termination shall be entitled to continue to purchase monthly Demand and Energy quantities in amounts equal to the level of the Customer's monthly Demand and Energy obligations from NPPD in each such month during the twelve (12) month period immediately preceding the effective date of this Contract's termination.

If Customer exercises its right to terminate this Contract pursuant to the provisions of this Section B, NPPD is not obligated to offer nor is Customer entitled to purchase Demand and Energy from NPPD under a Cost-Based Rate upon termination of this Contract.

Except as otherwise provided in this Section B, NPPD shall have the right to offer this Contract to any potential Customer who has not signed this Contract by the effective date of this Contract; provided, such offer is approved by a three-fourths (3/4) majority of the members of the Power Resource Advisory Board. However, NPPD's future power resource planning shall be based primarily on the loads of those Customers who sign this Contract and NPPD's Option B wholesale power contract and those customers under existing wholesale power contracts which existed as of the effective date of this Contract, for the remainder of the terms of those contracts. No Customer shall have the right pursuant to this Contract, unless approved by NPPD and a three-fourths (3/4) majority of the members of the Power Resource Advisory Board, to sell power to any wholesale customer of NPPD existing on the effective date of this Contract, who has not otherwise signed this Contract as of such date.

In the event a Distributor is purchasing, on or before the effective date of this Contract, from a Customer, on a wholesale basis, its total monthly demand and energy requirements, exclusive of demand and energy purchased by the Distributor from Western, and such Distributor's contract with Customer expires or is terminated during the term of this Contract, then (i) if such Distributor desires to renew or continue its service with Customer under a new contract, such renewal or continuance shall not be subject to approval of the Power Resource Advisory Board, or (ii) if such Distributor does not desire to renew or continue its service with Customer under a new contract, NPPD shall have the right, subject to the limitations of any then existing Wholesale Service Area Agreement(s) between the Parties, to offer this Contract or NPPD's Option B wholesale power contract to such Distributor, and such offer shall not be subject to approval of the Power Resource Advisory Board.

In the event a Distributor is not purchasing, on or before the effective date of this Contract, from NPPD, on a wholesale basis, its total monthly demand and energy requirements, exclusive of demand and energy purchased by the Distributor from Western, and such Distributor desires to purchase such requirements, subsequent to the effective date of this Contract, from a Customer, such purchase shall require

approval by a three-fourths (3/4) majority of the members of the Power Resource Advisory Board; provided, however, once such approval has been given, if the Distributor's contract with the Customer expires or is terminated during the term of this Contract, then (i) if such Distributor desires to renew or continue its service with Customer under a new contract, such renewal or continuance shall not be subject to approval of the Power Resource Advisory Board, or (ii) if such Distributor does not desire to renew or continue its service with Customer under a new contract, NPPD shall have the right, subject to the limitations of any then existing Wholesale Service Area Agreement(s) between the Parties, to offer this Contract or NPPD's Option B wholesale power contract to such Distributor, and such offer shall not be subject to approval of the Power Resource Advisory Board.

Section C. Billing. Customer shall be assessed for all Demand and Energy purchased and provided hereunder at the rates specified under the applicable General Firm Power Service, Special Power Products, and Transmission Rate Schedules. Current copies of said rate schedules are attached as exhibits and made a part hereof by reference. In the event any of the rate schedules applicable to this Contract are amended, or in the event new rate schedules applicable to this Contract are developed and approved, all in accordance with the notification and hearing process provisions of Article 2 and Article 3, NPPD shall provide copies of such rate schedules to the Customer, without the necessity of a formal amendment to this Contract. All bills for Demand and Energy will be on a monthly basis and will be provided by NPPD to the Customer as soon as reasonably practical after the end of the billing period, it being recognized that partial billings may be submitted in the event that portions of the billings may require additional time to prepare. All such billings, including partial billings, shall be due and payable by the Customer within fifteen (15) calendar days from the date the billing is rendered, whether or not the Customer disputes all or a portion of the billing; provided, however, if such due date of any bill falls on a Saturday, Sunday or holiday observed by either Party, the following business day shall then become the due date. All bills shall be deemed rendered on the postmark date if deposited in first class mail, properly addressed, with postage prepaid. Failure to receive a bill mailed to the Customer shall not relieve the Customer from liability for payment. If other means of bill delivery to the Customer is used, such bill shall be deemed rendered upon receipt by the Customer. All bills shall be deemed paid on the postmarked date if deposited in first class mail, properly addressed to NPPD, with postage prepaid. If other means of bill payment to NPPD is used, such bill shall be deemed paid upon receipt of payment by NPPD.

All bills shall show the amounts of Demand and Energy provided during the billing period by NPPD to the point on the transmission system at which rates are based, as identified in the wholesale rate schedules applicable to this Contract, and shall clearly set forth the computations and other factors essential to the calculation of the amount due in accordance with the applicable rates and charges. Additionally, if NPPD is furnishing or arranging for the transmission and/or subtransmission and/or ancillary services necessary for delivery from the inlet of the transmission system to the Point(s) of Delivery, the cost of arranging and providing any such services shall also be included in the Customer's monthly bill.

In the event the Customer desires to dispute all or any part of a billing submitted by NPPD pursuant to this Contract, the Customer shall nevertheless pay the full amount of the billing when due and payable and shall give NPPD written notice of the dispute, which notice shall fully describe the basis for the dispute and shall set forth a detailed statement of disputed issues, the amount thereof in dispute, and the relief sought by the Customer. Customer shall not be entitled to any adjustment on account of disputed charges for which full payment by Customer, if applicable, has not been made and for which notice has not been given, both in accordance with this Section C, nor shall Customer be entitled to any adjustment on account of disputed charges for any time periods prior to the three (3) years immediately preceding the date of the written notice of dispute.

In the event NPPD determines that a previously submitted billing under this Contract is in error, and NPPD desires to perform an adjustment(s) to any part of such previously submitted billing for purposes of correcting said billing error, NPPD shall give written notice to Customer, which notice shall fully describe the amount and basis of said adjustment(s). NPPD shall not be entitled to reimbursement from Customer for any billing adjustment for which NPPD has not given notice in accordance with this Section C, nor shall NPPD be entitled to reimbursement from Customer for any adjustments to billings for any time periods prior to the three (3) years immediately preceding the date of the written notice of billing error.

Unresolved billing disputes arising out of or relating to this Contract shall be finally settled by arbitration conducted under the rules of commercial arbitration of the American Arbitration Association. Both Parties shall bear equally the cost of the arbitration; provided, that each Party shall bear its own legal fees and costs unless the arbitrator(s), in his (their) discretion, allocate(s) all or a portion of the fees and costs incurred by the Party reasonably determined to be the prevailing Party against the other Party, which the arbitrator(s) shall have the authority, but not the obligation, to do. All decisions of the arbitrator(s) shall be final and binding on both Parties and enforceable in any court of competent jurisdiction.

If the settlement of a dispute regarding a billing or billing adjustment results in a refund or reimbursement to either Party, there shall be added to the refund or reimbursement an amount for interest thereon. In the case of a billing refund to Customer, such interest shall accrue on the amount to be refunded, from the date of payment of the disputed amount or receipt of the notice of dispute, whichever is later, until the date upon which refund is made in full. In the case of a reimbursement of monies to NPPD for a billing adjustment, such interest shall accrue on the amount to be reimbursed, from the due date of the adjustment until the date upon which reimbursement is made in full. Interest shall accrue at an annual interest rate that is one percent (1%) less than the lowest United States prime rate of interest published on that day (or the last previous publication day if not published on that day) in The Wall Street Journal. Such interest calculation shall be on the basis of actual days and a three hundred sixty-five (365) day Calendar Year.

In the event the Customer fails to make payment in full of each bill when due and payable, including partial or corrected billings, the Customer shall pay to NPPD interest

on the amount due. Such interest shall accrue on any amount due from the date payment was due until the date upon which payment of the unpaid balance of the billing is made in full, in accordance with the provisions of this Section C.

Section D. Reports. Customer will furnish, or cause to be furnished to, NPPD such information as is necessary for making any computation required pursuant to this Contract and the Parties will cooperate in exchanging such additional information as may be reasonably necessary for their respective operations.

Section E. Confidentiality. The Parties understand that information contained in documents or other means of recording information, both written and verbal, will be shared between the Parties from time to time under the terms of this Contract. In the event any such information is deemed by the producing Party to be confidential in nature, the producing Party shall so designate such information, and the receiving Party agrees that any information so designated shall not be disclosed in any form to any other person or entity without the prior written consent of the Party producing the information unless disclosure is required by law.

Section F. Loss Adjustment. All adjustments for Demand and Energy losses as may be required shall be made by using factors set forth in the applicable rate schedule. Customer's specific loss factors will be documented on the appropriate Billing Exhibit.

Section G. Metering and Meter Testing. NPPD shall furnish, install, maintain and test at Points of Measurement, or cause to be furnished, installed, maintained and tested, the necessary meters for determining the amounts of Demand and Energy supplied to the Customer.

Section H. Responsibility for Property. Unless otherwise agreed, all meters and other facilities furnished by NPPD and installed on Customer's property, shall be and remain NPPD's property, and all meters and other facilities furnished by Customer and installed on NPPD's property, shall be and remain Customer's property. The respective owners of the meters and other facilities shall be responsible to maintain such meters and other facilities, unless otherwise agreed. Customer agrees that NPPD has the right of access to Customer's premises at all reasonable times in order to read, test, repair, renew, exchange or remove such meters and other facilities. Customer shall have similar right of access to NPPD's property with respect to meters and other facilities furnished and installed by Customer on NPPD's premises. Customer shall exercise due care to protect NPPD's property located on Customer's premises, and NPPD shall exercise due care to protect Customer's property located on NPPD's premises.

Section I. Balancing of Loads. Customer shall, at all times, take and use power in such manner that the load of Customer at its own system inlet will not be unbalanced between phases more than ten percent (10%). If the load is unbalanced more than ten percent (10%), NPPD reserves the right to require Customer, at Customer's expense, to make the necessary changes to correct such conditions.

Section J, Continuity of Service. NPPD, at all times, will exercise reasonable care and diligence in operating its system so as to furnish the Customer, as nearly as practicable, a continuous supply of Demand and Energy. If NPPD shall be prevented from providing the Demand and Energy herein contracted for, because of injuries to, or breakdown of, its generating, transmission, or distribution facilities or other equipment, or for necessary repairs thereto, or because of acts of God, or the public enemy, strikes, labor troubles, fire, riot, flood, lightning, storm, civil disturbances, war, or the consequences thereof, action of public authorities, litigation, or any other act or thing which is beyond its reasonable control, such interruptions shall not constitute a breach of this Contract, nor shall a cause of action for damages against NPPD accrue to the said Customer, or any of its inhabitants, and the Customer shall save NPPD harmless from any and all such claims, provided that NPPD shall proceed with diligence to restore service as soon as practicable after receiving notice of interruption or failure.

Section K, Right of Way. Customer agrees to grant, on reasonable terms, any easement or other rights across property owned or controlled by Customer for NPPD to construct, operate and maintain electric lines or facilities which are necessary to furnish Demand and Energy hereunder. NPPD agrees to consult with Customer regarding the location of any such lines or facilities on Customer's property prior to the granting of any easement or rights.

Section L, Wholesale Sales Cooperation. The Parties agree that during the term of this Contract, unless mutually agreed otherwise by the Parties, neither NPPD nor Customer will serve or offer to serve at wholesale (for resale) any wholesale loads presently served by the other. If Customer so desires, NPPD and Customer shall agree to execute and place on file with the Nebraska Power Review Board (NPRB), as soon as practicable, Wholesale Service Area Agreement(s) identifying the wholesale service areas of the Customer, and to seek NPRB approval of such agreement(s) subsequent to their filing.

Section M, Wholesale Power Contract – Option A. References to "this Contract" herein are understood to mean the Option A version of NPPD's wholesale power contract. Under Option A, Customers purchase the entire amount of Demand and Energy required to serve their End-Use Customers, except as otherwise provided in Article 2, Section A, during the twenty (20) year term of the Option A contract. This Contract shall be the "standard Wholesale Power Contract" referenced in NPPD's Professional Retail Operations Agreements and Distribution System Lease Agreements.

ARTICLE 2 PRODUCTION

Section A, Options for Customer. Except as otherwise provided in this Section A, NPPD will have an obligation to furnish and the Customer will have an obligation to take and pay for the entire amount of Demand and Energy needed to serve the aggregated requirements of the Customer's End-Use Customers, as well as the total Demand and Energy requirements of other Distributors supplied by the

Customer at wholesale. Such obligation shall be exclusive of demand and energy purchased by the Customer from Western pursuant to Article 2, Section B, and any Demand and Energy requirements served by and allowed for under the wholesale rate schedules pursuant to Article 2, Section D. A Customer may not purchase General Firm Power Service and/or Special Power Products for resale to another electric Distributor, unless that Distributor is a total requirements customer of the Customer, excluding demand and energy purchased by the Distributor from Western.

Reduction Guidelines and Base Monthly Demand Obligation:

A Customer may reduce its purchase of Demand and Energy requirements from NPPD, as provided hereinafter. NPPD shall establish "Reduction Guidelines" consistent with then current energy market requirements which describe the process for registration, transmission, and financial settlements in the wholesale market in which NPPD participates. In establishing such reduction guidelines, NPPD shall consider recommendations and input from the Rate Review Committee. NPPD may revise such reduction guidelines from time to time.

For a Customer that elects to reduce its purchases from NPPD, NPPD and Customer shall establish the maximum amount of Demand which NPPD will have an obligation to provide in any month. If the Customer so elects to reduce its purchase of Demand and Energy requirements, it must do so, as provided hereinafter, for each month in the Calendar Year. NPPD shall establish a "Base Monthly Demand Obligation" for each such month, which shall be utilized to determine the Customer's future obligation for Demand and Energy purchases from NPPD. Such calculation of the Base Monthly Demand Obligation shall be set forth in an executed exhibit between NPPD and the Customer, which exhibit shall be attached hereto and incorporated herein by reference.

The Base Monthly Demand Obligation for any month shall be established as the amount of Demand, in kilowatts, equal to the average of the Customer's Demand requirements provided by NPPD during such month in each of the three (3) Calendar Years prior to the date when the Customer first commences to reduce its purchase of Demand and Energy requirements from NPPD. The calculation of such amount of Demand shall be increased by the metered amount of any Qualifying Local Generation utilized by the Customer to offset the Customer's purchase of Demand and Energy under this Contract under the provisions of this Section A, but shall exclude (i) demand supplied by Western to the Customer (and Customer's Distributors, as appropriate), or (ii) demand supplied by Western, as identified in Exhibits C and D, to the Customers through NPPD, which is allocated by NPPD to the Customer. Exhibit E provides an illustrative example of the calculation of a Base Monthly Demand Obligation. In no event shall the Customer's obligation to take and pay for Demand and Energy in any month exceed the actual Demand and Energy delivered hereunder, except for any minimum ratchet Demand and Energy quantities, the billing for which is specified in the then current wholesale rate schedules.

If a Customer reduces its purchases of Demand and Energy under this Section A, then the NPPD-supplied Energy in each hour shall be proportionate to its total load in each hour (excluding Western), except when the NPPD-supplied Energy in an hour is limited to the Customer's reduced percentage of the Base Monthly Demand Obligation. Exhibit F provides an illustrative example of the calculation of NPPD-supplied hourly energy amounts.

Performance Standard and Reductions Due to Non-Performance:

NPPD's performance in maintaining the average cost of General Firm Power Service at or below a specified level shall be measured by NPPD's "Annual Average Wholesale Power Cost", which shall be equal to the annual average production plus transmission cost per kWh for all Customers taking service under this Contract (excluding the load and revenues of End-Use Customers taking service under the NPPD wholesale Economic Development Rate Schedule) compared to the "Performance Standard", which shall be equal to the forty-fifth (45th) percentile level of the power cost per kWh purchased for the reporting U.S. utilities, as listed in the National Rural Utilities Cooperative Finance Corporation (CFC) Key Ratio Trend Analysis (Ratio 88), as the same may be modified, amended, superseded, or replaced as mutually agreed to by NPPD and a majority of the members of the Rate Review Committee.

In recognition of NPPD's ongoing goal of performing at or below the lowest cost quartile of the CFC Ratio 88 data, in any Calendar Year in which NPPD's Annual Average Wholesale Power Cost is less than the twenty-fifth (25th) percentile level of the CFC Ratio 88 data, NPPD shall be entitled to a credit ("Performance Credit") in the amount of one half of the difference between 25.0 and the actual NPPD cost percentile level (rounded to one decimal place). Any such Performance Credit(s) to which NPPD is entitled shall be banked by NPPD for potential future use. In any Calendar Year in which NPPD's Annual Average Wholesale Power Cost exceeds the 45th percentile level of the CFC Ratio 88 data, and if NPPD has sufficient accumulated Performance Credits available, it shall be required to utilize an amount of such Performance Credits equal to the difference between the actual NPPD cost percentile level (rounded to one decimal place) and 45.0, and NPPD shall not be considered to have exceeded the Performance Standard for that Calendar Year. Exhibit G provides an illustrative example of the accumulation and use of Performance Credits.

For any Calendar Year beginning with 2016 cost data, if NPPD's Annual Average Wholesale Power Cost exceeds the Performance Standard for said Calendar Year, following application of any Performance Credits, Customer shall have the right to reduce its purchase of Demand and Energy requirements from NPPD in the amounts set forth below:

- (i) For the first Calendar Year exceedance, up to fifteen percent (15%) of the Customer's Base Monthly Demand Obligation.
- (ii) For the second Calendar Year exceedance, up to fifteen percent (15%) of the Customer's Base Monthly Demand Obligation.

- (iii) For the third Calendar Year exceedance, up to twenty percent (20%) of the Customer's Base Monthly Demand Obligation.
- (iv) For the fourth Calendar Year exceedance, up to twenty percent (20%) of the Customer's Base Monthly Demand Obligation.
- (v) For the fifth and any subsequent Calendar Year exceedance, up to twenty-five percent (25%) of the Customer's Base Monthly Demand Obligation.

If Customer elects to utilize such right to reduce its purchase from NPPD in accordance with items (i) through (v) set forth above, Customer shall provide written notice to NPPD for such reduction not less than one (1) Calendar Year prior to the commencement of such reduction; provided, if Customer does not provide notice to NPPD to reduce its purchase prior to the reporting of the Performance Standard for the ensuing Calendar Year, the Customer's right to provide notice to reduce its purchase from NPPD for the prior year's exceedance is waived by the Customer. The maximum percentages available for reduction as listed above are based on the number of Calendar Years that NPPD has not met the Performance Standard (following application of any Performance Credits) since the inception of this Contract regardless of whether or not the Customer has provided reduction notices for any prior exceedances. Exhibit H provides an illustrative example of reduction amounts available due to exceedance of the Performance Standard.

Qualifying Local Generation:

In addition to the reduction options previously described in this Section A, Customer shall have the right, upon not less than three (3) months' written notice, to utilize Qualifying Local Generation to offset the Customer's purchase of production Demand and Energy under this Contract. The Customer can utilize Qualifying Local Generation for offset purposes with an aggregate nameplate rating of up to two (2) MW or ten percent (10%) of the Customer's "Reference Demand", whichever is greater, subject to a maximum cap of fifty percent (50%) of the Customer's "Reference Demand". The Customer shall provide written notice to NPPD of any existing and all new (once the Customer has committed to its installation or contracted for its purchase) Qualifying Local Generation that is to be utilized for such offset, and provide details on the size, fuel type, and interconnection location. Any Qualifying Local Generation (operating prior to the effective date of this Contract) which a Customer is utilizing for offset purposes under the provisions of the NPPD General Firm Power Service Rate Schedule will be included in the calculation for the Qualifying Local Generation offset allowed for under this Contract. In addition, the Customer shall provide NPPD, upon request, with hourly metered data for Qualifying Local Generation (used either for offset purposes or, for a Customer that has exercised any available options to reduce their purchases from NPPD, for load serving purposes) for NPPD's use in calculating the Customer's wholesale power bill under this Contract. The "Reference Demand" of the Customer at a given point in time shall be equal to the average of the annual highest total NPPD-supplied Demands of the Customer recorded during any hour in each of the previous five (5) Calendar Years. When the ten percent (10%) and fifty percent (50%) limits apply, a specific new Qualifying Local Generation resource may be utilized by the Customer for offset purposes during the term of this Contract provided that, at the

commercial operation date of such new Qualifying Local Generation resource, the Customer's total aggregate amount of Qualifying Local Generation utilized for offset purposes (including such new resource) is at or below the applicable 10% or 50% level of their Reference Demand.

Customer agrees during such time as it is receiving at least 50 percent of its Demand and Energy from NPPD, to allow NPPD to include in NPPD's generation portfolio recognition for any renewable/environmental attributes of the energy produced on Customer's behalf pursuant to the Qualifying Local Generation provisions of this Contract. NPPD's right to receive recognition for such attributes is contingent upon NPPD and Customer agreeing to the amount of compensation to be paid by NPPD to Customer for such attributes. Customer agrees to grant NPPD a right of first refusal to negotiate and purchase any such attributes, except such right of first refusal shall not apply if such attributes are sold by Customer directly to the Customer's End-Use Customer(s).

Section B, Western. This Contract has been entered into on the express understanding that NPPD shall keep in effect the Western UGPR Contract, including any amendments and exhibits thereto, during the term of such contract, providing, among other things, for the purchase of (1) 104,554 kilowatts of Firm Electric Service, (2) 48,000 kilowatts of Seasonal Firm Electric Service, which shall be furnished during the Summer Season each year and which has been designated by NPPD under its wholesale power contracts for irrigation pumping, (3) 288,000 kilowatts of Summer Season Firm Peaking Power Service, 52,000 kilowatts of which has been designated by NPPD under its wholesale power contracts for irrigation pumping, and (4) 70,080 kilowatts of Winter Season Firm Peaking Power Service, as such amounts may be revised from time to time pursuant to the provisions of the Western UGPR Contract and this Section B. The definitions of Firm Electric Service, Seasonal Firm Electric Service, Firm Peaking Power Service, Winter Season and Summer Season, Preference Customer and Preference Eligible Entity shall all be as defined in the Western UGPR Contract. In the event its Preference Customer status would change, NPPD will, upon becoming knowledgeable that such change is pending, notify Western of such pending change and pursue with Western a process to provide for the continued receipt of benefits by Customers who remain Preference Eligible Entities, all in accordance with the provisions of the Western UGPR Contract and federal law governing said contract. At such time as it provides notice to Western, NPPD shall notify its Customers of such pending status. Additionally, in the event that NPPD begins to pursue a merger with another Preference Eligible Entity, NPPD will so inform its Customers. No such merger that is entered into voluntarily by NPPD shall adversely affect the continued receipt of benefits by Customers who remain Preference Eligible Entities, in accordance with the provisions of the Western UGPR Contract and federal law governing said contract. In the event such a merger is forced upon NPPD by circumstances beyond its control, then NPPD shall use its best efforts to ensure that Customers who remain Preference Eligible Entities shall continue to receive benefits in accordance with the provisions of the Western UGPR Contract and federal law governing said contract.

NPPD acknowledges that under the Western UGPR Contract, certain customers are defined as Preference Eligible Entities or Preference Customers. NPPD further acknowledges the right of any Preference Eligible Entity to contract with the United

States as a Preference Customer for the amount of Firm Electric Service allotted to such entity and presently identified in the table depicted in paragraph 2.1.3 of Exhibit A of the Western UGPR Contract, a duplication of which is attached hereto as Exhibit C. In the event the table in paragraph 2.1.3 of Exhibit A to the Western UGPR Contract is modified, Exhibit C shall be modified accordingly and the revised Exhibit C attached hereto.

The total irrigation pumping allowance, defined for purposes of NPPD's wholesale power contracts as Western power designated for irrigation pumping, to be allocated by NPPD to Customers eligible to receive such irrigation pumping allowance, is 100 megawatts. Should Western withdraw or reduce the Seasonal Firm Electric Service and/or Summer Season Firm Peaking Power Service sold to NPPD and designated for irrigation pumping, a pro rata reduction shall be made to the irrigation pumping allowance and NPPD shall not be obligated to continue to maintain total irrigation pumping allowance at the 100 megawatt level.

NPPD hereby acknowledges that the irrigation pumping allowance is contractually allocable directly to certain eligible Customers, and each eligible Customer's allocated share is identified on Exhibit D to this Contract. Exhibit D may be amended from time to time due to: (a) Western's withdrawal or reduction of Seasonal Firm Electric Service and/or Summer Season Firm Peaking Power Service, as described above in this Section B, (b) diversity, (c) a change in the NPPD system losses applied to irrigation pumping, (d) a change in the billing point, if other than bus A, or (e) merger of two or more recipients of irrigation pumping allocations. In the event a Customer who receives an allotment of the irrigation pumping allowance elects to exercise its option to reduce its purchases of Demand and Energy pursuant to Article 2, Section A, such Customer shall continue to be entitled to its entire allotment of irrigation pumping allowance; provided, such Customer may, at NPPD's sole discretion, be required to contract directly with Western for its own irrigation pumping allowance. Allocations of the 100 megawatts of irrigation pumping allowance, or such subsequent amount as may be established in the future will include an additional adjustment for diversity. If and when the General Firm Power Service Rate Schedule specifies that Customers' production billing demands shall be determined on an NPPD-system coincident basis, then this additional adjustment for diversity shall no longer be applicable.

Customers who either directly or indirectly receive benefits from the Western UGPR Contract shall comply with Sections 34, 40, 41, 51, 52, 56, 62, 63, and 64 of the Western UGPR Contract, in accordance with the provisions of said contract. A copy of said sections of the Western UGPR Contract shall be provided to the Customer(s) upon request.

For a Customer who has not exercised its option to reduce its purchases of Demand and Energy pursuant to Article 2, Section A, and who elects to contract with the United States as a Preference Customer for its Firm Electric Service allotted to the Customer, NPPD agrees to provide, or arrange for the provision of, transmission, subtransmission and ancillary services necessary to deliver all of the Customer's

demand and energy requirements from the inlet of the transmission system to the Point(s) of Delivery, as referenced in Article 3.

Section C. Special Power Products. During the term of this Contract, NPPD will cooperate with Customers and the Rate Review Committee to develop Special Power Products to be offered to all Customers for the benefit of End-Use Customers. The development of a Special Power Product may be initiated by a request from a Customer, by the Rate Review Committee, or by NPPD. Once developed, proposed Special Power Product(s) will be presented to the Rate Review Committee for its review and recommendations. NPPD shall consider the recommendations of the Rate Review Committee, after which notice of the proposed Special Power Product(s) will be provided to Customers. Within twenty (20) calendar days of the date the notice is provided to the Customer by NPPD (or a shorter time frame, if approved by a three-fourths [3/4] majority of the members of the Rate Review Committee), the Customer may request a hearing. Such hearing will be convened before the NPPD Board of Directors. Notice of the hearing will be given to the Customers at least ten (10) calendar days in advance of such hearing. Any request for a hearing shall be filed in writing with NPPD and shall include in detail those issues or objections to be brought before the hearing. The hearing shall be limited to those objections listed in the Customer's request. NPPD shall conduct such hearing and shall accept and submit for consideration by the NPPD Board of Directors information and comments related to the written objections received for the hearing. NPPD shall notify the Customers of NPPD's decision concerning the hearing on the proposed Special Power Product(s) to be adopted by NPPD. The effective date of the new Special Power Product(s), if adopted, shall be as approved by the NPPD Board of Directors. Each approved Special Power Product will be available to any Customer as a part of its portfolio of customized service packages that may be used for the benefit of similar End-Use Customers.

Section D. Distributed Generation. The Parties agree that, because Distributed Generation technology has the potential for (i) serving all or a portion of an End-Use Customer's electric requirements, (ii) enhancing reliability for an End-Use Customer, and (iii) enhancing reliability on the distribution system, provisions for the use of Distributed Generation shall be provided for under this Contract. Distributed Generation resources may be owned, operated and maintained by the End-Use Customer, the Customer, or by NPPD.

The Parties agree that Distributed Generation is not intended to provide a mechanism whereby Customers may shift fixed costs among themselves, but, rather, to allow optimal economic use of the electric production, transmission and distribution systems and to serve End-Use Customer needs into the future.

To assure that Distributed Generation is appropriately priced, the General Firm Power Service Rate Schedule will identify Distributed Generation which will be subject to the provisions of the General Firm Power Service Rate Schedule and identify Distributed Generation which will be subject to the provisions of a Special Power Product Rate Schedule; provided, this provision shall not apply to a Customer who exercises its option to reduce its purchases of Demand and Energy pursuant to Article 2, Section A, and who is utilizing Distributed Generation to serve the portion of

its load that is no longer included as a part of the Customer's obligation under this Contract.

The Parties agree that the development of any Special Power Product(s) for Distributed Generation must be completed in a manner that facilitates timely installation.

Section E. Rates and Charges.

Revenue Requirements:

The revenue requirements for General Firm Power Service and Special Power Products for any future year or portion thereof will include any and all costs associated with operations and maintenance (excluding depreciation); fuel; purchased demand and energy; allocated costs of general and administrative functions; debt service (principal and interest) on production-related assets, including allocated general plant; an amount for renewals, replacements, additions, and improvements (construction from revenue) to production utility plant, including allocated construction from revenue costs for general plant; amounts reasonably required to be set aside in reserves for items of costs the payment of which is not immediately required, such as decommissioning reserves, post-retirement employee benefit reserves; any other production-related costs not specifically listed herein; and an allowance for new/replacement generation assets. Such allowance for new/replacement generation assets shall not exceed an amount equivalent to \$0.0005 per kilowatthour.

Rate Discount:

From the effective date of this Contract through December 31, 2021, the Customer shall receive a discount on the production demand and energy charges specified in the General Firm Power Service Rate Schedule. Such discount shall not apply to irrigation pumping allowance charges, ancillary service charges, or transmission charges. Such discount shall also apply to any charges listed in a Special Power Product Rate Schedule that utilize the General Firm Power Service Rate Schedule production demand and energy charges as the basis for such charge.

The calculation of such discount shall be included in the summary report provided by NPPD to Customer as part of each proposed rate change. The actual discount shall be the amount approved by the NPPD Board of Directors.

Collection for Certain Reserves and Production Debt Maturing Beyond the Term of this Contract:

All Customers who purchase electric power and energy from NPPD under this Contract shall be entitled to purchase monthly quantities of Demand and Energy from NPPD for the full term of this Contract under the most favorable Cost-Based Rate and contract terms and conditions as are available to any customer under similar conditions of service. The parties agree that, during the term of this Contract, NPPD may offer a

new wholesale power contract to all Customers which extends the term of service to the customer and includes a different rate which reflects NPPD's ability to finance and collect for items of costs (the payment of which is not immediately required) for certain reserves such as decommissioning reserves and post-retirement employee benefit reserves, over a longer time period for such customers. Any such different rate shall be substantiated through a cost-of-service study and included in the summary report provided by NPPD to Customer as outlined in Article 2, Section E of this Contract ("Summary Report and Rate Change Process"), including provisions for requesting a rate review hearing before the NPPD Board of Directors.

By May 1 of each year, NPPD shall provide to Customers the amount of its production debt maturing beyond the term of this Contract, and the type, amount, and preliminary schedule for the collection of any costs (the payment of which is not immediately required) for certain reserves such as decommissioning reserves and post-retirement employee benefit reserves. NPPD may include the collection of such costs in revenue requirements under this Contract in a future year provided that the amount is fair and reasonable and NPPD has provided information on such costs to Customers with such information being formally transmitted to Customer as outlined in Article 8 of this Contract. Furthermore, NPPD may only include the collection of such costs identified in such annual information provided prior to the earlier of: May 1, 2030, or (ii) May 1 of the year in which it is determined that NPPD first exceeds the Performance Standard (following application of any Performance Credits) as referenced in Article 2, Section A. If NPPD exceeds the Performance Standard (following application of any Performance Credits) and a Customer provides notice to exercise its option to reduce its purchases of Demand and Energy pursuant to Article 2, Section A, NPPD shall not increase the collection of these costs to amounts higher than those specified in the most recently provided May 1 preliminary schedule for collection. In addition, NPPD shall not call production debt maturing beyond the term of this Contract for the sole purpose of accelerating the collection of such debt from Customers.

Annual Financial Report and Rate Stabilization Account:

By May 1 of each year, NPPD will complete an analysis of the financial results for General Firm Power Service and Special Power Products for the preceding Calendar Year. Such analysis shall include an accounting of the actual allowance amount collected during such year for new/replacement generation assets and the balance of such amounts at the end of the year. NPPD will be permitted to retain such allowance amounts until utilized for the addition of new/replacement generation assets. In the event it is determined that the accumulated allowance amount, or a portion thereof, shall be utilized, NPPD shall consider recommendations of the Power Resource Advisory Board regarding the use of such funds.

Such analysis will also include an accounting of the surplus or deficit net revenues realized during such year. NPPD will be permitted to retain surplus net revenues in a Rate Stabilization Account for purposes of covering fluctuations in revenues and/or costs caused by (i) weather and (ii) short-term business fluctuations. Additionally, pursuant to recommendation of the majority of the members of the Power Resource Advisory Board and the Rate Review Committee and approval by the NPPD

Board of Directors, NPPD shall be permitted to transfer funds from the Rate Stabilization Account for use as equity capital to finance all or part of the cost of construction or acquisition of future generating resources and other generation-related capital assets used to provide service under this Contract. Surplus or deficit net revenue for any year shall be the difference between (i) actual revenues, and (ii) actual costs, using reasonable methodologies, where necessary, in the allocation of revenues and costs for such year. NPPD will be permitted to retain such surplus net revenues in the Rate Stabilization Account until such time that such surplus exceeds an amount equal to an accumulation limit initially determined to be ten percent (10%) of annual revenues derived from General Firm Power Service and Special Power Products. NPPD may, from time to time, adjust the surplus accumulation limit, giving consideration to input and recommendations from the Rate Review Committee and upon approval by the NPPD Board of Directors; provided, in no event shall the surplus accumulation limit exceed twenty percent (20%) of annual revenues derived from General Firm Power Service and Special Power Products without the prior recommendation of a majority of the members of the Rate Review Committee and approval by the NPPD Board of Directors. Any amounts accumulated in excess of such ten percent (10%) or such surplus limit subsequently established, as determined by the financial analysis completed by May 1 of each year, will be included as an adjustment to revenue requirements in the next summary report of forecasted revenue requirements, which report is hereinafter described. If there is a net revenue deficit in excess of an accumulation limit initially determined to be five percent (5%) of annual revenues derived from General Firm Power Service and Special Power Products, as determined by the financial analysis completed by May 1 of each year, the amount of such revenue deficit that is in excess of five percent (5%) will be included as an adjustment to revenue requirements in the next summary report of forecasted revenue requirements; provided, such deficit accumulation limit may be adjusted from time to time by NPPD, giving consideration to input and recommendations from the Rate Review Committee relative to the proposed adjustments, and subject to approval by the NPPD Board of Directors. NPPD may adjust the surplus and deficit accumulation limits for reasons including, but not limited to: to provide for greater stability in rates over time, as deemed necessary and reasonable in the then existing competitive environment; to reduce the possibility of unplanned rate changes occurring due to revenue shortfall from mild weather, cost increases from unscheduled generation facility outages, and cost increases from higher than expected price levels for purchased energy. If NPPD proposes to adjust the surplus and/or deficit accumulation limits, NPPD shall: (i) provide notice to the Customer of the proposed change at least one hundred twenty (120) calendar days prior to the proposed effective date of such change; (ii) allow thirty (30) calendar days from the date of such notice for the Customer to request a hearing before the NPPD Board of Directors, and; (iii) provide at least ten (10) calendar days' notice in advance of such hearing. The effective date of such adjustment, if adopted, shall be as approved by the NPPD Board of Directors.

Summary Report and Rate Change Process:

Beginning with the year 2015 for rates effective on the effective date of this Contract, and, at a minimum, biennially thereafter, NPPD will prepare a summary report that sets forth (a) the forecast of revenues that would be derived under the then-current

rates for the succeeding year(s) or portion(s) thereof, (b) the forecast of revenue requirements for such future year(s) or portion(s) thereof, and (c) any proposed adjustments in the rates for General Firm Power Service and Special Power Products necessary to ensure that the rate(s) to be in effect in the subsequent year(s) or portion(s) thereof are estimated to produce revenues sufficient to meet revenue requirements. A copy of the summary report prepared and requested supporting documentation will be submitted by NPPD to the Customers. If such summary report indicates and NPPD proposes that the then-current rates need to be adjusted in a succeeding year(s) or portion(s) thereof, notice will be given to the Customers at least one hundred twenty (120) calendar days prior to the proposed effective date of any such adjustment. Within thirty (30) calendar days of the date the notice was provided to the Customers by NPPD, Customer may request a rate review hearing. Such hearing will be convened before the NPPD Board of Directors. Notice of the hearing will be given to Customer at least ten (10) calendar days in advance of such hearing. Any request for a hearing shall be filed in writing with NPPD and shall include in detail those issues or objections to be brought before the hearing. The hearing shall be limited to those objections listed in Customer's request. NPPD shall conduct such hearing and shall accept and submit for consideration by the NPPD Board of Directors information and comments related to the written objections received for the hearing. NPPD shall notify Customer of NPPD's decision concerning the hearing on the summary report and rates to be adopted by NPPD. The effective date of the rate adjustment, if any, shall be at least thirty (30) calendar days after the notice to Customer of NPPD's decision, or, if no hearing is requested, at least thirty (30) calendar days after approval by the NPPD Board of Directors. Implementation of new Special Power Products shall not follow the above procedures but, instead, follow the procedures listed in Article 2, Section C. In the event that NPPD desires to clarify the provisions of, or correct non-numerical errors in a rate schedule applicable to this Contract, where such clarification and/or correction will not affect the intended amount of Customer's bills, NPPD shall not follow the above procedures. Instead, NPPD shall: (i) provide notice to the Customer of the proposed modification; (ii) allow thirty (30) calendar days from the date of such notice for the Customer to request a hearing before the NPPD Board of Directors, and; (iii) provide at least ten (10) calendar days' notice in advance of such hearing. The effective date of the revised rate schedule, if adopted, shall be as approved by the NPPD Board of Directors.

Nothing in this Contract shall cause NPPD to fail to comply with the provisions of NPPD's bond resolutions or supplements thereto.

Section F. Power Resource Advisory Board. While NPPD and Customer recognize the importance of general consensus among the customers and acceptance of the power resource and delivery (transmission) plan ultimately approved by the NPPD Board of Directors, the Parties agree that NPPD has ultimate authority and responsibility for implementing its power resource and delivery plans and discharging its legal obligations.

NPPD and its customers will establish a Power Resource Advisory Board (Advisory Board) to provide input to NPPD regarding decisions affecting additions to or retirements from the portfolio of power resources and transmission facilities used by

NPPD to meet its power supply obligations and to provide a liaison between the Customers and NPPD's Board of Directors.

NPPD will be responsible for maintaining a current integrated resource plan which shows how NPPD's portfolio of power resources will meet the combined requirements of the customers and the forecasted cost of power compared to NPPD-produced forward price curves in the regional market. NPPD will prepare updates of the plan and review such updates with Customers. The plan will be updated at least every five (5) years and more frequently if required to meet Southwest Power Pool planning requirements or other contractual or regulatory requirements.

The Advisory Board will be comprised of up to twelve (12) customers who have not exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A from the following customer categories to reflect a cross-section of customers:

- 2 public power district representatives elected by public power districts
- 3 municipal representatives elected by municipals
- Loup River Public Power District
- Norris Public Power District
- Southern Power District
- Nebraska Electric Generation and Transmission Cooperative, Inc.
- NPPD Retail
- 2 largest municipals (based on production revenue) that volunteer to serve on the Advisory Board

The Advisory Board will review the load forecasts for General Firm Power Service and the aggregate of Special Power Products, practicable options for meeting the forecasted power supply obligations of NPPD, the current integrated resource plan, financial and economic assumptions supporting the plan, potential financial obligations for the implementation of such plan, and any other action plans affecting additions to or retirements from NPPD's power resource portfolio.

Customer shall be responsible for providing to NPPD its forecasted Demand and Energy information. Such forecasts shall be based on the common methodology developed by NPPD for use by all Customers, which methodology shall be reviewed by the Advisory Board.

NPPD will conduct meetings of the Advisory Board at least twice a year and at such other times as deemed necessary in order that the Advisory Board may review the expected seasonal loads attributed to General Firm Power Service and the aggregate of Special Power Products for the upcoming season and the manner in which NPPD intends to meet such obligations. Customer may attend any meeting of the Advisory Board.

The Advisory Board will function separately from the Rate Review Committee, which will deal with rate-related issues, as described in Article 2, Section G.

Notwithstanding the role of the Advisory Board as described above, if Customer deems it advisable to join with NPPD in performing a detailed power supply planning study for the purpose of identifying one or more future resources, or for optimizing a load management program, or the funding thereof, which may be used for serving the future requirements of NPPD and of Customer, Customer shall so advise NPPD in writing. NPPD will give due consideration to any such request and will promptly provide a response to Customer.

Section G. Rate Review Committee. While NPPD and Customer recognize the importance of customer participation in the rate, price and product development process, the Parties agree that NPPD has ultimate authority and responsibility for maintaining adequate revenues and for designing rates and pricing structures.

NPPD and its customers will establish a Rate Review Committee, which committee shall be comprised of up to twelve (12) customers who have not exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A from the following customer categories to reflect a cross-section of customers:

- 2 public power district representatives elected by public power districts
- 3 municipal representatives elected by municipals
- Loup River Public Power District
- Norris Public Power District
- Southern Power District
- Nebraska Electric Generation and Transmission Cooperative, Inc.
- NPPD Retail
- 2 largest municipals (based on production revenue) that volunteer to serve on the Rate Review Committee

Customer may attend any meeting of the Rate Review Committee.

NPPD will conduct meetings of the Rate Review Committee at least twice a year and at such other times as deemed necessary in order that the committee may review and provide input to NPPD on the revenue requirements and the rate design for General Firm Power Service. The responsibilities of the Rate Review Committee shall also include, but not be limited to, (i) assisting NPPD in identifying, designing, and developing Special Power Products, including any associated production rates; and (ii) providing input and/or recommendations relative to adjustments to the surplus and deficit accumulation limits in the Rate Stabilization Account, as provided in Article 2, Section E.

ARTICLE 3 TRANSMISSION

Except as provided below, this Contract provides for the sale of Demand and Energy under General Firm Power Service and Special Power Products delivered to the inlet of the transmission system only. Transmission, subtransmission and related

ancillary services required to deliver these production products to the Point(s) of Delivery are not included in this Contract.

However, for Customers who have not exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A, including those Customers who have elected to contract with the United States as Preference Customers for their Firm Electric Service pursuant to Article 2, Section B, NPPD agrees to provide, or arrange for the provision of, transmission, subtransmission and ancillary services, and Customer agrees to pay for such services necessary to deliver all of the Demand and Energy purchased from NPPD under this Contract from the inlet of the transmission system to the Point(s) of Delivery. Such transmission and ancillary service(s) shall be provided under the appropriate rates, terms and conditions included in the Transmission Rate Schedule established by NPPD according to the notice provisions in Article 2, Section E. Customer shall have the right, in whatever form such right may exist, to review transmission and ancillary service rates, terms and conditions, and any proposed revisions to same, as may be imposed upon NPPD by its transmission service provider. Subtransmission service shall be provided under the appropriate rates, terms and conditions as may be imposed upon NPPD by its subtransmission service provider, with the addition of NPPD's related administrative costs. Customer shall have the right, in whatever form such right may exist, to review subtransmission rates, terms and conditions, and any proposed revisions to the same.

For Customers who have exercised their option to reduce their purchases of Demand and Energy pursuant to Article 2, Section A, the Customer shall have the responsibility to provide, or arrange for the provision of, and pay for transmission, subtransmission and ancillary services necessary to deliver all of the Demand and Energy purchased from NPPD under this Contract and from all supplemental power and energy suppliers, including Western, from the inlet of the transmission system to the Point(s) of Delivery. The Parties agree that separate and apart from this Contract, NPPD will offer to arrange for the provision of transmission, subtransmission and ancillary services necessary to deliver all of the Customer's demand and energy requirements from the inlet of the transmission system to the Point(s) of Delivery. Such service(s) shall be provided under the appropriate rates, terms and conditions established by NPPD.

NPPD agrees to accord to Customer all rights and privileges that have been accorded to NPPD by its transmission and subtransmission service providers. In addition, NPPD agrees to facilitate communications between its transmission service provider and Customers for the purpose of discussing service reliability, system expansion studies and proposals, tariffs, industry developments and any other topics deemed to be of interest by NPPD or its Customers.

ARTICLE 4 WAIVERS

No delay by the Parties in enforcing any of their rights hereunder will be deemed a waiver of such rights nor will any waiver at any time by the Parties of their rights with

respect to a default under this Contract be deemed a waiver with respect to any subsequent default or matter.

ARTICLE 5 MERGER OR CONSOLIDATION

In the event two or more Customers merge and/or consolidate their properties into a single corporate entity, the resulting corporate entity shall receive all the benefits and assume all the liabilities as if the new entity were a single Customer at the inception of this Contract.

ARTICLE 6 MOST FAVORED NATIONS

If NPPD enters into or amends a wholesale power contract with a wholesale customer for a system sale (i.e., not a sale from a specific generating unit or units) that provides for full requirements firm wholesale power service for any term in a form other than this Contract or NPPD's Option B wholesale power contract, or if NPPD enters into a wholesale power contract with a wholesale customer for a system sale that provides for partial requirements firm wholesale power service for any term and at average production rates which are less than those provided for under this Contract and the offering of such wholesale power contract is not approved by a majority of the members of the Power Resource Advisory Board, Customer may elect to adopt such wholesale power contract, conformed as necessary to apply to the Customer. A Customer that is purchasing a reduced amount of its Demand and Energy requirements from NPPD, pursuant to Article 2, Section A, shall be entitled to purchase only such reduced amounts under such new or amended contract. For the purposes of determining average production rates in the case of a partial requirements wholesale power contract, the production rates included in such contract and those applicable under this Contract shall each be applied to the new wholesale customer's estimated purchases from NPPD.

NPPD shall notify Customer in writing with such notification sent by mail, postage prepaid, or by national express delivery service, if NPPD executes a form of wholesale power contract that meets the specifications listed above. NPPD shall provide a copy of said contract, and Customer shall have six (6) months following the date of such notice to elect the other contract. The Parties shall execute the new contract within thirty (30) calendar days following Customer's written election.

ARTICLE 7 SUCCESSORS AND ASSIGNS

Neither Party may assign this Contract in whole or in part, or any rights granted hereunder, or delegate to a third party any of the duties and obligations hereunder, without the prior written consent of the other Party; provided, however, NPPD shall not

be required to obtain such written consent for an assignment of this Contract in the event that NPPD divests substantially all of its generation assets through merger or consolidation into another Public Power Entity. No assignment of this Contract shall be effective unless and until the assignee assumes in writing the duties and obligations of the assignor.

In the case of an assignment by NPPD resulting from a divestiture as described above, the rates under this Contract or any extension of this Contract, as contemplated by Article 1, Section B, shall continue to be no greater than if the assignment had not occurred and in no event will the assignee be permitted to charge the Customer market-based rates or cost-based rates that include recovery of any acquisition premiums paid.

In the event NPPD is required to divest substantially all of its generation assets, the Customer shall have the option to terminate this Contract. NPPD shall be required to provide advance written notice of such divestiture of its generation assets at least one hundred eighty (180) calendar days prior to the effective date of such divestiture or, if NPPD is unable to provide such notice due to circumstances beyond its control, as soon as is reasonably possible under the circumstances of such divestiture. Upon receipt of said notice, the Customer may terminate this Contract by providing written notice of such termination to NPPD and its assignee at least ninety (90) days prior to the effective date of such divestiture.

ARTICLE 8 NOTICES AND CORRESPONDENCE

Written notices and other communications required under or related to this Contract shall be given in writing and sent by mail, postage prepaid, and national express delivery service or by electronic communication. A Party may change its address or the person to whom notices and other communications are to be sent by providing written notice of such change to the other Party.

To NPPD:

Notices/Correspondence

Nebraska Public Power District
Attention: Contracts Manager
P.O. Box 499
1414-15th Street
Columbus, NE 68602-0499

Rates/Billing

Nebraska Public Power District
Attention: Pricing, Rates & Wholesale
Billing Manager
P.O. Box 499
1414-15th Street
Columbus, NE 68602-0499

To Customer:

Notices/Correspondence

City of David City
Attention: Clerk/Treasurer
P.O. Box 191
557-4th Street
David City, NE 68632-0191

Rates/Billing

City of David City
Attention: Clerk/Treasurer
P.O. Box 191
557-4th Street
David City, NE 68632-0191

**ARTICLE 9
ENTIRE AGREEMENT**

This Contract constitutes the entire agreement between NPPD and the Customer regarding the matters addressed herein and supersedes all prior written and oral communications and understandings in connection therewith.

**ARTICLE 10
REPLACEMENT OF PRIOR CONTRACT**

This Contract shall supersede the Wholesale Power Contract between NPPD and Customer with an effective date of January 1, 2002. Any exhibits, as updated and currently in effect, and attached to said document shall be made a part of this Contract. Said Wholesale Power Contract shall, upon the effective date of this Contract, be null and void without further force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed in duplicate by their duly authorized officers or representatives as of the dates indicated below.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

CITY OF DAVID CITY, NEBRASKA

ATTEST:

By: _____

Date: _____

NEBRASKA PUBLIC POWER DISTRICT

ATTEST:

By: _____

Date: _____

EXHIBITS A-1, A-2, A-3, etc.

RATE SCHEDULES

Exhibit A-1 General Firm Power Service Rate Schedule

Exhibit A-2 Supplement No. 1 to the GFPS Rate Schedule

Exhibit A-3 Simultaneous Buy/Sell Rate Schedule (SPP No. 2)

Exhibit A-4 Energy Curtailment Program (SPP No. 3)

Exhibit A-5 Buy-Through Program Rate Schedule (SPP No. 4)

Exhibit A-6 Standby Service Rate Schedule (SPP No. 5)

Exhibit A-7 Economic Development Rate Schedule (SPP No. 6)

Exhibit A-8 Green Rate Schedule (SPP No. 7)

Exhibit A-9 Production Cost Adjustment Rate Schedule

EXHIBITS B-1, B-2, B-3, etc.

BILLING EXHIBITS

CUSTOMER: CITY OF DAVID CITY

POINT OF DELIVERY TO CUSTOMER:

34.5 KV BUS OF NPPD'S 115/34.5 KV DAVID CITY SUBSTATION

POINT OF MEASUREMENT	LOC.		BILLING LOSS FACTORS		
	ID	VOLTAGE	KW	KWH	KVAR
A. DAVID CITY SUB - TO CITY	2507R1	13.8 KV	1.024	1.019	1.118
B. DAVID CITY NW SUB	2509R1	13.8 KV	1.024	1.020	1.118
C. GROSS GENERATION	2510	2.4 KV	1.000	1.000	1.000
D. DAVID CITY SUB - TO NPPD	2507R1	13.8 KV	1.000	1.000	1.000
E. STATION SERVICE (WHILE GENERATING)	0020	2.4 KV	1.000	1.000	1.000

BILLING PROCEDURE: (SEE ATTACHED DIAGRAM)

CUSTOMER SHALL BE BILLED IN ACCORDANCE WITH PROVISIONS OF THE GFPS RATE SCHEDULE OF THE WHOLESALE POWER CONTRACT FOR THE MAXIMUM COINCIDENTIAL QUANTITIES DELIVERED TO CUSTOMER AND RECORDED ON METERS A, B, C AND THE WESTERN PORTION OF D. LESS D, E AND THE WESTERN PORTION OF A, B & C EACH ADJUSTED TO BUS A BY THE APPROPRIATE BILLING LOSS FACTORS ABOVE.

NOTE:

ALL APPROPRIATE GFPS CHARGES APPLY.

BUTLER PUBLIC POWER DISTRICT PROVIDES SUBTRANSMISSION LINE AND SUBTRANSMISSION SUBSTATION.

GFPS CHARGES ARE TO BE BILLED ON WESTERN POWER FOR THE FOLLOWING SERVICES: TRANSMISSION LINE, REGULATION & FREQUENCY RESPONSE, SPINNING RESERVE, SUPPLEMENTAL RESERVE, REACTIVE SUPPLY & VOLTAGE CONTROL AND TRANSMISSION SUBSTATION.

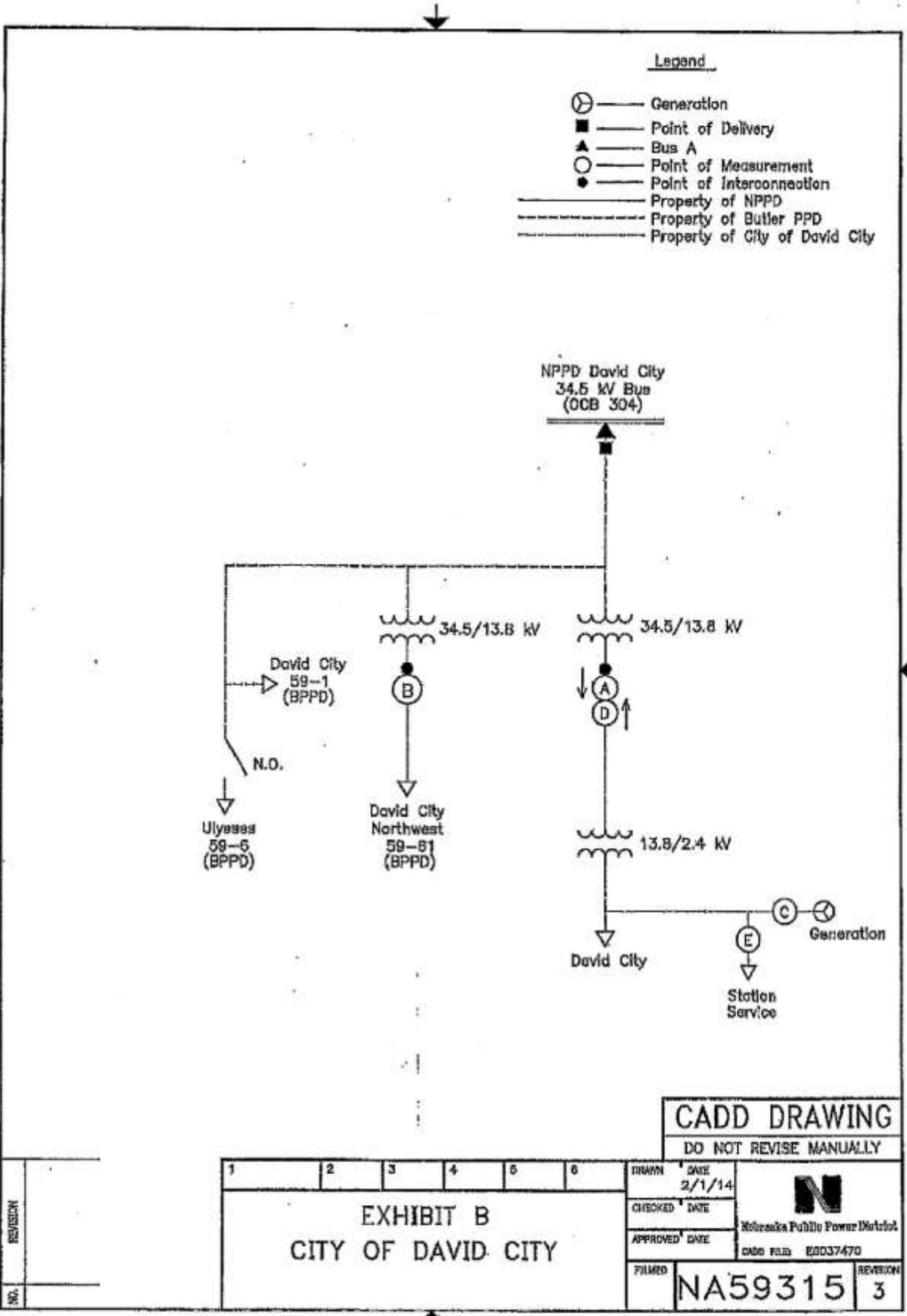
APPROVED:

FOR NPPD

Terry J. Koeth DATE 5/29/15

FOR CITY OF DAVID CITY

Joan Kevan DATE 9/22/15



CADD DRAWING
DO NOT REVISE MANUALLY

1	2	3	4	5	6
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EXHIBIT B
CITY OF DAVID CITY

ISSUED DATE
2/1/14

CHECKED DATE

APPROVED DATE

FILMED

N
Nebraska Public Power District
CADD FILE: E0037470

NA59315

REVISION
3

REVISION	
NO.	

EXHIBITS C and D

**Exhibit C Contract Rates of Delivery for
Western Firm Electric Service**

Exhibit D Western Irrigation Pumping Allocations

Exhibit C

Contract Rates of Delivery for Western Firm Electric Service

This Exhibit C shall become effective the 1st day of January, 2016, and shall be effective under and as a part of the Wholesale Power Contract between Nebraska Public Power District (NPPD) and Customer, hereinafter called the "Contract." This Exhibit C shall remain in effect until superseded by another Exhibit C ; provided, this Exhibit C or any superseding Exhibit C shall terminate upon expiration of the Contract.

The Contract Rate of Delivery for Western Firm Electric Service contains the following amounts allotted to Customers:

RURAL DISTRICTS	WINTER CROD (kW)	SUMMER CROD (kW)
Members of Nebraska Electric Generation and Transmission Cooperative, Inc.		
Burt County Public Power District	1,640	1,641
Butler County Public Power District	1,526	1,527
Cedar-Knox Public Power District	1,753	1,754
Cornhusker Public Power District	3,131	3,132
Cuming County Public Power District	1,422	1,423
Custer Public Power District	2,467	2,468
Dawson Public Power District	6,494	6,497
Elkhorn Rural Public Power District	1,886	1,887
Howard Greeley Rural Public Power District	1,455	1,456
KBR Rural Public Power District	918	918

RURAL DISTRICTS	WINTER CROD (kW)	SUMMER CROD (kW)
Loup Valleys Rural Public Power District	908	909
McCook Public Power District	2,558	2,560
Niobrara Valley Electric Membership Corporation	1,716	1,717
North Central Public Power District	1,318	1,319
Perennial Public Power District	1,844	1,845
Polk County Public Power District	1,158	1,159
Seward County Public Power District	1,021	1,021
South Central Public Power District	1,753	1,754
Southwest Public Power District	2,957	2,958
Stanton County Public Power District	550	550
Twin Valleys Public Power District	1,731	1,732
Others:		
Norris Public Power District	5,063	5,066
Northeast Nebraska Public Power District	1,942	1,943
Southern Power District	9,457	9,461
SUBTOTAL RURAL DISTRICTS	<u>56,668</u>	<u>56,697</u>
LOUP RIVER PUBLIC POWER DISTRICT (W/O SCHUYLER)	<u>5,328</u>	<u>5,331</u>

MUNICIPALITIES	WINTER CROD (kW)	SUMMER CROD (kW)
Arapahoe	151	151
Battle Creek	139	139
Bertrand	100	100
Bradshaw	45	45
Bralnard	46	46
Central City	457	457
Chester	59	59
Cozad	930	930
Dakota City	170	171
Davenport	63	63
Dorchester	77	77
Edgar	96	96
Fairmont	98	98
Friend	184	185
Giltner	64	64
Gothenburg	648	649
Hampton	66	66
Hebron	299	299
Hildreth	60	60
Holdrege	1,422	1,422
Hubbell	13	13

MUNICIPALITIES	WINTER CROD (kW)	SUMMER CROD (kW)
Lexington	1,217	1,218
Loomis	64	64
Minden	507	507
Nelson	96	96
North Platte	3,708	3,710
Polk	52	52
Prague	40	40
Seward	907	907
Snyder	85	85
Stanton	167	168
Superior	522	522
Sutton	195	196
Valentine	598	598
Walthill	123	123
Wilcox	51	51
Wymore	209	209
SUBTOTAL MUNICIPALITIES	<u>13,728</u>	<u>13,736</u>
NPPD RETAIL	<u>28,604</u>	<u>28,619</u>
TOTAL WINTER ALLOCATION	<u>104,328</u>	
TOTAL SUMMER ALLOCATION		<u>104,383</u>

**Exhibit D
Irrigation Pumping Allowance**

Exhibit D
Revision No. N/A
Effective Date: January 1, 2016

This Exhibit D shall become effective the 1st day of January 1, 2016, and shall be effective under and as part of the Wholesale Power Contract between NPPD and Customer. This Exhibit D shall remain in effect until superseded by another Exhibit D; provided, this Exhibit D or any superseding Exhibit D shall terminate upon expiration of said Wholesale Power Contract.

CUSTOMER (A)	ALLOCATOR (B)	WAPA IRRIGATION PUMPING KW DEMAND AMOUNTS ALLOCATED TO RECIPIENTS								TOTAL (J)
		APRIL (C)	MAY (D)	JUNE (E)	JULY (F)	AUGUST (G)	SEPTEMBER (H)	OCTOBER (I)		
SEASONAL FIRM ELECTRIC SERVICE		28,624	28,675	47,821	47,821	46,769	30,456	28,547		239,615
FIRM PEAKING POWER SERVICE (1)		1,478	1,325	2,079	62,079	62,231	1,542	553		111,389
TOTAL ALLOCATION		28,303	30,000	50,000	109,000	99,000	32,000	29,000		369,000
ADJUSTED TOTAL ALLOCATION (2)	108,000	76,889	28,800	60,880	101,760	100,742	32,683	27,540		399,465
BURT	1,132	267	308	513	1,087	1,076	348	297		3,946
BUTLER	3,230	818	878	1,250	3,101	3,079	992	848		11,268
CEDAR KNOX	922	234	251	442	885	876	283	242		3,213
DORR-HUSKER	4,832	1,226	1,313	2,300	4,638	4,683	1,484	1,289		16,843
GUMING	426	108	116	204	408	405	131	112		1,485
CUSTER	3,497	1,394	1,494	2,638	5,277	5,224	1,689	1,444		19,160
DAWSON	24,157	8,121	6,668	11,586	23,171	22,940	7,416	6,339		84,130
ELKHORN	2,516	739	792	1,488	2,739	2,771	896	769		10,163
HOWARD GREELEY	3,103	785	842	1,468	2,978	2,946	932	814		10,804
K & R	1,302	330	364	625	1,250	1,237	400	342		4,538
LOUP VALLEY	1,579	400	429	758	1,514	1,501	485	415		5,604
MCCOOK	4,889	1,189	1,274	2,251	4,501	4,456	1,449	1,232		16,343
NIDRRARA VALLEY	3,375	858	917	1,620	3,240	3,208	1,037	886		11,784
NORRIS	2,304	739	789	1,394	2,788	2,760	892	763		10,122
NORTH CENTRAL	2,029	512	549	970	1,939	1,929	621	531		7,042
NORTH EAST	1,045	266	284	501	1,004	993	321	274		3,842
PERENNIAL	6,309	1,676	1,887	2,890	5,881	5,801	1,897	1,631		21,942
FOLK CO.	3,373	865	915	1,619	3,238	3,205	1,036	888		11,758
SEWARD CO.	779	198	212	374	748	740	239	205		2,716
SQ. CENTRAL	2,886	681	730	1,289	2,679	2,653	825	706		9,382
SOUTHERN	19,089	4,841	5,166	9,183	18,325	18,142	5,894	5,014		68,836
SOUTHWEST	5,497	1,394	1,494	2,639	5,277	5,224	1,689	1,444		19,160
STANTON	979	172	184	326	652	645	209	178		2,355
TWIN VALLEYS	3,163	807	865	1,528	3,056	3,025	978	836		11,095
LOUP	657	141	151	267	535	529	171	148		1,940
SUBTOTAL - RURALS	105,746	26,814	28,733	50,757	101,516	100,499	32,485	27,774		368,578
BATTLE CREEK	7	2	2	3	7	7	2	2		26
BEATRICE	4	1	1	2	4	4	1	1		14
CENTRAL CITY	79	20	21	36	76	75	24	21		275
COZAD	19	5	5	9	18	18	6	5		66
DEWITT	19	5	5	9	18	18	6	5		69
DORR-WESTER	25	6	7	12	24	24	8	7		89
HOLDREGE	167	47	51	90	179	178	57	49		651
LEAVENWORTH	25	6	7	12	24	24	8	7		88
NORTH PLATTE	158	40	43	76	152	150	49	41		601
SNYDER	29	7	8	14	28	27	9	8		101
SUPERIOR	35	9	10	17	34	33	11	9		123
SUBTOTAL - MUNICIPALS	667	148	160	282	564	556	181	155		2,049
TOTAL PRESENT CUSTOMERS	105,746	26,814	28,733	50,757	101,516	100,499	32,485	27,774		368,578
TOTAL OTHER CUSTOMERS (3)	255	66	67	123	244	245	78	66		887
TOTAL	108,000	26,880	28,800	50,880	101,760	100,742	32,563	27,840		369,465

(1) THE PORTION ALLOCATED TO IRRIGATION PUMPING ONLY.

(2) JUNE-SEPT AMOUNTS ARE TOTAL WAPA AMOUNTS AT TRANSMISSION INLET TIMES 1.06 (DIVERSITY ADJUSTMENT) TIMES 0.96 LOSS FACTOR TO CONVERT TO BUS A AMOUNTS. APRIL, MAY, AND OCT AMOUNTS ARE TOTAL WAPA AMOUNTS AT TRANSMISSION INLET TIMES 0.96 LOSS FACTOR TO CONVERT TO BUS A AMOUNTS. THE TOTAL AMOUNTS ARE ALLOCATED TO RECIPIENTS IN PROPORTION TO COLUMN B.

(3) CUSTOMERS WHO WERE ORIGINALLY ASSIGNED AN IRRIGATION PUMPING ALLOCATION, BUT ARE NO LONGER TOTAL REQUIREMENTS CUSTOMERS OF NPPD.

EXHIBIT E

Illustrative Example of the Calculation of a Base Monthly Demand Obligation

Assume: Customer provides notice to reduce their purchases for the first time effective 03/01/24.
Determine: The Customer's June BMDO

June BMDO will be based on the Customer's actual loads occurring in the month of June during the 3 previous years prior to the effective date of the reduction: June 2021, June 2022, and June 2023.

	Calculated Customer Load (Bus A kW)
June 2021	31,706 * see calculation below
June 2022	32,435
June 2023	32,143

3-Year Average kW: 32,095 = Customer's June BMDO

* Calculation of June 2021 value determined as follows, with all values at Bus A (similar calculation would be performed for June 2022 and June 2023):

Hour of June 2021	NPPD Supplied Demand (1) (kW)	Less: Customer's Western Allocation (2) (kW)	Less: Customer's Irrigation Pumping Allocation (3) (kW)	Plus: Actual Metered Output of QLG Utilized For Offset Purposes (4) (kW)	Equals: Customer Load Utilized For Determination of June BMDO (5) (kW)
(A)	(B)	(C)	(D)	(E)	(F)
1	28,510	(1,426)	(228)	0	26,856
2	30,015	(1,501)	(240)	0	28,274
3	32,118	(1,606)	(257)	285	30,540
4	33,159	(1,658)	(265)	470	31,706
5	32,400	(1,620)	(259)	635	31,156
.
.
.
720	27,589	(1,379)	(221)	0	25,989

Hourly Maximum for all 720 Hours: 31,706 kW

Notes:

(1) Includes customer's Irrigation Pumping Allocation, if applicable.

(2) Reduction only applicable for Blend customers with a Western allocation per Exhibit C. Customer's allocation for June 2021 allocated across all hours of the month on a load pattern basis.

(3) Reduction only applicable for customers with an Irrigation Pumping Allocation per Exhibit D. Customer's allocation for June 2021 allocated across all hours of the month on a load pattern basis.

(4) QLG = Qualifying Local Generation

(5) Value to use in June BMDO calculation for 2021 is the maximum hourly load in Column F, regardless of when it occurs.

EXHIBIT F

Illustrative Example of the Calculation of NPPD-Supplied Hourly Energy Amounts

Assume: BMDO for the month = 60,000 kW
Customer's reduction % = 10%

Determine: Hourly NPPD-supplied energy amounts under the following scenarios (all amounts in Bus A kWh).
Hours 1-5: Qualifying Local Generation (QLG) used for offset purposes is operating during these hours.
Hours 6-10: Same loads as in hours 1-5, except QLG is not operating during these hours.

	Hour 1	Hour 2	Hour 3	Hour 4	Hour 5
1 Customer's total actual hourly load (1)	55,000	62,000	63,694	65,000	70,000
2 Less: Western allocation (2)	(2,750)	(3,100)	(3,185)	(3,250)	(3,500)
3 Less: Irrigation pumping allocation (3)	(440)	(496)	(510)	(520)	(560)
4 Subtotal	51,810	58,404	60,000	61,230	65,940

NPPD-supplied energy calculation for each hour:

5 Lower of the subtotal above or the BMDO	51,810	58,404	60,000	60,000	60,000
6 Times: Percentage purchased from NPPD	x 90%				
7 Less: QLG output used for offset purposes	- 4,000	- 4,000	- 4,000	- 4,000	- 4,000
8 NPPD-supplied energy (4)	42,629	48,564	50,000	50,000	50,000

	Hour 6	Hour 7	Hour 8	Hour 9	Hour 10
9 Customer's total actual hourly load (1)	55,000	62,000	63,694	65,000	70,000
10 Less: Western allocation (2)	(2,750)	(3,100)	(3,185)	(3,250)	(3,500)
11 Less: Irrigation pumping allocation (3)	(440)	(496)	(510)	(520)	(560)
12 Subtotal	51,810	58,404	60,000	61,230	65,940

NPPD-supplied energy calculation for each hour:

13 Lower of the subtotal above or the BMDO	51,810	58,404	60,000	60,000	60,000
14 Times: Percentage purchased from NPPD	x 90%				
15 Less: QLG output used for offset purposes	- 0	- 0	- 0	- 0	- 0
16 NPPD-supplied energy (4)	46,629	52,564	54,000	54,000	54,000

Notes:

(1) Includes the load served by Qualifying Local Generation (QLG) used for offset purposes in rows 7 or 15.

(2) Reduction only applicable for customers with a Western allocation. Customer's energy allocation allocated across all hours of the month on a load pattern basis.

(3) Reduction only applicable for customers with an Irrigation Pumping Allocation per Exhibit D. Customer's energy allocation allocated across all hours of the month on a load pattern basis.

(4) This is the amount of production energy which the Customer would be billed for under the provisions of the GFPS Rate Schedule. The corresponding hourly demand values (computed in the same manner but using demand loss factors and the Western demand allocation amounts) would be used to determine the Customer's production billing demand under the provisions of the GFPS Rate Schedule.

EXHIBIT G

Illustrative Example of the Accumulation and Use of Performance Credits

Year of Cost Data	NPPD Percentile Rank	Amount NPPD is Below 1 st Quartile	Performance		Performance Credits Utilized*	Remaining Performance Credits	Is Performance Standard Exceeded?
			Credits Earned (50% of Col. C)	Cumulative Performance Credits Earned			
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
2016	20.6	4.4	2.2	2.2	0	2.2	No
2017	18.3	6.7	3.4	5.6	0	5.6	No
2018	24.4	0.6	0.3	5.9	0	5.9	No
2019	29.1	0	0	5.9	0	5.9	No
2020	31.0	0	0	5.9	0	5.9	No
2021	38.0	0	0	5.9	0	5.9	No
2022	47.5	0	0	5.9	2.5	3.4	No
2023	48.0	0	0	5.9	3.0	0.4	No
2024	47.0	0	0	5.9	0	0.4	Yes**

* Equal to the amount that the NPPD percentile rank exceeds the 45th percentile (when sufficient Performance Credits are available).

** Since there are insufficient Performance Credits remaining, the Performance Standard has been exceeded.

EXHIBIT H

Illustrative Example of Reduction Amounts Available Due to Exceedance of the Performance Standard

<u>Year of Cost Data</u> (A)	<u>CFC Data Available</u> (B)	<u>Was Performance Standard Exceeded?</u> (C)	<u>Earliest Effective Date of Reduction*</u> (D)	<u>Maximum Percent Reduction**</u> (E)
2016	mid 2017	No	N/A	N/A
2017	mid 2018	No	N/A	N/A
2018	mid 2019	Yes	1/1/21	15%
2019	mid 2020	Yes	1/1/22	15%
2020	mid 2021	No	N/A	N/A
2021	mid 2022	No	N/A	N/A
2022	mid 2023	No	N/A	N/A
2023	mid 2024	Yes	1/1/26	20%
2024	mid 2025	Yes	1/1/27	20%
2025	mid 2026	No	N/A	N/A
2026	mid 2027	Yes	1/1/29	25%

* Assumes customer provides the required 1 calendar year notice for each reduction.

** Customer does not have to take reductions in all prior years in order to take the higher maximum reduction in succeeding years.

CAPACITY PURCHASE AGREEMENT

between

Nebraska Public Power District

and

The City of David City, Nebraska

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CAPACITY PURCHASE AGREEMENT

between

Nebraska Public Power District

and

The City of David City, Nebraska

THIS CAPACITY PURCHASE AGREEMENT (Agreement) is made and entered into effective the 1st day of January, 2016, by and between Nebraska Public Power District, a public corporation and political subdivision of the State of Nebraska (NPPD), and the City of David City, Nebraska, a municipal corporation (City), each sometimes hereinafter referred to singularly as "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, NPPD owns and operates certain electric generating facilities together with a transmission system and various distribution systems in the state of Nebraska and is engaged in the generation, purchase, transmission, distribution and sale of electric power and energy, and;

WHEREAS, the City owns and operates certain electric generating facilities together with an electric distribution system, and;

WHEREAS, the City purchases power and energy from NPPD for its electrical requirements through a Wholesale Power Contract between NPPD and the City of David City, effective January 1, 2016, and;

WHEREAS, the Parties' respective electric systems are or will be interconnected, either directly or through the electrical systems of others, making possible more beneficial use of generating facilities and assuring better service in emergencies, thereby providing important benefits to the areas served and to the public, and;

WHEREAS, the Parties desire to enter into an agreement which will assure NPPD's use of the City's existing dependable generating facilities.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, the Parties do hereby mutually agree as follows:

**ARTICLE I
TERM OF AGREEMENT**

This Agreement shall be executory on the date first above written; provided, however, the terms and conditions contained herein governing the relationship of the Parties shall become effective upon the completion of the term of the Capacity Purchase

Agreement entered into by the Parties dated January 1, 2002. This Agreement shall have a term of twenty (20) years, commencing upon the date first above written, and shall continue in force thereafter from year to year unless terminated on an anniversary thereof by at least five (5) years' prior written notice given by either Party to the other, which notice may be given on and after the fifteenth (15th) year of the term of the Agreement; provided, in no event shall the term of this Agreement exceed the term of the Wholesale Power Contract, as it may be amended from time to time.

Upon expiration of this Capacity Purchase Agreement, City shall be entitled to enter into NPPD's then current Capacity Purchase Agreement that is available to any other customer under similar conditions.

ARTICLE II WHOLESALE POWER CONTRACT

Simultaneously with the execution hereof, the Parties have executed a Wholesale Power Contract. Said Wholesale Power Contract is a separate, complete and distinct contract between the Parties.

Notwithstanding any provision in this Agreement or any other contract between the Parties:

- A. In the event the Wholesale Power Contract is terminated, this Agreement shall terminate simultaneously therewith, unless otherwise specifically agreed to by the Parties.
- B. In the event the Wholesale Power Contract provides options for the City to reduce its purchase of demand and energy requirements from NPPD, and the City provides notice to NPPD to exercise its option to reduce, then, effective upon the date of such notice, NPPD reserves the right: (1) to reduce its purchase of Usable Capacity under this Agreement, such that NPPD is not obligated to purchase Usable Capacity under this Agreement in amounts exceeding the City's purchase of demand requirements from NPPD under the Wholesale Power Contract or (2) to terminate this Agreement. In the event NPPD receives such notice to reduce from City, NPPD shall respond in writing to City not more than one hundred twenty (120) calendar days following the date of City's notice, stating whether NPPD will reduce its purchase of Usable Capacity pursuant to item (1) above and, if so, stating the amount of such reduction and when it is to be effective, or whether NPPD will terminate this Agreement pursuant to item (2) above.
- C. In the event this Agreement is terminated or if the City is not entitled to payment for Usable Capacity, as provided herein, the Wholesale Power Contract shall remain in full force and effect for the full term of said Wholesale Power Contract.

ARTICLE III USABLE CAPACITY

The generating capacity in kilowatts (kW) listed on Exhibit I, which is attached hereto and made a part hereof by reference, either initially or after revision due to tests or other reasons, shall be defined as Usable Capacity.

City agrees to make available and sell to NPPD the Usable Capacity of City's generating facilities in amounts as identified in Exhibit I for use by NPPD under the terms and conditions hereinafter set forth. The Parties agree that the term "Usable Capacity" as used herein refers only to the accredited available output of the City's generating facilities, and ownership of all such facilities shall remain solely with the City and this Agreement is not intended to, and shall not be construed or deemed to, constitute or create any lien or encumbrance in respect of such facilities.

The Parties agree that the capacity in kW which the City shall initially make available and sell and NPPD initially shall purchase shall be the same as that set forth in Exhibit I to the Capacity Purchase Agreement dated January 1, 2002, when its term is completed. For purposes of this Agreement, an Exhibit I shall be produced which shows the same amount of capacity purchased under the Capacity Purchase Agreement dated January 1, 2002, and such Exhibit I shall be attached hereto at the time when the terms and provisions of the Agreement go into effect. The Parties further agree that, as soon as practical after such effectiveness, a test of the City's generating facilities shall be made, said test being made in accordance with Article IV of this Agreement. After said test and in accordance with the results of said test, Exhibit I shall be revised to specify the Usable Capacity in kW which City shall make available and NPPD shall purchase. Notwithstanding the provisions of this Article III and Article IV of this Agreement, the term "Usable Capacity" identified on Exhibit I shall not include generating facilities that cannot be operated continuously in parallel with NPPD's system.

The Parties agree that the tests required by Article IV may be made periodically at the request of either Party, and if the test results indicate a change in Usable Capacity, Exhibit I shall be revised in accordance with such test results on the next succeeding November 1 of any year, except as provided in Article V.

The Parties agree that said tests shall, if so required by NPPD, be performed jointly by City and NPPD, with the City furnishing personnel and equipment to operate the generating facilities at City's own expense. The fuel used to perform the tests shall be provided at NPPD's expense, as specified in Article VII of this Agreement.

The Parties agree that the purchase of Usable Capacity hereunder shall be limited to the output of the City's generating facilities installed as of the date of execution of this Agreement; provided, however, in the event a generating unit is inoperable at the time of execution of this Agreement, nothing herein shall preclude the repair and return to operable condition of such unit (including the replacement of such generating unit with equivalent, but not greater, capacity) subsequent to execution of this Agreement and the subsequent inclusion of the unit's output as Usable Capacity, nor will anything in this Agreement limit the later addition of Usable Capacity by mutual agreement of City and

NPPD. In the event the City installs additional generating unit(s), NPPD shall have the right of first refusal for the purchase of said additional generation as Usable Capacity.

Any revision to Exhibit I pursuant to and as provided in this Agreement shall be prepared by NPPD and transmitted to the City, and said revised Exhibit I shall, upon execution by the Parties, become a part of and incorporated in this Agreement.

ARTICLE IV TEST PROCEDURES

The Usable Capacity in kW of a power plant shall be determined through tests performed according to the terms and conditions specified in the Rating of Generating Equipment Criteria (RGE Criteria) or any replacement document for the RGE Criteria, as the same may be modified from time to time and adopted by the Southwest Power Pool (SPP). A copy of the reporting form for testing internal combustion generating units, to satisfy the current requirements for testing as set forth in the RGE Criteria, is attached hereto as Exhibit II and incorporated herein by reference.

The Parties agree that as the RGE Criteria are modified from time to time, Exhibit II shall be revised to incorporate the then current RGE Criteria. Any revision to Exhibit II pursuant to and as provided herein shall be prepared by NPPD and transmitted to the City, and said revised Exhibit II shall become a part of and incorporated into this Agreement. Tests on the City's generating facilities shall be conducted in accordance with any such modified criteria as soon as practical after any such revision, and Exhibit I shall be revised in accordance with the test results pursuant to provisions of Article III of this Agreement.

The Parties further agree that should the RGE Criteria (or its replacement, as adopted by SPP) be revised or no longer exist or should NPPD no longer participate in SPP, the test procedures of the substitute council or agency in which NPPD participates to establish, maintain and coordinate reliability shall replace the RGE Criteria for purposes of this Agreement. In the event that such substituted council or agency does not have test procedures, or should NPPD not so participate in any substituted council or agency, then the RGE Criteria as it may have been previously revised and the reporting form attached as Exhibit II, shall continue to be applicable to this Agreement.

Should revisions to said RGE Criteria result in a cumulative reduction of more than twenty percent (20%) of the Usable Capacity, as initially determined by tests in accordance with the RGE Criteria and the reporting form initially hereto attached as Exhibit II, City may terminate this Agreement on the next succeeding November 1 following the effective date of said reduction and upon written notice to NPPD.

ARTICLE V PAYMENTS

Subject to the provisions of this Agreement, NPPD shall pay the City monthly the sum of the following amounts:

- A. Capacity Charge: \$3.65 for each kW of Usable Capacity as shown on Exhibit I.
- B. Operating Charge: \$0.005 for each metered kilowatt-hour of net generation in excess of each twenty-five (25) kilowatt-hours per kilowatt of total Usable Capacity as shown on Exhibit I. The operating charge will not be incurred if NPPD is unable to deliver power and energy due to transmission outages.

The payments set forth in this Article V are contingent upon the Usable Capacity receiving SPP Accreditation approval, and payments shall not commence until such time as NPPD receives notice of approval from SPP.

The Parties agree that such payments fully compensate the City for all costs of ownership, operation (exclusive of fuel provided by NPPD), maintenance, repairs, replacement and renewals of all facilities required hereunder to provide Usable Capacity and associated energy to NPPD and to perform all other obligations of City under this Agreement.

In addition, the Parties may agree in advance in writing for additional payment to City in connection with unusual methods of operation requested by NPPD or in connection with special facilities or equipment installed by City at the request of NPPD to improve operation or dispatching of Usable Capacity.

Notwithstanding any other provisions of this Agreement, the Parties agree that should the amount of Usable Capacity stated on Exhibit I be rated and accredited by SPP or other appropriate agency at some greater or lesser value, Exhibit I shall be modified, with such modification to become effective on the date of such revised accreditation, to reflect such actual accredited amount, and the monthly payments thereafter shall be determined in accordance with the revised Exhibit I.

The Parties agree that payment by NPPD for Usable Capacity made available during a month to City pursuant to this Agreement and for any operating charge, as provided herein, shall be made on or before the fifteenth (15th) day of the following month. Additionally, the Parties further agree that any and all information required by NPPD to release payment will be provided by the City on or before the sixth (6th) day of the following month.

If City cannot operate its generating facilities when requested by NPPD and make available in parallel with NPPD's system the full amount of Usable Capacity and associated energy requested within two (2) hours of the request for a diesel unit, for any reason other than a forced outage or approved scheduled maintenance outage, no monthly payment will be made by NPPD for that portion of the Usable Capacity which the City was unable to operate and make available within the appropriate two (2) hour period following request by NPPD for operation.

The Parties agree that should all or a portion of the Usable Capacity not be available to NPPD at any time during any month because of a forced outage, such as equipment failure or breakdown, no payment shall be made for any such month or for any subsequent month(s) for any portion of the Usable Capacity which is not so available. The Parties

further agree that if the total Usable Capacity shown on Exhibit I is made available to NPPD within ninety (90) days after any such forced outage, retroactive payment shall be made by NPPD to City for that amount of Usable Capacity which was not available because of the forced outage, upon a satisfactory showing by the City of the cause of any such forced outage. If all or a portion of the Usable Capacity is unavailable to NPPD for a period of more than ninety (90) days, NPPD will make no retroactive payments for the unavailable Usable Capacity; provided, however, upon demonstration by the City that all or a portion of the previously unavailable Usable Capacity is again available, NPPD will resume monthly payments for such additional demonstrated available Usable Capacity commencing with the first full calendar month following said demonstration.

Nothing in this Agreement shall be construed to mean that generating facilities providing Usable Capacity which are removed from availability for normal maintenance procedures will not receive full credit for the month, provided the unavailability of the unit does not exceed one hundred twenty (120) days and prior notice was given to and written approval received from NPPD in advance of the scheduled unavailability.

If all or part of the Usable Capacity is unavailable for any reason for a continuous period exceeding one hundred twenty (120) days, NPPD shall have the option to reduce the amount of Usable Capacity for the remainder of the term of this Agreement and Exhibit I shall be modified to eliminate such unavailable Usable Capacity upon written notice by NPPD to the City. NPPD may, in its sole discretion, extend the one hundred twenty (120) day period if City has demonstrated that it is utilizing its best efforts to make available the unavailable portion of Usable Capacity.

Except for (1) Usable Capacity which has been unavailable for a period not exceeding one hundred twenty (120) days, and for which NPPD has received prior notice and granted its written approval, or (2) Usable Capacity which is unavailable due to a documented forced outage, if all or part of the Usable Capacity is not available to NPPD, NPPD may forward a written notice to the City setting forth the details of such unavailability of said Usable Capacity. If three (3) such notices are sent to the City in any twenty-four (24) month period, NPPD shall have the option to terminate this Agreement; provided, however, NPPD shall give City thirty (30) days' written notice prior to the exercise of said option.

ARTICLE VI RESPONSIBILITY OF CITY

The City shall, in consideration of the payments by NPPD pursuant to this Agreement and without any additional charge to NPPD:

- A. Own all fuel contained in City's storage facilities and shall be responsible for receiving, unloading, storing and otherwise handling, at its own expense, the NPPD-provided fuel which will be delivered to the City's storage facilities. City shall notify NPPD at such times when the fuel inventory in its storage facilities reaches thirty percent (30%) of the full storage capacity or the level which will support eight (8) hours of operation of its generation, whichever is the greater. City shall make

reasonable efforts to maintain fuel inventories at or above said levels at all times; provided, however, should SPP reliability requirements specify minimum fuel inventories at levels greater than those stated above, City shall comply with such requirements.

- B. Operate its generating facilities only for use by NPPD to provide energy associated with Usable Capacity and only when called upon by authorized NPPD personnel to do so and only in accordance with the operating procedures as specified in Exhibit III, which is attached hereto and incorporated herein by reference.
- C. Keep all generating facilities providing Usable Capacity and associated energy in good operating condition.
- D. Have manpower and equipment available to provide the Usable Capacity and associated energy when called upon by NPPD to do so.
- E. Make all necessary and required modifications to City's generating facilities to meet present or future local, state or federal laws, rules, regulations and requirements. Exhibit I shall be revised to eliminate Usable Capacity from any generating facilities which are not in compliance with all such laws, rules, regulations and requirements. In the event the Usable Capacity is reduced to zero as a result of such noncompliance, this Agreement shall be terminated as of the date of such reduction.
- F. Periodically operate the City's generating facilities according to an operating schedule furnished by NPPD to make certain City's generating facilities are in good operating condition and capable of providing Usable Capacity and associated energy.
- G. Not schedule an outage of all or any part of the City's generating facilities without prior written approval by authorized NPPD personnel. City shall inform NPPD of any such scheduled outage by 7:00 a.m. on the day prior to which such scheduled outage is to occur.
- H. Allow periodic inspection by NPPD of the City's generating facilities and demonstrate Usable Capacity according to tests required by Article IV when requested by NPPD.
- I. Maintain its generating facilities in readily operable condition and, upon receiving a request for operation from NPPD, place the said generating facilities in service, synchronized in parallel with NPPD's system and operating at scheduled load within the time limits set forth below:
 - 1. For all hours on weekdays, Monday through Friday, and between the hours of 8:00 a.m. through midnight (12:00 a.m.) on Saturdays and Sundays, such operation shall occur within two (2) hours for an internal combustion unit (diesel and/or gas);

2. Between the hours of midnight (12:00 a.m.) and 8:00 a.m. on Saturdays and Sundays, and all hours on holidays, defined as off-peak hours for purposes of NPPD's rates (per NPPD's then current General Firm Power Service Rate Schedule), such operation shall occur within two (2) hours for an internal combustion unit (diesel and/or gas).
- J. Prepare and submit to NPPD such monthly reports concerning the generating facilities as may be reasonably requested and on forms as provided by NPPD.
 - K. Indemnify and save harmless NPPD and its representatives from and against all losses and all claims, demands, suits, actions, payments and judgments arising from personal injury or otherwise brought or recovered against NPPD or its representatives by reason of any act or omission of the City, its agents, servants or employees in connection with, relating to, or arising out of the performance of this Agreement, including any and all expense, legal or otherwise, incurred by NPPD or its representatives in the defense of any claim or suit.
 - L. Decide whether or not to insure against physical damage to all or any part of the City's property, and City agrees that NPPD and its representatives shall not be liable for and City shall hold harmless NPPD and its representatives from any losses or damage to such property or for expenses incidental to such loss or damage.
 - M. Install or cause to be installed all switch(es), control(s) and any other protective equipment necessary to protect the City's generating facilities when said facilities are operating interconnected directly or indirectly with NPPD transmission facilities. If the City's generating facilities are interconnected with the electrical system of another party, and such other electrical system is interconnected with the NPPD transmission system, the generating facilities are understood to be indirectly interconnected to NPPD's transmission system.
 - N. Maintain one telephone number or other mutually agreed upon means of communication that is continuously available and manned for response to NPPD's request for operation of the City's generating facilities. Exhibit III outlines operating procedures and specifies methods of communication between NPPD and City. Exhibit III may be revised from time to time as the Parties may agree, except as parts thereof are amended as specifically provided therein.
 - O. Perform all functions (testing, record keeping, etc.) as required by standards of the North American Electric Reliability Corporation or its successor organization.

ARTICLE VII FUEL

- A. **Other Than Natural Gas.** NPPD shall purchase and pay for all fuel which is delivered to City's storage facilities and used in the operation of the City's generating facilities according to the terms and conditions of this Agreement. Such fuel shall meet American Society of Testing Materials (ASTM) or other applicable

specifications as recommended by the manufacturer of the equipment or facility in which the fuel is consumed. The storage facilities provided by City have or will have a total storage capacity of 51,000 gallons of diesel fuel and are or will be located at the City's power plant. City agrees to allow NPPD to make periodic inspection of the storage facilities.

In no event shall NPPD own fuel which resides in City's storage facilities, and NPPD assumes no responsibility for said stored fuel, other than reimbursement to the City for the cost to purchase said fuel.

NPPD and its representatives shall not be liable for and City agrees to indemnify and hold harmless NPPD and its representatives from any damage caused to City's boiler(s) or prime mover(s) and related auxiliary equipment by City's fuel.

City shall exercise due care and diligence in the management of its fuel inventory; however, City shall not be liable for the cost to replace fuel in its storage facilities as a result of causes beyond the reasonable control of City, its agents, servants or employees, such as acts of God or the public enemy.

City shall make reasonable efforts to maintain fuel inventories at or above the level specified in Article VI(A). The City shall maintain fuel storage and handling facilities in good repair and in a condition so that they are usable for NPPD at all times. Damage to or breakage or breakdown of City's fuel storage or handling facilities shall be repaired by City on a timely basis at City's expense. NPPD shall have the option to terminate payments under Article V of this Agreement if City does not repair or replace damaged or otherwise unavailable fuel storage capacity on a timely basis.

City agrees to indemnify and hold harmless NPPD and its representatives from all liability, loss or damage NPPD and its representatives may suffer as a result of claims, demands or judgments against NPPD and its respective representatives for any bodily injury or death to members of the public or the City's employees or for any damage to City's property or facilities or to the property of others caused by City's fuel, including fire or explosion or spillage or leakage or other loss from City's storage or handling facilities.

- B. **Natural Gas.** The City agrees that if and when City is able to obtain natural gas for generation, City shall so notify NPPD pertaining to the availability of natural gas and the anticipated price for such natural gas, and if NPPD requests generation using natural gas as a fuel, City shall utilize natural gas to the maximum extent available. NPPD agrees to pay City, within ten (10) days after receipt of an invoice from the City, billings to the City by City's gas supplier for natural gas utilized for generation, including any minimum billings imposed by gas supplier on natural gas supplied for generation. City shall invoice NPPD for such cost no later than ten (10) days after receipt of invoice from the natural gas supplier. The City shall exercise due care and diligence in the management and procurement of natural gas for its generation.

City agrees to indemnify and hold harmless NPPD and its representatives from all liability, loss or damage NPPD and its representatives may suffer as a result of claims, demands or judgments against NPPD and its representatives for any bodily injury or death to members of the public or City's employees or for any damage to City's property or facilities or to the property of others resulting from or in any way caused by or relating to the use of natural gas or the natural gas installation to the City's facilities.

- C. **Limitation on Use of Fuel.** The Parties agree that in the event the Parties are prohibited by any court or governmental agency having jurisdiction from utilizing natural gas or diesel fuel, or the Parties are unable to obtain adequate fuel for the operation of the City's generating facilities, and such prohibition or unavailability of fuel continues for a period of six (6) months, NPPD shall have the right to immediately terminate this Agreement upon written notice to the City.

ARTICLE VIII RESPONSIBILITY OF NPPD

NPPD agrees to notify City when City is to operate its generation facilities, and NPPD agrees to give City as much advance notice of required operation as is feasible under the circumstances then existing.

NPPD agrees to notify City of NPPD's assignment of the NPPD personnel authorized to request City to operate City's generation facilities.

NPPD shall indemnify and save harmless City and its respective representatives from and against all losses and all claims, demands, suits, actions, payments and judgments arising from personal injury or otherwise, brought or recovered against City and its representatives by reason of any act or omission of NPPD, its agents, servants or employees, in connection with, relating to, or arising out of the performance of this Agreement, including any and all expense, legal or otherwise, incurred by City or its representatives in the defense of any claim or suit.

ARTICLE IX MINIMUM OPERATION

The Parties agree that when NPPD calls upon City to operate all or a part of City's generating facilities to provide energy associated with Usable Capacity, the minimum number of hours of operation which shall be requested shall be two (2) hours for diesel units, unless otherwise mutually agreed.

ARTICLE X METERING

All metering to determine the net generation by City from City's generating units shall be installed, owned and paid for by NPPD, as shown on Exhibit IV, which is attached hereto and incorporated herein by reference. The net generation metered shall be considered as a delivery to NPPD on the 115 kilovolt bus (i.e., delivered to the NPPD transmission system, whether directly or indirectly interconnected).

ARTICLE XI EXISTING AGREEMENT

The Agreement entitled Capacity Purchase Agreement between the Parties, dated January 1, 2002, as it may be amended, shall continue in its effectiveness until the completion of its initial term on December 31, 2021, and shall be terminated and of no further force and effect subsequent to such date, and the terms and provisions of this Agreement shall be placed into effect as of January 1, 2022.

ARTICLE XII ASSIGNMENT

All covenants and agreements contained in this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns; provided, however, neither of the Parties to this Agreement shall assign or transfer this Agreement in whole or in part without the specific written consent of the other Party, and no transfer or assignment of all or part of a Party's interest in this Agreement shall operate to give the assignee or transferee the status or rights of a Party hereunder or operate to relieve the transferring or assigning Party of its obligation hereunder, unless otherwise agreed to in writing by the other Party; and provided, further, that nothing hereinabove shall prohibit or prevent a Party from transferring or assigning its interests or rights in or under this Agreement, including its rights and status as a Party, to:

- (a) any corporation or other entity acquiring all or substantially all the property of the Party making the transfer, or
- (b) any corporation or entity into which or with which the Party making the transfer may be merged or consolidated.

ARTICLE XIII CAPTIONS

The captions of the various sections and paragraphs herein are intended for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

**ARTICLE XIV
WAIVERS**

Any waiver at any time by a Party of its rights, or any delay in enforcing its rights, with respect to any default by the other Party hereto, or with respect to any other matter arising out of or related to this Agreement, shall not be considered a waiver with respect to any other default or matter.

**ARTICLE XV
CONFIDENTIAL INFORMATION**

The Parties hereby deem Article V to constitute confidential information and otherwise not subject to public disclosure, but the Agreement otherwise is not confidential information.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives.

NEBRASKA PUBLIC POWER DISTRICT

By _____

Title _____

Date _____

CITY OF DAVID CITY, NEBRASKA

By _____

Title _____

Date _____

EXHIBIT I

USABLE CAPACITY

Unit No.	Type	Fuel	Years in Service	Name Plate Rating	Test Date	Usable Capacity
1	Fairbanks Morris	Oil/Gas	1960	1,500 kW	9/16/2015	
2	General Electric/ Worthington	Oil	1949	1,000 kW	9/16/2015	
3	General Electric/ Worthington	Oil/Gas	1955	1,000 kW	9/16/2015	
4	General Electric/ Worthington	Oil/Gas	1966	2,250 kW	9/16/2015	
5	Caterpillar	Oil	1996	1,600 kW	9/16/2015	
6	Caterpillar	Oil	1996	1,600 kW	9/16/2015	
7	Caterpillar	Oil	1996	1,600 kW	9/16/2015	
Total Usable Capacity						8,800 kW

Approved:

For NPPD:

Name: _____

Date: _____

For City of David City:

Name: _____

Date: _____

Note: The amount of Usable Capacity shown is the current amount as of January 1, 2016.

The amount is subject to change in accordance with the terms and provisions of the Agreement, and this Exhibit I shall be updated to document such change.

EXHIBIT II
REAL POWER REPORT FORM
Combustion Turbine & Internal Combustion Engine Units

Company _____

Reported by _____

Station Name & Unit Number _____

Month & Date of Test	
Average Ambient Dry Bulb Temperature during test	
Ambient Dry Bulb Temp. during test to be >= this value	
Gross MWh/hr Generated during test	0
MWh/hr Station Service during test	0
Net MWh/hr Generated during test	0
Average Ambient Temperature during test	
Inlet Cooling Discharge Temperature (if inlet cooling is used)	0
Rating Condition Temperature (adjust if inlet cooling is used)	0
Average MWh/hr Net Adjustment due Rating Conditions	0
Fuel (Gas / Oil / other) Approx. Percent	
Average MWh/hr Net Adjustment due to Fuel (if applicable)	0
Other Adjustments	
Reason for adjustment	
Average MWh/hr Net Adjustment	
Reason for adjustment	

Average MWh/hr Net Adjustment	
Total Adjustments	0
Rated Net Capability (MWh/hr)	0

0.00%

Notes:

EXHIBIT III

OPERATING PROCEDURES

NORMAL OPERATING CONDITIONS

The City's power plant shall not operate until notified by the Energy Supply Operator from the NPPD Doniphan Control Center at Doniphan, Nebraska. The City will then operate per instructions from the Energy Supply Operator.

MINIMUM OPERATION SCHEDULE

NPPD shall furnish to City at various intervals a schedule of operation by which City shall operate its power plant to help maintain the plant in good operating condition. The frequency of such operation may be scheduled by NPPD on a monthly basis, but shall not be scheduled more frequent than monthly. The City may, with NPPD's concurrence, test the generating units at a less frequent interval, but in no case shall this interval be less frequent than quarterly. Whenever such testing occurs, a minimum of two (2) hours' operation shall be scheduled for each generating unit tested. Upon providing notice to NPPD by 7:00 a.m. of the day prior, and with NPPD's concurrence, the City may operate its generating units at other times and for other purposes (such as providing training for operators) when such operation was not requested by NPPD.

SCHEDULING OF REPAIRS

The City's generating equipment shall not be made unavailable by disassembly for repairs or otherwise without the approval of the NPPD Energy Supply Operator. The City shall notify the Doniphan Control Center when repairs or maintenance is complete and the equipment is available for use.

PLANT HEATING

During freezing or potentially freezing weather, the plant building and cooling water shall be kept at a temperature to avoid freezing. The cost of operating such equipment shall be the responsibility of the City.

EMERGENCY OPERATING INSTRUCTIONS

If a situation occurs which causes the NPPD power source to be interrupted so that the City is totally without power from NPPD, the City can contact the Doniphan Control Center to obtain permission to operate the City's generation. The Doniphan Control Center System Operator will issue instructions on necessary switching prior to starting generation.

Opening or closing of NPPD switches should be done only after receiving clearance and permission from the NPPD Line Dispatcher at Doniphan/Kearney, Nebraska. Switches should be operated only by previously authorized and properly trained personnel per the

Line Switching paragraph of this Exhibit III.

Should the City be unable to contact both the Doniphan Control Center and the Line Dispatcher due to severance of communication lines, the City may proceed to isolate themselves from the NPPD System by opening and tagging, per previous instructions, Switch(es) # _____, # _____ and # _____, located at _____

COMMUNICATION

Normal or emergency communication between the City and NPPD shall be by telephone. The telephone numbers of City and NPPD are as set forth below. Other mutually agreed means of communication, if applicable, are also provided below.

City

24-Hour Dispatch Phone: (402) 367-7993

Plant Operator Phone: (402) 367-3138

Email: Eric Betzen, power01@windstream.net

Pager: (402) 367-7909 (Eric Betzen cell phone)

Doniphan Control Center

Energy Supply Phone: (402) 845-5256

Energy Supply Cell: N/A

Energy Supply Email: ensoper@nppd.com

System Operator Phone: (402) 845-5221

System Operator Cell: N/A

System Operator Email: genop@nppd.com

LINE SWITCHING

Line switches shall be opened or closed by properly trained personnel who have been authorized by NPPD. Such personnel are identified as follows:

N/A

Switching procedures shall follow the standard NPPD methods per most current NPPD Doniphan Control Center Instructions (Transmission), as the same may be amended from

time to time by NPPD. The NPPD forms required by such instructions shall be used by the City, and such forms will be furnished by NPPD.

APPROVED:

For NPPD:

Name: _____

Date: _____

For City of David City:

Name: _____

Date: _____

EXHIBIT IV
ONE-LINE DIAGRAM

As there were still questions concerning proposed Ordinance No. 1236, Council member Smith made a motion to table consideration of Ordinance No. 1236. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kroesing, Vandenberg, Rogers, Smith, and Kobus. Voting NAY: None. The motion carried.

ORDINANCE NO. 1236

AN ORDINANCE TO AMEND ZONING ORDINANCE NO. 1060 BY ADDING MOBILE FOOD UNITS TO SECTION 2.02 DEFINITIONS; ADDING SECTION 4.25 MOBILE FOOD UNITS AND AMENDING SECTION 5.12 C-2 DOWNTOWN COMMERCIAL DISTRICT, 5.12.04 PERMITTED TEMPORARY USES, BY ADDING #6 – MOBILE FOOD UNITS; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTIONS OF ZONING ORDINANCE NO. 1060 BE AMENDED AS FOLLOWS:

ARTICLE 2: DEFINITIONS

Mobile Food Units: A temporary food service establishment that is vehicle-mounted and is designed to be readily movable.

ARTICLE 4: GENERAL PROVISIONS

Section 4.25 Mobile Food Units:

Mobile Food Units are allowed in **C-1, C-2, I-1, I-2, FS**; however, these uses shall be required to abide by the following requirements:

1. All units shall be located on a lot; except in the C-2 Downtown Commercial District where on-street parking may be permitted. On-street parking shall only be allowed during times of operation.
2. All units shall only operate during hours identified on the temporary permit, **as provided by the applicant**. In no case shall a unit be open for more than one hour after the legal closing time of local bars.
3. All refuse shall be transported off-site unless an agreement with the property owner is submitted to the City identifying an alternate.
4. All units shall not be allowed to use intense lights in order to attract customers.
5. During non-operation hours, these units shall be stored on **an identified** lot on personal property or in an enclosed structure, **no on-street parking/storage**.
6. This requirement shall not apply to **specific festivals, county fair, or other event which will be held for a limited time period, provided the Mobile Food Unit is no longer providing services after said event**.

SECTION 5.12 C-2 DOWNTOWN COMMERCIAL DISTRICT

5.12.04 Permitted Temporary Uses

7. Mobile Food Units

This Ordinance shall be in full force and effect from and after passage, approval and

publication or posting as required by law.

PASSED AND APPROVED THIS _____ day of _____, 2016.

Tabled
City Clerk Joan Kovar

Tabled
Mayor Alan Zavodny

Power Plant Supervisor Eric Betzen provided the following:

-Consider bids for windows and doors at Power Plant:

The Glass Edge (Lincoln) - \$140,000

Remote actuators(cables with cranks) for top windows to open and close

M & O Door Products (Columbus) – \$134,174

Uses a long pole to open and close top windows. They would like to replace 4 different size windows first, then re-bid after they know what they are working with.

*Both companies forgot to include the doors. Go figure. I budgeted \$25,000 for convertor testing, and just received the actual total cost of testing to be \$12,612. Is it possible to reallocate the difference to cover the doors.....estimated to be \$8,500?

****Recommend: The Glass Edge**

Council member Kobus made a motion to give Power Plant Supervisor Eric Betzen the authority to spend up to \$148,500 towards the purchase of windows and doors for the Power Plant. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Hotovy, Kroesing, Vandenberg, Smith, and Kobus. Voting NAY: None. The motion carried.

Power Plant Supervisor Eric Betzen stated: "I'm about in the same boat as Kevin with the SCADA system; ours was put in in 2005 and I'm having to reboot the computer twice a week. I don't have the controls on mine like he does but I can at least see what each feeder is doing. The software is outdated and I did budget for that."

Power Plant Supervisor Eric Betzen provided the following:

-Consider SCADA upgrade at Power Plant:

H.K. Scholz (Ralston) - \$40,000

Includes new computer

NMC Power Systems (Omaha) - \$36,000

Includes new computer also, but with me buying it instead of them. (Said it'd be cheaper that way)

The guy who put original SCADA in service from H.K. Scholz in 2005, now works for NMC.

Shermco (Des Moines) - \$???? (Did not send quote by requested date....they had 2 months)

****Recommend: NMC Power Systems**

Council member Rogers made a motion to grant Power Plant Supervisor Eric Betzen the spending authority of up to \$36,000 for SCADA upgrades at the Power Plant. Council member Kobus seconded the motion. Voting AYE: Council members Kroesing, Hotovy, Rogers, Vandenberg, Smith, and Kobus. Voting NAY: None. The motion carried.

The Employee Committee requested that the following be considered as an agenda item:

The Employee Committee consisting of Mat Asche, Eric Betzen, Bill Buntgen, Casey Gasper, Matt Fleming, and Lori Matchett met on November 17, 2015. The Employee Committee would like to make a request for Thursday, December 24, 2015 to have offices close at 12 p.m. (Noon) instead of 2 hours early. Most businesses in the area will also be closing at noon. The Employee Committee would also like to recommend that we make this change for all December 24ths, so that employees can spend the extra time with their families.

Council member Kroesing made a motion to approve the request of the Employee Committee and authorize that all city / utility offices close at 12 p.m. (noon) on December 24, 2015. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Vandenberg, Kobus, Rogers, Hotovy, and Kroesing. Voting NAY: None. The motion carried.

City Clerk Kovar gave a summary of the proposed changes to the Personnel Manual stating: "Chapter 1: currently states that all departments that may be called back to work for emergency purposes are required to reside within a five mile radius of the established city limits. Street Supervisor Rodney Rech would like his employees to live inside the City limits so he would like that changed in the manual. He said "*When I need them, is when we are having a snow storm. If they are outside of town how are they even going to get to town to push snow?*" So the manual now states: Street Department Employees are required to reside within the city limits of David City. Chapter 3: The manual currently doesn't say that we are paid monthly, electronically, so we added that to Chapter 3. In Chapter 4: it says the City offers a dual coverage plan and the employee may choose either the HSA high deductible or the standard

PPO. The City is switching from Coventry to Blue Cross Blue Shield as of January 1, 2016 and we are only offering the HSA with the high deductible, so we are taking out the option of a PPO. Because of the request of the Employee Committee, who also asked that all City/Utility offices close at noon for all December 24ths, the manual currently says that all City and Utility Departments close 2 hours early on December 24th, so that has been changed to say we will close at noon. The manual states that vacation time shall be requested a minimum of twenty-four hours prior to actual use. A lot of the employees are upset with that, which I can understand, especially for the department heads because they take time when their jobs allow. For instance, if a snow storm comes rolling in Rodney isn't going to take the day off as he has work to do, but if he gets to Friday and has everything done, he may come in the City Office at 9:00 a.m. and say "Joan, is it ok if I work till noon and have the afternoon off?" I don't care, because I know he wouldn't ask if he didn't have his work done, but the manual says he was supposed to have asked 24 hours prior, so we would like that changed. Chapter 5 says the standard workweek is 7:30 a.m. to 4:00 p.m. Monday thru Friday from Labor Day to Memorial Day, and 7:00 a.m. to 3:30 p.m. Monday thru Friday from Memorial Day to Labor Day. At a previous Committee of the Whole meeting it was discussed that the departments were working various hours. The Mayor and Council stated that to set hours of work was micro-managing and the department heads should be allowed to set their own hours, so in Chapter 5 we removed the set hours of work. Chapter 6 of the manual addressed the Police Department, so the last time the manual was updated, May 2014, the firm hired to update the manual simply cut out the information and typed "Reserved" on the Chapter. We see no reason to have Chapter 6 reserved so we moved the following chapters up. The firm also simply cut and pasted the "Employee Rights and Responsibilities under the Family and Medical Leave Act", so we actually typed out the "Employee Rights and Responsibilities under the Family and Medical Leave Act". We also removed references to the "police department" from various pages in the manual."

Council member Kroesing introduced Resolution No. 18 – 2015 updating the Personnel Manual. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Smith, Kroesing, and Kobus. Voting NAY: None. The motion carried and Resolution No. 18 – 2015 was passed and approved as follows:

RESOLUTION NO. 18 - 2015

A RESOLUTION OF THE CITY OF DAVID CITY, NEBRASKA UPDATING AND CORRECTING THE DAVID CITY PERSONNEL MANUAL, AND REPEALING ALL POLICIES IN CONFLICT HEREWITH.

WHEREAS, the City of David City, Nebraska maintains a Personnel Manual to provide clear policies and administration of policies as related to employees and employment conditions; and

WHEREAS, the Personnel Manual is amended from time to time to promote a positive working environment for all employees, to provide for meaningful benefits and to provide clear expectations for employees of the City of David City, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the David City Personnel Manual is hereby updated.

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CHAPTER 1 – GENERAL PROVISIONS

1.01 Purpose of the Personnel Rules

These rules are intended to serve the following purposes:

- a) Establish the necessary procedures to assure reasonably uniform and consistent personnel practices.
- b) To inform employees of their rights, duties, and obligations in relation to their employer.
- c) To provide guidelines for Department Heads to manage employees in their department.
- d) To ensure compliance with all federal, state and local laws in relation to employment and working conditions.
- e) To encourage and foster good working relationships between employer and employees.
- f) These rules are provided for informational purposes only and should not be construed as a contract of employment. Since this guide does not represent a contract between the city and the worker; the employer has the right to change the policies in the guide at any time to meet the best interests of the City.

1.02 Applicability

These rules apply to all employees of the City of David City, Nebraska.

1.03 Authority for Change in the Rules

These rules are issued by authority of the City Administrator. The rules may be amended from time to time as needs require. Suggestions for amendments in the rules are welcome at any time from any employee. Suggestions should be submitted in writing to the City Administrator.

Copies of the complete Employees' Manual, with the pay plan, are issued to all Department Heads and other supervisors. All employees shall be given a copy of these rules by his department head or by the City Administrator or the City Clerk. Holders of copies of the complete manual are responsible for inserting changes as they are issued and keeping their respective copies of the manuals up to date.

1.04 Technical Rules

These rules relate to matters of personnel management. They do not cover any departmental procedures, standard practices, standing orders or other technical matters. The department heads have authority to make departmental rules not in conflict with these rules, and otherwise to manage the work and operation of their respective departments.

1.05 Appointing Authority

Department Heads shall be appointed by the Mayor, as provided by Ordinance, with the recommendation of the City Administrator. Employees subordinate to the Department Heads shall be employed as provided by City Ordinance.

1.06 Types of Employment

Employment of employees to positions under these rules shall be of the following types:

- A. Probationary employment
- B. Regular employment. Upon the satisfactory completion of the probation period, employees are placed on regular status. Regular Employment may fall into one of two categories:
 - I. Full Time
 - II. Part Time
 - a) Part Time Regular employment may be eligible for benefits at the discretion of the Department Head and the approval of the City Administrator and City Council.
- C. Temporary Employment. Employees may be given temporary employment, which status can exist for, and is limited to, no more than one year. Such employees do not receive fringe benefits.

1.07 Residency Requirements

All Departments that may be called back to work for emergency purposes (City Administrator, Water Department, Sewer Department, Electric Department, and Power Plant Department) are required to reside within a five mile radius of the established city limits of the City of David City.

Street Department employees are required to reside within the city limits of David City.

Employees shall establish residency within six months after the calendar day of the start of employment and will maintain residency during the term of employment.

CHAPTER 2 – EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.)

2.01 Equal Employment Opportunity Statement

It is the general policy of the City not to discriminate upon the basis of race, color, religion, national origin, age, sex, marital status or disability.

2.02 Equal Employment Opportunity Manager

The City Administrator is designated as the Equal Employment Opportunity Manager for the City, to ensure that the equal employment opportunity policies are carried out. The City Administrator shall be responsible for the training of all supervisors (including those under appointed authorities) in equal employment opportunity matters.

2.03 Continuous Review

The City Administrator shall maintain a continuous review of the equal employment opportunity program of the City. The City Administrator shall monitor employment, promotions, pay increases, dismissals, and other personnel transactions to eliminate discriminatory practices. The City Administrator shall publicize the equal employment opportunity policy to employees, employment agencies and other sources of recruitment, vendors and contractors, and the public.

2.04 Rejections of Protected Persons

Upon receipt of a rejection of a minority person or of a female for a non-clerical position, the City Administrator shall investigate the facts of the rejection. The reports of rejections and any reports of investigations shall be retained for three years.

2.05 Career Development

The City Administrator shall conduct a career development program for employees in the City service. The City Administrator shall identify persons, who are qualified for promotion or who may become so qualified through further training, and keep records of their potential for promotion. The City Administrator shall also identify positions into which such persons may be promoted, without regard to departmental lines, and when vacancies arise in positions so identified, shall encourage the appointing authorities to make promotions of qualified employees.

2.06 Counseling

Any employee, who believes that he or she has been discriminated against, may seek counseling from the City Administrator (Equal Employment Opportunity Manager), whether or not he has discussed the matter with his immediate supervisor or has or has not filed a grievance.

2.07 Harassment

We will not tolerate harassment and/or discrimination against our employees by anyone, including management, supervisors, other employees, customers, or supplier.

Harassment on the basis of race, color, age, gender, religion, nation origin or disability will not be tolerated. Harassment not only demeans the individual who is subjected to such misconduct, but also creates an unacceptable and unpleasant working environment for everyone resulting in decreased productivity and work effectiveness, decreased morale, and unneeded conflicts with the City. Harassment includes verbal abuse or kidding which show hostility or demeans an individual or group is considered unacceptable by another employee.

Federal and state law provides that it is an unlawful employment practice for an employer to discriminate against any employee on the basis of sex. Sexual harassment includes, but is not limited to:

1. Unwelcome sexual advances, requests for sexual favors, and other verbal, visual or other physical conduct of a sexual nature where submission to such conduct is made an explicit or implicit term or condition of employment or submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual.
2. Substantially interfering with an individual's work performance or creating a work environment that is intimidating, hostile, or offensive because of unwelcome or unwanted conversations, suggestions, requests, demands, physical contacts or attentions.
3. Engaging in any type of sexually oriented conduct that unreasonably interferes with another's work performance.

If you feel that you are being harassed or discriminated against because of your race, color, age, gender, religion, national origin or disability, report all such incidents to your supervisor, your Department Head or the City Administrator. We will promptly investigate all complaints and prompt, appropriate discipline will be administered, as necessary. You will, at all times, be protected from any form of employee or management retaliation and all information will be kept as confidential as possible consistent with a proper investigation.

CHAPTER 3 – CLASSIFICATION AND PAY PLAN

3.01 Establishment of a Pay Plan

All City positions, whether occupied or vacant, are classified and are allocated pay grades within the pay plan. More than one position may be placed on the same pay grade. The pay plan is reviewed annually, revised as needed and approved by the Mayor and City Council. Employees will be paid monthly. Payment will be made electronically (ACH) on the last working day of the month.

3.02 Pay Scale/Step Plan

Each pay grade is divided into fifteen steps. The basis for moving from one step to the next is outlined below.

In order of importance:

- 1) Merit-Acquired knowledge, skills and abilities appropriate for the position held
- 2) Job Performance-based on performance evaluation of the immediate supervisor
- 3) Longevity-number of years of service to the City of David City

3.03 Step Pay Plan at Initial Hiring

- 1) A new employee, who meets the minimum qualifications of a position, will be placed on the Probationary Step. The new employee will be on New Hire Probationary status for six (6) months. Before the end of the sixth month of the Initial Probationary Period, the new employee will be evaluated by their immediate supervisor. If the new employee is recommended by the immediate supervisor to be removed from initial probation, they will be moved to the next step on the pay scale.
- 2) If prospective employee is qualified beyond minimum for a position, that prospective employee, if selected, may be credited with an appropriate number of steps within the pay plan based on merit and will be placed on the corresponding pay step. In no case will a newly hired employee be placed in a step above Step 3 on the pay plan. The new employee will be on New Hire Probationary status for six (6) months. Before the end of the sixth month of the Initial Probationary Period, the new employee will be evaluated by their immediate supervisor. If the new employee is recommended by the immediate supervisor to be removed from initial probation, they will be moved to the next step on the pay scale.

3.04 Longevity

Longevity will be determined by the employee's anniversary date, either date of hire or date the employee was placed in their present pay grade, whichever is more appropriate.

3.05 Promotion

An employee, who is promoted to a higher position, will be placed on the Probationary Step for that new pay grade. If the employee's current pay is higher than the Probationary Step in the new pay grade, the employee will be placed on the step which equals that

employee's present pay. The City Administrator will have the option of granting a pay increase to a promoted employee by placing that employee on the next highest pay step from the step which corresponds to the employee's present pay. A promoted employee will serve a probationary period but will not receive a pay increase at the end of such probationary period.

3.06 Cost of Living Adjustments (COLA)

Cost of Living Adjustments COLA's) are an annual adjustment in wages to offset a change (usually a loss) in purchasing power, as measured by the Consumer Price Index.

COLA's are used to assist the employee with increases in personal daily expenditures, and assist the City of David City by attempting to keep wages for positions competitive with other municipalities.

COLA's are a wage adjustment by the City Council at the recommendation of the City Administrator. COLA's are based on the Consumer Price Index, inflation, and most importantly, budgetary and financial considerations of the City. Recommendations for COLA's are reviewed annually during the budget process and final approval of Cost of Living Adjustments remains with the City Council. The entire pay grid will be adjusted when cost of living adjustments are approved by the City Council.

3.07 Wage Evaluation Survey

The City Council may, at their discretion, direct the City Administrator to conduct, or request a wage evaluation survey. This evaluation will examine compensation data from comparable cities and the data will include job market, workforce and other pertinent data. Future pay grid adjustments, except for the cost of living adjustments, will be based on survey data obtained from comparable towns.

CHAPTER 4 – BENEFITS

Overview

In addition to the wages set forth in the pay plan, employees (except temporary) shall receive other benefits which have significant value.

Regular full-time employees (those working a minimum of 40 hours per week) are eligible for the following benefits:

4.01 Medical and Life Insurance

Employees must work a minimum of 40 hours per week to be eligible for the medical and life insurance benefits

- a) Medical insurance is with Blue Cross Blue Shield of Nebraska. The health insurance coverage runs from January 1st through December 31st. The HSA runs from January 1st through December 31st.

Effective January 1, 2006, and each year following, the City will contribute 75% of the deductible (\$3,000 for family; \$1,500 for individuals) which money will be deposited directly into the employees HSA account.

- b) The employee pays 25% of the monthly premium regardless of which coverage plan they have chosen. The City pays the balance.
- c) Employees hired prior to August 1, 1999 may receive a cash payment in lieu of the insurance listed above, upon providing proof of such coverage. The employee may receive \$88.75 per month for family coverage or \$16.90 per month for single.

4.02 Holidays with Pay

The following are designated as paid holidays by the City of David City.

- | | |
|---------------------------|-----------------------------------|
| 1) New Year's Day | 7) Columbus Day |
| 2) Martin Luther King Day | 8) Veteran's Day |
| 3) Arbor Day | 9) Thanksgiving Day |
| 4) Memorial Day | 10) Day after Thanksgiving Day |
| 5) Independence Day | 11) Christmas Eve – Close at Noon |
| 6) Labor Day | 12) Christmas Day |
| | 13) Individual Selectable Day |

When a national holiday falls on a Saturday, the preceding Friday shall be recognized as a day off with pay. When a national holiday falls on a Sunday, the following Monday shall be recognized as a day off with pay. All City and Utility Departments shall close 1 hour early on December 31.

Individual Selectable Days must be used during the year in which they are earned and cannot be carried over to succeeding years.

4.03 Vacation with Pay

Employees (working a minimum of 40 hours per week) shall be entitled to vacation with pay according to the following schedule:

<u>Years of Employment</u>	<u>Days' Vacation Allowed</u>
After 1 year	5 days = 40 hours
After 2 through 9 years	10 days = 80 hours
After 10 through 15 years	15 days = 120 hours
After 16 years	16 days = 128 hours
After 17 years	17 days = 136 hours
After 18 years	18 days = 144 hours
After 19 years	19 days = 152 hours
After 20 years +	20 days = 160 hours

Employees may carry a maximum of 320 hours of vacation time. Any vacation hours in excess of 320 will be forfeited. Supervisors will make every effort to accommodate employees needing to use vacation hours to avoid forfeiture.

Each employee, upon retirement, dismissal, or voluntary separation from city employment, shall be paid for unused accumulated vacation leave. Upon the death of an employee, his or her beneficiary shall be paid for unused accumulated vacation leave.

Vacations shall be scheduled by the department head.

Department heads shall schedule their vacation with the City Administrator. Vacation shall be allowed in half-hour increments.

Vacation time shall be applied to FMLA leave after the use of sick leave (if applicable).

4.04 Retirement Plan

The City will match employee contributions in an amount equal to the greater of 6% of regular pay or \$50.00 per month to a regular employee's Deferred Compensation Plan. The City of David City currently has two deferred compensation plans to choose from.

New employees will not be eligible for this benefit until they have been taken off of probationary status. This is a voluntary benefit in which employees may choose not to participate. Employees, who elect not to participate in this benefit, will not receive any type of in-lieu of payment from the City.

4.05 Bonuses and Rewards

The City Council, by resolution duly adopted, may make a lump sum bonus payment to any employee, who has, in the Council's opinion, rendered exceptional service to the City and the community. The purpose is to recognize and reward only unusually meritorious work of the employee.

Department heads and supervisors have a duty to identify, recognize, and reward outstanding performance by employees, including productivity in quality or quantity of work, quantities of leadership, special courtesy and good service to the public.

4.06 Longevity Recognition

The City of David City may present gifts with a monetary value to employees in recognition of years of employment and other special occasions as approved by the City Council, as follows:

5 years	\$ 10.00
10 years	\$ 15.00
15 years	\$ 30.00
20 years	\$ 50.00
25 years	\$ 80.00
30 years	\$110.00
35 years	\$140.00
40 years	\$170.00
45 years	\$200.00

4.07 Regular Part-time Employees are eligible for the following benefits:

1. Vacation time on a pro-rata basis. ♦
 2. Retirement benefits on a pro-rata basis. ♦
 3. Employees, who work an average of twenty (20) hours or more per week, are eligible for one-half (1/2) day of holiday pay as per Section 4.03.
 4. Employees, who work an average of twenty (20) hours or more per week, are eligible for one-half (1/2) day of sick leave per month, accrued as per Section 7.01.
 5. Part-time employees are not eligible for Personal Leave and Funeral Leave.
- ♦ **Pro-rata basis:** Calculated by percentage. (The percentage used for calculations is: 2080 hrs. per year ÷ by the hours worked by the regular part-time employee in a year. This is the percentage of vacation/retirement allowed based on the vacation / retirement benefits as outlined in Sections 4.04 and 4.05.

4.08 Full-time Employee Discounts permitted:

- 10% off Auditorium Rentals (including bar charges)
- 10% off Swimming Pool Passes (family, couple, or single)
- 10% off Schweser House Rentals
- Gravel, White Rock, Mud Rock, etc. - allowed to purchase at cost
- Car Batteries - allowed to purchase at cost

CHAPTER 5 – HOURS OF WORK AND OVERTIME

5.01 Hours of Work

All Departments shall work a 40-hour workweek as the standard workweek unless otherwise provided.

The City Office standard workweek is:

8:00 a.m. to 5:00 p.m. Monday thru Friday from Labor Day to Memorial Day and,

7:30 a.m. to 4:00 p.m. Monday thru Friday from Memorial Day to Labor Day.

5.02 Time Sheets

Timesheets serve as the legal authority to pay an employee. They also serve as a verification of time off, and provide the legal basis to grant an employee benefits, including workers' compensation as appropriate. Employees are to provide an accurate accounting of all hours worked and leave used during a pay period on a timesheet.

All absences from an employee's regular work schedule must be reported and accounted for. An employee's timesheet accounts for all hours in the pay period and must be verified and approved by the employee's supervisor.

Completed timesheets require the signatures of the employee and the supervisor. These signatures certify that, to the best of their knowledge, the information provided on the documents is true and correct. An intentional misrepresentation of hours worked constitutes fraud and will result in disciplinary action or possibly termination of employment.

5.03 Flextime

Flextime is an alternate 40 hour workweek schedule by which an employee's workweek is determined by the needs of the job and is subject to Department Head or City Administrator approval.

Department Heads shall establish work periods and hours of work, which may differ from the hours of work to meet special department needs, projects or workloads. Special department needs and projects shall include, but not limited to, infrastructure construction, standard workweek snow removal, street painting, recycling, football events, track events, auditorium events, official committee and board meetings of the city, and any other known work that occurs before 7:30 a.m. or after 5:00 p.m. Monday thru Friday or on weekends.

Department Heads are encouraged to use flex-time whenever feasible to minimize overtime or the accumulation of compensatory time.

5.04 Overtime & Compensatory Time

Overview: All compensatory/overtime work should be held to a minimum and should be authorized in advance in writing by the appropriate supervisor. Each supervisor is responsible for and expected to use good judgment in determining what constitutes legitimate and necessary compensatory/overtime work.

In unusual situations in which prior approval may not have been practical or possible and the required completion of a specific project, assignment, or official travel results in overtime or compensatory time worked, the appropriate supervisor may verbally approve the unauthorized time based on the circumstances involved, but it should be reported to the City Administrator in a reasonable timeframe.

Due to the specialized nature of work involved, and the hours required, the Police Department is not subject to these general policies.

Definitions:

- A. **Overtime** - is the amount of time someone works beyond normal working hours, i.e. - the standard 40 hour workweek.
- B. **Compensatory Time** - refers to a type of work schedule arrangement that allows (or requires) workers to accumulate leave time and take time off instead of receiving overtime pay.

5.05 Nonexempt Employees Overtime & Compensatory Time

Overtime

According to the Fair Labor Standards Act (FLSA) time worked in excess of forty (40) hours in one week will be paid at the rate of time and one-half the regular rate of pay.

Compensatory Time

Compensatory time may be accumulated in lieu of time and half pay for overtime worked at the discretion of the City Administrator. These hours shall be recorded in the payroll system at the time of accrual and use. Hours worked in excess of eight hours in one day may not necessarily be counted as overtime.

When Compensatory time is allowed by the Department Head or City Administrator, an employee may accrue no more than twenty-four (24) hours of compensatory time at any given time. Any exceptions to this provision must be authorized by the City Administrator.

Compensatory time shall be used within the same pay period from when it was earned. If compensatory hours are earned during the last week of the pay period, those hours may be carried over to be used during the next week following the pay period in which they were earned.

Designated holidays, vacation time, individual selectable days, and sick leave time are included as hours of work for the purpose of calculating overtime during the week in which they fall.

5.06 Exempt Overtime/Compensatory Time

All exempt (Salary) employees shall not receive overtime compensation. All exempt employees may use compensatory time off on an hour-for-hour basis for hours worked in excess of 40 hours per week. Employees may accrue no more than twenty-four (24) hours of compensatory time. Compensatory time must be taken if at all possible in the same or the immediately following pay period in which it is accrued.

5.07 Work on Holidays

If an employee is required to work on a holiday, he/she shall receive eight hours of work credited to the total work week hours plus the number of hours actually worked on the holiday to be credited to the total week hours. All hours of said hours shall be included in time worked in calculating overtime for the week.

5.08 Call Out Time

If after an employee has left his/her place of work and he/she is called back for duty, he/she shall be paid for at least one hour of work, which shall be included in time worked in calculating overtime for that week. For purposes of calculating Call-Out Time, hours worked shall include one hour plus actual time worked after one hour.

5.09 On Call Time

An employee, who carried a pager for a week, will be credited with two hours of compensatory time if the hours worked for that week total less than forty (40) hours. If the hours total forty (40) or more, a maximum of three hours will be credited toward compensatory time. Overtime pay is not permitted in place of compensatory time off. While an employee is On-Call Time, he/she shall be in a place and situation that allows for a response to any situation or need within thirty (30) minutes.

5.10 Standby Time

City Power Plant employees, who are not On-Call, will be credited with two hours of compensatory time during such times as Nebraska Public Power District mandates the David City Power Plant standby for possible electric energy production. An employee who is On-Call shall not receive any compensation for Standby Time. While an employee is on Standby Time, he/she shall be in a place and situation that allows for a response to any situation or need within thirty (30) minutes.

5.11 Breaks

A fifteen (15) minute break shall be allowed for each four (4) hours of work. If work conditions are such that travel, cleanup, etc., plus the break require more than fifteen (15) minutes, the break shall be taken on the site.

CHAPTER 6 – LEAVE

The City of David City leave policies adhere to the provisions of 29 U.S.C. 2601, commonly known as the Family Medical Leave Act of 1993. FMLA leaves are calculated on a rolling twelve-month look-back. FMLA leaves will run concurrently with all other leaves provided in this Personnel Manual which qualify as FMLA leaves.

6.01 Sick Leave

Sick leave with pay is a privilege granted to employees by the City for the convenience of the employee when he/she is sick or is needed to care for immediate family who is ill. Sick leave is not an earned benefit and shall only be granted to employees who are ill and unable to work. Each full-time employee is credited with one working day of sick leave each month and is charged with sick leave actually taken. No employee may accrue more than one hundred twenty (120) days of sick leave.

The employee shall notify the department head or supervisor of his/her illness before the time that he/she is due to report for work on the first day of illness. If he/she is physically incapable of giving notice in this manner, notice shall be given as soon as possible.

The department head or City Administrator may require the employee to present a medical certificate as to the fact of illness or as to the ability of the employee to perform his/her work upon returning from sick leave.

The City of David City leave policies adhere to the provisions of 29 U.S.C. 2601, commonly known as the Family Medical Leave Act of 1993.

* **SICKNESS - SELF**: An employee may use sick leave when that employee is ill and unable to perform his/her work or has an appointment with a doctor.

* **SICKNESS - FAMILY**: An employee may use sick leave when an immediate family member (spouse, child, father, mother, father-in-law and mother-in-law) is ill or is hospitalized and needs the employee's care, or, requires the employee to take that family member for a doctor's appointment.

If a supervisor suspects that an employee is abusing sick leave, they will notify the City Administrator, who will investigate the suspected employee's timesheets for patterns that indicate sick leave abuse. These may include:

- a) Use of sick leave in conjunction with Holidays, weekends, or scheduled vacation leave usage;
- b) Regularly occurring, and occasional use of sick leave;
- c) Use of sick leave during scheduled work projects.

Any employee that is suspected of sick leave abuse may have their sick leave usage monitored for a period of six months and counseled concerning the matter.

False claims for sick leave are causes for disciplinary action.

Sick leave may not be converted into vacation leave or used in lieu of vacation leave.

6.02 Public Service Leave

An employee may take leave to serve as a member of a jury, upon being called as a witness because of his position in any court, or, to enter military training for not more than two weeks in any one year. During the period of public service leave, the employee shall receive his/her regular pay less any amount received by him/her for performing such public service, provided, however, that no deduction shall be made for amounts earned of less than \$10.00 (R.R.S. 55-160).

An employee whose public service duty is completed before the end of his/her normal working day with the employee shall return to his/her City primary worksite.

6.03 Military Leave

Military leave shall be governed by Neb. Rev. Stat. Sections 55-160 through 55-166 (Reissue 2004) or as amended by the Legislature, and by the Uniformed Services Employment and Reemployment Rights Act.

6.04 Funeral Leave

Primary: Leave will be granted, not to exceed five (5) consecutive days per event, to employees to attend the funeral services of close family members, i.e., spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, niece or nephew.

Secondary: Leave will be granted, not to exceed two (2) consecutive days per event, to employees to attend the funeral services or secondary family members, i.e., grandparents, grandparents-in-law, aunts, uncles and cousins.

6.06 Personal Leave without Pay

A personal leave of absence under this policy is an approved absence without pay. Personal leaves of absence must be requested in writing and will be granted only for special reasons. Only regular full time employees who are not otherwise eligible for FMLA leave for any reason are eligible for a personal leave of absence. Time off without pay and leave of absence for medical or personal reasons will be considered on the basis of the City requirements and hardships caused thereby, the employee's performance record, the reason for the request, and the employee's length of service with the City. The determination of whether the request shall be granted rests solely within the discretion of the employee's Department Head and the City Administrator.

A leave of absence under this policy may be granted for personal reasons without pay for a period not to exceed thirty (30) days. All vacation time must first be exhausted before a leave of absence under this policy will be considered.

A leave of absence without compensation under this policy also may be granted for illness, injury or pregnancy disability for a period not to exceed thirty (30) days. All vacation and sick leave must first be exhausted before a leave for these purposes will be considered. At the option of the City, an employee may be required to present a certificate from the employer's physician and/or a physician of his/her own choosing as to the fact of the

illness, injury or pregnancy disability. The employee must present a full medical release signed by his or her physician before being reinstated for work.

The length of absence may be extended at the discretion of the City upon further application in writing by the employee prior to the expiration of the initial period. In no event will leaves be granted for a period in excess of sixty days. If your leave of absence is in excess of thirty (30) days, your return is subject to job availability. If your position is not available at the end of your leave, the City will make a reasonable effort to return you to a substantially similar position.

It will be the responsibility of the employee who has been granted a leave of absence in excess of thirty (30) days to pay monthly premiums for any continued group insurance coverage. In the absence of such payment, coverage will be terminated; however, you will be given an opportunity to convert the policy for your individual coverage. Failure to return to work on the date scheduled by the City will result in discharge from employment.

All leaves of absence will be granted subject to and in accordance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), if applicable.

6.07 Personal Leave

Personal leave will be granted to regular full time employees prorated by years of employment as follows:

0 years to	4 years	- 2 days per year
5 years to	9 years	- 3 days per year
10 years to	14 years	- 4 days per year
15 years to	19 years	- 5 days per year
20 years to	24 years	- 6 days per year
25 years to	29 years	- 7 days per year
30 years to	34 years	- 8 days per year
35 years to	39 years	- 9 days per year
40 years plus		- 10 days per year

Personal leave is not an earned benefit. Personal leave is deducted from accrued sick leave and may be used by the employee for any reason. If an employee does not have accrued sick leave then the employee shall not be granted personal leave. Personal leave shall be considered a privilege to reward employees for their attendance.

Only full-time employees (those working 40 hrs. per week) are eligible for Funeral Leave and Personal Leave.

6.08 Catastrophic Leave Donation Program

Purpose

The City of David City recognizes that there are instances in which an employee may suffer from a catastrophic illness or non-work-related injury requiring extensive medical treatment, rehabilitation, and ultimately the exhaustion of the employee's City-provided paid leaves.

The City of David City also recognizes that when these instances occur, co-workers of the employee experiencing a catastrophic illness or non-work-related injury desire to assist the employee until the employee recovers from the illness and can return to work.

This policy is intended to establish guidelines for employees of the City of David City to donate accrued vacation time and personal leave to another employee suffering from a catastrophic illness or non-work-related injury to be used as paid sick leave by the employee with the catastrophic illness or non-work-related injury.

Employees Covered

All employees who earn sick leave and have been employed a minimum of twelve consecutive months shall be eligible to participate in the Catastrophic Leave Donation Program.

Recipient Employee Eligibility

To be eligible to receive leave donated pursuant to this policy, an employee must meet the following conditions:

1. The employee must be suffering from a catastrophic illness or non-work related injury which has resulted in the exhaustion of all of the requesting employee's paid leave and which extends for at least one week after the exhaustion of such leave.
2. Generally, illnesses which qualify as "serious health conditions" pursuant to the Family Medical Leave Act would be considered as eligible for catastrophic illness leave donation. The illness must be that of the employee personally, not an illness of the employee's child, spouse, or other family member, to be eligible for leave donation.
3. The employee must produce competent medical verification of the illness or non-work related injury satisfactory to the City of David City.
4. The employee must have a minimum of one year of service with the City of David City.
5. The employee must have exhausted all paid leave, including but not limited to sick leave, vacation, and personal holidays.
6. The employee must not have offered anything of value to another employee in exchange for the leave donation.
7. No more than 1,040 hours per 12 month period from date of catastrophic leave approval may be received by the employee.
8. The employee must complete the Catastrophic Illness Donation Request Form (Attachment A) and submit the form to the employee's department head, and the City Administrator, who will certify that the employee is eligible to participate in the leave donation program.

Donor Employee Eligibility

1. The employee must have an accrued vacation leave balance of at least forty hours subsequent to making a leave donation.
2. The employee must donate Personal Convenience Holidays in only eight-hour increments. Vacation may be donated in four-hour or eight-hour increments.
3. The employee must not have solicited nor accepted anything of value in exchange for the donation.
4. The employee must complete and have witnessed the Catastrophic Illness Donation Form.

How to Apply For or Donate Leave

1. An employee who qualifies for catastrophic illness leave shall complete the Catastrophic Illness Donation Request Form (see Attachment A) and submit it to the department head who shall, in conjunction with the Personnel Director, review it for approval or denial.
2. Upon approval, donor employees shall complete the Catastrophic Illness Donation Form (see Attachment B) indicating a willingness to donate vacation or Personal Leave time and the amount of said time to be donated. This form shall also be signed by a witness to the donor's signature. The completed form should then be forwarded to the payroll person in the department of the ill employee.
3. Employees donating their time are doing so strictly on a voluntary basis and will have their vacation or Personal leave balances irrevocably debited for the amount of time transferred to the recipient employee. The transferred time will be placed in the recipient employee's sick leave account.
4. The City of David City Payroll Department will monitor hours donated. The time donated will be on an "hour-for-hour" basis to the recipient employee.
5. Vacation hours transferred are done so in four-hour or eight-hour increments. Personal leave hours transferred are done so in eight-hour increments. Any time donated which is not used by the recipient remains with the recipient.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

BASIC LEAVE ENTITLEMENT

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care,
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

MILITARY FAMILY LEAVE ENTITLEMENTS

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging to alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service-member during a single 12-month period. A covered service member is:

- (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or
- (2) A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current service members and veterans are distinct from the FMLA definition of "serious health condition".**

BENEFITS AND PROTECTIONS

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

ELIGIBILITY REQUIREMENTS

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

DEFINITION OF SERIOUS HEALTH CONDITION

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

USE OF LEAVE

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

SUBSTITUTION OF PAID LEAVE FOR UNPAID LEAVE

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

EMPLOYEE RESPONSIBILITIES

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

EMPLOYER RESPONSIBILITIES

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

CHAPTER 7 – EMPLOYEE DISCIPLINE, RULES OF CONDUCT AND EMPLOYEE GREIVANCES

Overview

The city of David City subscribes to the philosophy of progressive discipline in managing the behavior and job performance of its employees. Progressive discipline is a process for dealing with job-related behavior that does not meet expected and communicated performance standards. The primary purpose for progressive discipline is to assist the employee to understand that a performance problem or opportunity for improvement exists.

The process features increasingly formal efforts to provide feedback to the employee so he or she can correct the problem. The goal of progressive discipline is to improve employee performance.

The process of progressive discipline is not intended as a punishment for an employee, but to assist the employee to overcome performance problems and satisfy job expectations. Progressive discipline is most successful when it assists an individual to become an effectively performing member of the organization

7.01 Disciplinary Actions

The following types of disciplinary issues and levels of disciplinary actions are appropriate for all employees of the City of David City and are described in a progressive manner. However, the nature and severity of the violation will dictate the level of discipline imposed. More severe levels of disciplinary action may be imposed when a lesser action is deemed inadequate or has not achieved the desired results. Management shall also consider the type and frequency of previous offenses, the period of time elapsed since a prior offenses and consideration of extenuating circumstances.

One or a combination of, any of the following disciplinary actions may be imposed. If one or more of the prescribed disciplinary actions are imposed, it shall be in writing on a single document and imposed at the same time. All disciplinary actions, formal and informal, are conducted in private, but may be conducted with a witness.

The Department Head and the City Administrator must be present for all disciplinary actions other than a verbal or written reprimand.

7.02 Verbal Reprimand: The minimum disciplinary action is the verbal reprimand which is an articulation of the problem by the supervisor to the employee. This serves as a warning and may be repeated for minor infractions before a supervisor applies stronger action. A note of the date and nature of the verbal reprimand should be maintained by the supervisor for one year from the time of the last incident. At the same time it should be stated specifically that the employee is receiving a formal warning.

The City Administrator, Department Head or appropriate supervisor may administer a verbal reprimand to correct a problem area. A written record of the reprimands will be made and such will be made a part of the employee's personnel files. Such records should include time, date, a brief description of the problem and direction given to the employee.

- 7.03 Written Reprimand:** The written warning is a formal account of an infraction and a counseling statement must be filed in the employee's permanent personnel record. This documentation must be reinforced by a discussion of the problem with the employee and must be acknowledged by the signature of the employee. The signature does not imply agreement. A repeat offense results in an interview with the City Administrator and the Department head and second written warning being placed in the employee's files; a third infraction is grounds for dismissal.

The City Administrator, Department Head or supervisor may submit a written reprimand to the employee when an oral warning has not resulted in the expected improvement, or when more severe action is warranted. The City Administrator shall file a copy of the reprimand in the employee's personnel file, from which it may be removed after one (1) year, provided no additional reprimands are received by the employee. Such removal shall be at the discretion of the City Administrator. Written reprimands should contain the specific time, date, place of offense and a statement of corrective action to be taken by the employee. Copies shall be placed in the employee's personnel file.

- 7.04 Disciplinary Probation Status:** Disciplinary probation may be imposed at the recommendation of the Department Head and the approval of the City Administrator for a period of up to 6 months, but may be extended to a total of one year. This is a designated time period during which the employee must improve. Improvement standards and time frames shall be set by the supervisor, and put in writing and a copy given to the employee and placed into the employee's personnel file. An extension of disciplinary probation shall be considered as a separate disciplinary action.

Employees on disciplinary probation shall not be promoted or granted performance-based pay increases within the City of David City step pay plan.

Employees granted leave while serving disciplinary probation may have their probation extended by the number of days absent on leave.

An employee may be removed from disciplinary probation at any time with the approval of the City Administrator if the Department Head believes that there is significant improvement by the employee.

- 7.05 Suspension:** The City Administrator may, for cause, suspend, with or without pay, an employee of the City of David City for a set period of time. A written statement specifically setting forth reasons for the suspension and duration of the suspension shall be furnished to the employee. Copies shall be placed in the employee's personnel file.

The employee's service date shall be adjusted by the number of calendar days absent during a suspension.

Employees on suspension shall not be granted vacation, sick or holiday leave, nor unused compensatory time off during the suspension period

- 7.06 Demotion or Reduction in Salary within a Salary Grade:**

Demotion: At the recommendation of a Department Head, the City Administrator may demote an employee to a class of a lower salary grade as a disciplinary action. The employee's duties shall be changed to reflect the new classification. Upon demoting an

employee for disciplinary reasons, an agency head shall reduce the employee's salary a minimum of 5% and the salary may not be above the maximum rate of the new salary grade. However, demoted employees' salaries may be reduced no lower than the hiring rate of the new salary grade. (Note: If the employee's reduced salary is at the hiring rate, the employee's salary shall be increased to the minimum permanent rate within six months.)

Reduction in Salary within Salary Grade: At the recommendation of the Department Head, the City Administrator may reduce the salary of an employee with their salary grade. The City Administrator may restore employees to their previous salary when circumstances justify. Employees' salaries may be reduced to no lower than the hiring rate of the salary grade.

7.07 Dismissal or Discharge: Discharge is the act of removing an individual from employment from the City of David City. An employee may be discharged at any time, without regard to the preceding steps, if he or she commits an offense for which immediate discharge is specified as a penalty or if, in the City Administrator's and Department Head's judgment, the employee's continued presence would be contrary to the well-being of the City of David City or any of its employees.

The employee shall be furnished notice of dismissal in writing, stating the reason for dismissal. It is recognized there will be occasions when immediate dismissal is required

7.08 Reasons for Imposing Disciplinary Action:

- A. Violation of, or failure to comply with: federal laws; State constitution or statute; Municipal Code; or published rules, regulations, policies, or procedures of the City of David City
- B. Abuse of sick leave
- C. Failure or refusal to comply with a lawful order or to accept a proper assignment from an authorized supervisor.
- D. Inefficiency, incompetence, or negligence in the performance of duties.
- E. Unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcoholic beverage in the workplace, or reporting for duty under the influence of alcohol and/or unlawful drugs.
- F. Negligent or improper use of City property, equipment, or funds, or conversion of same to one's own use.
- G. Use of undue influence to gain, or attempt to gain, promotion, leave, or favorable assignment for individual benefit or advantage.
- H. Falsification, fraud, or intentional omission of required information on the employment application/resume.
- I. Unauthorized, improper use or abuse of any type of leave, meal, or rest periods.
- J. Repeated tardiness or unauthorized leave, including unauthorized departure from work area.
- K. Failure to report to work or remain at work during emergency situations, when designated as emergency personnel.
- L. Failure to maintain satisfactory working relationships with the public or other employees.

- M. Failure to obtain and maintain a current license or certification required by law or David City standards as a condition of employment including a State of Nebraska Driver's License.
- N. Conviction of a felony.
- O. Repeated failure to make reasonable provision for payment of personal debts which results in more than one garnishment, except in cases of court ordered child support payments.
- P. Insubordinate acts or language which seriously hampers the City's ability to control, manage, function or conduct business.
- Q. Acts or conduct (on or off the job) which adversely affects the employee's performance and/or the City's performance or function.
- R. Workplace harassment based, in whole or in part, on race, color, sex, religion, age, disability, or national origin, which manifests itself in the form of comments, jokes, printed material, and/or unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.
- S. Possession of materials and/or the utterance of comments in the workplace that are derogatory towards a group or individual based upon race, gender, color, religion, disability, age, or national origin.

7.09 Grievance Procedure and Disciplinary Appeal Process

Overview Statement

All employees occupying a permanent, non-appointed position have grievance rights and are eligible for the disciplinary appeals process with the following exceptions:

Discretionary appointed employees, temporary employees and employees on original probation, have no grievance rights or Disciplinary Appeals rights within the City of David City grievance and Disciplinary Appeals procedure.

Grievance Procedure Steps

Step 1 An employee, who has a grievance relating to his/her employment, shall first present his grievance to his/her immediate supervisor or Department Head, either orally or in writing. This must take place within five (5) workdays of the grieved occurrence. The supervisor will respond within three (3) workdays and notify the City Administrator of the grievance and the response.

Step 2 If the employee is not satisfied with the response from the Department Head or supervisor, he/she may appeal in writing to the City Administrator. The City Administrator will respond within ten (10) workdays to the employee's concerns.

Step 3 If the employee is unsatisfied with the response from the City Administrator, the employee may request through the City Administrator a meeting will be scheduled with the department head, City Administrator, Mayor, and the City Council in a closed session at the next City Council Meeting.

If the grieved issue is an emergency in nature, the Mayor may call an emergency meeting of the City Council to discuss the issue. This will be at the sole discretion of the Mayor.

Disciplinary Appeals Process

The Disciplinary appeals process is only appropriate for the following disciplinary actions:

1. Disciplinary Probation
2. Suspension
3. Demotion
4. Reduction in Salary within Salary Grade
5. Dismissal or Discharge

All disciplinary actions are effective as assigned by the Department Head or City Administrator, and will be relayed to the Mayor and City Council for informational purposes.

Step 1 Disciplinary action taken by the Department Head and City Administrator against an employee may be appealed to the Mayor. This appeal must be submitted in writing to the City Administrator within three (3) workdays of the employee being notified of disciplinary action, as outlined in Section 8.09. This appeal will then be forwarded to the Mayor who will then respond to the appeal within five (5) workdays to the disciplined employee.

Step 2 If the employee is unsatisfied with the decision of the Mayor, the employee may request through the City Administrator a meeting will be scheduled with the department head, City Administrator, Mayor, and the City Council in a closed session at the next City Council Meeting.

The Council may, at their discretion, modify, lower or remove the disciplinary action imposed by the City Administrator.

In order to not inhibit employee's option to appeal a disciplinary action, and to avoid the appearance of punitive action for submitting an appeal, Council will endeavor to not impose additional disciplinary sanctions on any employee submitting an Appeal of Disciplinary Action for their review.

Discretionary Appointed Employees

Discretionary Appointed Employees are designated as at-will employees and serve at the discretion of the Mayor as stipulated in Nebraska State Statute 17-107. As such, these employees are not entitled to the above stipulated Grievance Rights or Disciplinary Action Appeal process (Section 8.10) as outlined for the City of David City.

The Discretionary Appointed at-will Employees for the City of David City are:

- City Administrator
- City Clerk/Treasurer
- Deputy City Clerk
- Parks and Auditorium Director
- Wastewater Department Supervisor
- Power Plant Supervisor
- Zoning Administrator
- City Attorney

- City Physician
- Chief Prosecutor
- Street Superintendent
- City Electric Department Supervisor
- Water Department Supervisor

As stipulated in City of David City Municipal Code, the City Council may, at their discretion, review any termination or removal from service of any appointed official by the Mayor. The Council may uphold, reverse or modify the removal or termination from service. (*David City Municipal Code Chapter 1, Article 2, Section 201.*)

The City Administrator will be responsible for the maintenance of all disciplinary action records and will notify the City Council of all disciplinary actions that include: Disciplinary Probation, Suspension, Demotion or Salary Reduction, and Dismissal in a timely manner.

In accordance with State Statute, the City Administrator will assist the Mayor in all discipline activities that involve Discretionary Appointed At-Will employees.

CHAPTER 8 - ELECTRONIC COMMUNICATIONS SYSTEMS

Overview

This policy includes the telephone system, electronic mail, voice mail, facsimiles, computers, pagers, cellular telephones, the Internet and the World Wide Web.

- 8.01 Ownership of messages.** The electronic communications systems (ECS) and all information created, sent, received, accessed or stored on them are the property of the City.
- 8.02 Business use.** The ECS are to be used primarily to conduct business of the City. Reasonable personal use of such systems is permitted but must not interfere with an employee's productivity.
- 8.03 No presumption of privacy.** Employees should assume that any communications they create, send, receive or store on the City's ECS may be read or heard by someone other than the intended recipient.
- 8.04 Employer's right to monitor messages.** Management reserves the right to monitor, access, retrieve and read any electronic communications to determine if violations of the law or this policy exists, and if necessary, disclose the same to law enforcement officials or other third parties.
- 8.05 Message restrictions.** Electronic communications may not contain content that a reasonable person would consider to be defamatory, offensive, harassing, disruptive or derogatory.
- 8.06.1 Prohibitive activities.** Employees may not upload, download, or otherwise transmit copyrighted, trademarked, or patented material; or other confidential, private or proprietary information or materials in violation of any legal constraints. Employees may not use the City's ECS to gain unauthorized access to remote computers or other systems, or to damage, alter or disrupt such computers or systems in any way. Employees may not, without authorization, use or disclose someone else's code or passwords.
- 8.06.2 Record retention.** It is each employee's responsibility to ensure that those electronic messages that must be retained for future reference are in fact saved.
- 8.07 Viruses and tampering.** Files downloaded from the Internet and any computer disks received from non-employer sources must be scanned with virus detection software before installation and execution. Employees must report any tampering or other system breaches to the City Administrator.
- 8.08 Violations.** Violations of this policy may result in suspension of some or all electronic communication privileges, disciplinary action, or if necessary, termination.

CHAPTER 9 – DRUG FREE WORKPLACE

Overview

The City of David City, Nebraska is committed to providing an employment environment that is safe and provides appropriate motivation to ensure a creative and productive workforce. To this end, the City unequivocally endorses the philosophy that the workplace should be free from the detrimental effects of illicit drugs. To ensure worker safety and workplace integrity, the City of David City, Nebraska prohibits the manufacture, possession, distribution or use of controlled substances in the workplace by its employees or those who engage or seek to engage in business with the City.

City of David City, Nebraska employees are prohibited from unlawful manufacture, distribution, dispensation, possession or use of alcohol and/or controlled substance in the workplace. Workplace means all property including, but not limited to, the offices, facilities and surrounding areas, parking lots, storage areas, owned or leased vehicles and equipment wherever located, whether owned or leased and whether or not they are in the control of the City. Any employee found violating this policy and/or convicted of violating any criminal drug statute while on the work place will be subject to discipline up to and including termination and/or, may be required to successfully complete an approved drug/alcohol abuse program sponsored by a private or governmental institution.

There will be no differentiation between someone who illegally uses drugs and someone who sells or distributes drugs. Any employee who gives, or in any way transfers, a controlled substance to another person or sells or manufactures a controlled substance while on the job, while representing the City of David City, Nebraska in an official capacity or while on the workplace will be subject to the consequences listed above.

The term "controlled substance" means any drug listed in 21 U.S.C. 812, Neb. Rev. Stat. 28-401 et. seq. and other state or federal statutes or regulations. Generally, these are drugs which have a high potential for abuse. Such drugs include, but are not limited to: Heroin, Marijuana, Cocaine, PCP and Crack. They also include "prescription drugs" which have not been prescribed by a licensed physician.

A City of David City, Nebraska employee will be required to report within five days any criminal drug statute arrest(s) or conviction to his/her immediate supervisor. The supervisor will immediately report such conviction to the City Administrator.

9.01 PROCEDURES

- A. All newly hired temporary and permanent employees of City of David City, Nebraska will receive a copy of this policy contained in the Employee Manual. A signed statement of understanding and acknowledgement receipt for this policy will be maintained in the employee's personnel file.
- B. All new hires will receive drug abuse awareness information. Information will include:
 1. Review of this drug free work place policy
 2. Health and safety dangers associated with drug and alcohol use.
 3. Dangers of drug abuse in the workplace
 4. Availability of counseling and treatment services

9.02 Reasonable Cause Testing

- A. City of David City, Nebraska employees may be subject to drug and alcohol testing when there is reasonable cause or suspicion to believe the employee is using or under the influence of a controlled substance or alcohol while on duty or on the workplace.
- B. Reasonable cause or suspicion exists when the actions or appearances of an employee are out of the ordinary and unusual to the normal behavior patterns of the employee. It is based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his/her duties due to drug or alcohol impairment. The conduct relied upon to form reasonable cause or suspicion must be based on specific and articulable observations, including but not limited to, observable signs of intoxication (such as bloodshot or watery eyes, slurred speech, appearance, unsteady body movement or breath odors); a work related accident or near accident which indicates employee fault; decreases in the quality or quantity of employee productivity, judgment, reasoning, concentration, marked changes in behavior, deviations from safe working practices, erratic conduct or credible information received from a reliable person with firsthand knowledge are examples of reasonable belief situations.
- C. Upon determination by City of David City, Nebraska Department Head or the City Administrator that reasonable cause or suspicion exists to believe that an employee is under the influence of an intoxicating substance while on duty or on work premises, the City Administrator may direct the employee to undergo drug/alcohol testing. City of David City, Nebraska Department Heads and/or the City Administrator shall document the events surrounding this reasonable suspicion.
- D. If an employee is referred for testing all efforts will be made to transport the employee to the nearest testing facility. The employee will be required to provide a blood, breath or urine sample. The sample will be tested qualitatively for at least the following substances:
 - a) THC
 - b) Cocaine
 - c) PCP
 - d) Opiates
 - e) Methamphetamine/amphetamine
 - f) Alcohol
- E. An employee that is required to submit a sample for testing after determination of reasonable cause or suspicion shall be informed verbally and then followed by a written directive, that he/she is being placed on unpaid investigatory suspension, pending the outcome of an investigation.
- F. After the testing is complete the employee shall not be returned to work or allowed to drive home. The City of David City, Nebraska Department Head or the City Administrator will assist the employee in arranging for transportation home after the testing, preferably by a ride through a family member or friend.

- G. An employee who refuses to submit a sample under this policy will be placed immediately on unpaid investigatory suspension and will be subject to disciplinary action. Refusal by an employee to be tested, or confirmation by the lab of a specimen which has been adulterated shall be treated as a positive test. Employees suspected of being under the influence of drugs/alcohol and refuse to be escorted to be tested shall be given a directive not to drive home. Local law enforcement shall be notified if an employee suspected of being under the influence disregards a directive not to drive home and leaves in their vehicle.
- H. If the investigation determines a negative test for alcohol/drugs, the employee will be reinstated back to work and all leave without pay, during the investigatory suspension, will be paid back to the employee and all records of this investigation will be removed.
- I. Employee who test positive shall be subject to discipline up to and including discharge. Employees who fail to fully cooperate as required will be discharged.

CHAPTER 10 – GENERAL POLICIES

10.01 Physical

Pre-employment physical exams are required of applicants in certain designated classifications who are given a conditional offer of employment. A physical is a prerequisite of a post-offer of a new employee. The City of David City will follow the Americans with Disabilities Act.

10.02 Probation Periods

Every employee, including appointed officials and regular part-time, shall be on probation for his first six months of employment. Such probation periods may, at the discretion of the supervisor or City Administrator, be terminated before the completion of the probation period, but not sooner than three months after employment began.

When the employee first reports for work, he or she shall be notified of the fact that he/she will be on probation for the first six months. During that time, the supervisor or City Administrator shall observe his/her work with particular care; and advise him/her whether he/she is progressing satisfactorily.

Before the close of the probation period, the Department Head or City Administrator shall:

- a) Recommend an increase in pay within the scope of the pay plan;
- b) Extend the probation period not to exceed one period of three months, and, so notify the employee;
- c) Dismiss the employee; or,
- d) Recommend to the Mayor the dismissal of an appointed official.

This will be completed using the City of David City Standard Performance Evaluation Form. (Attachment C)

Probationary employees are entitled to all benefits as set out in these rules except the Deferred Compensation Plan.

10.03 Employee Orientation

The Department Heads and supervisors have a duty to orient all new employees. Such orientation training includes the duties of the position, the hours of work, relationships to the other employees, safety precautions, the rights and obligations of an employee, and information about the unit and department. The new employee should be made welcome and be encouraged to ask questions. He shall also be given a set of these rules and shall sign a receipt acknowledging that fact.

10.04 Employee Evaluations/Performance Reviews

All employees, including appointed officials, shall be subject to annual performance review to be performed by their immediate supervisor. Additionally, employees placed on Disciplinary Probation, and newly hired employees on Initial Probation status will receive a performance evaluation prior to be removed from probationary status.

The City Administrator will notify the department heads of any employees that need to have performance evaluations done in their respective departments on a monthly basis. The City Administrator will request a date for these evaluation to be completed and returned to the City Administrator for review and for adjustments to be made in regards to the employees performance pay plan. Performance evaluations will be completed on the City of David City Standard Performance Evaluation Form (Attachment C).

The mayor and city council will perform the city administrator's performance review with input from the department heads

10.05 Employment of Relatives

Two or more of the same immediate family shall not be employed to supervise each other or to do work under the same immediate supervisor. They may, however, be employed in different units of the same department or in different departments. The employment of family members under these circumstances is welcome. (This rule does not apply to cases of the employment of relatives existing on the effective date of these rules).

Exception: Swimming Pool Personnel ONLY: Two or more of the same immediate family may work under the same immediate supervisor. As with all employees: Two or more of the same immediate family shall not be employed to supervise each other.

10.06 Change of Status

All employees shall report changes of address, telephone number, number of dependents, marital status, name, etc., to the City Clerk.

10.07 Other Positions of Paid Employment and Outside Employment

Full-time employees shall not hold other positions of paid employment or accept pay for service (outside employment) without the prior written approval of their respective Department heads or the City Administrator.

10.08 Pay at Termination

Employees who are terminated, if they request, may receive their pay no later than five working days following the effective date of termination. Utility bills, owed to the City, must be paid in full before the termination pay will be made.

At the time of separation, an employee shall be paid for his/her vacation leave and personal leave which has not been used.

10.09 Return of Property

At the time of separation and prior to receiving the employee's final pay, an employee shall return all keys, tools, uniforms, or other City property issued to him/her in the course of his/her employment.

10.10 Political Activity

The City of David City encourages its employees to be part of the democratic process. The following guidelines have been developed for City employees in order to ensure that City employees do not violate, federal, state or local laws regarding public employment and political activity.

- 1) Employees shall not engage in political activities during their working hours.
- 2) Employees shall not use City property or resources for political activities.
- 3) No supervisor or other person in authority shall, in any way, require an employee to support a candidate or any political activity.
- 4) Employees may not promote any political activity or political candidate, either during their normal working hours or during personal time that conveys the appearance that the employee speaks on behalf of the City
- 5) Employees may not promote any political activity or political candidate, either during their normal working hours or during personal time that conveys the appearance that the City supports or does not support a political candidate or cause.

10.11 Private Business Activities

Employees shall not engage in private business activities during their working hours and shall not use city property or facilities for such activities.

10.12 General Service

All employees are employees of the City at large, not employees of a department. Although each one may regularly fill a particular position, anyone may expect to assist in other work when asked to do so, provided that the work to be done does not require special knowledge and/or training, the lack of which might result in hazards to others and the employee.

10.13 City Equipment

Employees may not use the City equipment or tools for their personal benefit or gain except:

- a) With the approval of the Department Head, they may do minor work for themselves in the City's shops when they are not on duty;
- b) When the City Council or the City Administrator approves, City vehicles may be used for personal transportation.

Any damage to City equipment will be reported to the appropriate supervisor or Department Head immediately and an insurance claim will be submitted as appropriate.

10.14 Reimbursement Limits

The Federal I.R.S. limitations for Nebraska for reimbursement for mileage, lodging and meals when employees are attending schools, seminars, conferences, etc. (as requested by the City) on behalf of the city are adopted as follows:

Mileage: Mileage reimbursement rate for the City of David City will be the same as the mileage reimbursement rate set by the State of Nebraska's Department of Administrative Services, which is increased and decreased as necessary.

Lodging: Actual & Reasonable rates.

Meals: Not to exceed \$30.00 per day.

10.15 Travel Policy

Employees are permitted to attend meetings, schools, seminars, and conferences anywhere in the state of Nebraska, and/or within a 300 mile radius. Any other requested travel will be up to the discretion of the City Administrator.

10.16 Smoking/Use of Tobacco

Smoking (i.e. lighted cigar, cigarette, pipe, etc.) and use of any other tobacco products (i.e. chewing tobacco, snuff, etc.) in any City facilities, vehicles, and equipment is prohibited. This policy applies to all employees, customers, and visitors.

10.17 Emergency Situations

Overview

The following guidelines apply to situations that prevent significant numbers of City employees from reporting for work on time or which require the closure of all or part of City normal activities, including major disasters and other emergency situations, adverse weather conditions, natural disasters, and other incidents causing disruptions of City operations.

These procedures apply to all David City employees. These procedures are based on the principal that the business of the City of David City is vital to serving the community of David City.

The City of David City, as employer, has a reasonable expectation that employees report to work or remain at work during emergency situations unless specifically excused by their supervisors.

I. Employees Who Are Expected to Work during Dismissal or Closure Situations

As a general rule, all Department Heads are identified as Emergency Personnel and as such, are required to report to work or remain at work during emergency situations.

Each Department Head has the discretion to identify and designate those employees he or she judges to be necessary to continue vital operations in any given emergency situation.

Emergency employees are expected to report for or remain at work in dismissal or closure situations unless otherwise directed by their Department Head. A Department Head may determine that circumstances justify excusing an emergency employee from duty. A Department Head may grant a reasonable amount of excused absence to an emergency employee who is unable to report for work when he or she has an individual hardship or circumstances unique to the employee. For example, factors such as distance, availability of transportation, or available alternatives to childcare or eldercare will be considered.

II. No Additional Pay or Paid Time Off for Employees Who Must Work

Employees who are required to work during their regular tour of duty on a day when their agency is closed (or when other employees are dismissed early) are not entitled to receive overtime pay, credit hours, or compensatory time off for performing work during their regularly scheduled non-overtime hours.

III. Failure to Report for Work

An employee may not be charged leave on a day when City Offices for the City of David City is closed for the day. In unique situations, a Department Head may determine that circumstances justify excusing an emergency employee from duty, and he or she may be granted excused absence.

However, if an employee who is required to work fails to report for duty without adequate reason for his or her absence, the Department Head may choose to place the employee on absence without leave (AWOL), and the employee may potentially be disciplined for the AWOL at the Department Head's discretion. The Department Head will confer with the City Administrator to make the determination as to whether the employee has adequate reason for his or her absence.

10.18 Professional Development

The City of David City is committed to supporting employee professional development through job related or corporate related educational courses, conferences and seminars. Educational assistance for employee professional development is subject to budgetary limitations and in accordance with established procedures.

This policy supports employee pursuit of educational opportunities and professional development, for the purpose of enhancing current job performance, or improving opportunities for advancement within the City.

This policy applies to all permanent full-time employees of the City with the exception of employees on probation.

Approved Professional Development Opportunities:

Job Related Courses

Courses or training designed to develop skills, knowledge and effectiveness in employee's current position with the City of David City.

Corporate Related Courses

Courses or training designed to develop skills related to future goals with the City of David City. This will encompass courses taken while working towards degree, certification and diploma programs as identified during an annual performance appraisal with the City of David City. Programs under consideration will include those that benefit career fields within the municipality, and not those related to the employee's current position.

READ CAREFULLY BEFORE SIGNING

ACKNOWLEDGEMENT, AUTHORIZATION, AND RECEIPT

I acknowledge receipt of the David City Personnel Manual. I understand that this Personnel Manual is not a contract.

I authorize deduction from my paycheck for any wages or benefits advanced to me, and for the cost of City property issued to me that I fail to return in good condition (normal wear and tear excepted) when asked to do so, and for any amounts owing to the City of David City upon the termination of my employment.

Sign your name here

Date

Print your name here



(Attachment A)

City of David City
Catastrophic Illness Donation Request Form
(To be completed by Requesting Employee)

_____, an employee in _____,
(Name) (Department)

has requested vacation leave/Personal Convenience Holiday donations under our Catastrophic Illness Program, and meets the conditions of our Catastrophic Illness Program per the attached medical documentation.

My signature hereto acknowledges that I agree to release, indemnify, and hold harmless, the City of David City from any claim I might have relating to the release of only my name to City Departments advising them that I am eligible for Catastrophic Illness Donations.

Employee Signature

Date

Social Security Number:

APPROVED: _____
Department Head

Date

APPROVED: _____
Personnel Director

Date

Employee: Forward this request form **and** medical documentation from your physician to your department head.

(Attachment C)

City of David City
ANNUAL PERFORMANCE EVALUATION FORM

Name: _____ Job Title: _____

Department: _____ Team: _____

Date of Hire: _____ Appraisal Date: _____

Purpose and Instructions:

City of David City Mission Statement:

To enhance the vibrant community of David City by providing a tremendous quality of life defined by outstanding educational and employment opportunities for all citizens through provisions of quality, cost effective governmental services that include infrastructure, utilities, affordable housing, physical environment, culture and recreation, public safety, land use planning, leadership and community participation.

Employees are an integral part of achieving this goal. The following items are the objectives for a conducting an annual performance appraisal.

1. This appraisal should provide feedback to employees on their contribution in support of our mission.
2. The appraisal will also provide employees with constructive comments regarding opportunities for improvement.
3. The appraisal will provide the employees with specific examples of their strengths or weaknesses.

Ratings:

Superior – Performance exceeded the requirements of the job in all major areas and identified goals. Significantly works above and beyond the responsibility of the job was achieved. Performance is the *exception* in the work group and consistently exceeds standards and requirements of successful performance.

Stable Performer – Performance met job requirements and identified goals in all important areas. Makes significant contributions, provides high quality services.

Needs Improvement – Performance was below job requirements and identified goals in one or more important areas and immediate improvement is required. Not meeting the standards and requirements for successful performance. Performance adversely affects others.

Unsatisfactory – Performance is significantly below job requirements and identified goals in several important areas. If this is the overall rating, then termination may be considered. Performance is unsatisfactory. Inability or unwillingness to improve.

Not Applicable—This factor does not apply based on the requirements of the position.

Part I: Job related Skills and Knowledge

- 1. Customer Services**—Manages customer interactions in a polite and professional manner. Is proactive, goes “above and beyond” to provide excellent customer service.

Superior (Requires Explanation)
 Stable Performer
 Needs Improvement
 Unsatisfactory (Requires Explanation)
 Not Applicable

Comments: _____

- 2. Job Knowledge**—Understands the information and responsibilities pertinent to the job and demonstrates necessary expertise and knowledge of equipment, tools, and technology. Continues to learn, expand knowledge and apply creativity to seek solutions.

Superior (Requires Explanation)
 Stable Performer
 Needs Improvement
 Unsatisfactory (Requires Explanation)
 Not Applicable

Comments: _____

- 3. Organizational Skills and Productivity**—Plans and prioritizes work effectively. Coordinates, prepares, and presents projects well and follows through with assignments. Produces quality work and a satisfactory quantity of work. Delivers on time and within budget. Meets deadlines.

Superior (Requires Explanation)
 Stable Performer
 Needs Improvement
 Unsatisfactory (Requires Explanation)
 Not Applicable

Comments: _____

- 4. Communication Skills**—Is effective in communicating with others, including co-workers, superiors, or the public, using both verbal and written skills necessary for the job. Listens well. Articulates well. Comprehends and understands information and explanations. Keeps others informed. Shares information.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

- 5. Interpersonal skills and professionalism**—Cooperates with peers, team leader, and immediate supervisor. Is a productive team member. Shows a high of professionalism in person, in email, on the telephone, in language, and in dress. Exhibits initiative and self-direction. Maintains a positive and respectful attitude. Shows enthusiasm about work. Accepts feedback well. Demonstrates loyalty and commitment.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

- 6. Reliability**—Dependable. Can be counted on to work as needed to achieve results and/or meet targets within established time frames. Employee complies with the Department's and City's policies on absence and lateness.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

- 7. Management and Leadership Skills**—Manages own area of responsibility without regularly intruding upon the scheduled time of other staff members. Understands the goals and needs of the department and its staff as a whole. Is counted a positive benefit to the staff by others on staff. Gains the respect and trust of fellow staff members. Employee's work and behavior exhibits

commitment to the Department's mission, vision and goals. Cooperates and contributes to the overall wellbeing of the City of David City.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

8. Problem Solving and Decision Making—Anticipates and identifies problems. Uses logic and sound judgment to solve problems and make decisions.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

9. Adaptability—Employee is able to adjust to a variety of situations, maintains flexibility.

- Superior (Requires Explanation)
- Stable Performer
- Needs Improvement
- Unsatisfactory (Requires Explanation)
- Not Applicable

Comments: _____

Supervisor's Recommendation:

Employee Recommend for Step Increase

Employee Not Recommended for Step Increase

Justification for Deferral of Step Increase and Plan of Action:

PART IV: ACKNOWLEDGMENT AND SIGNATURES

Employee:

I have read this review. _____ (initials)

This review has been discussed with me. _____ (initials)

I agree

I disagree

Employee's Comments (optional):

Employee's Signature: _____ Date: _____

Supervisor's Signature: _____ Date: _____

Your next review is scheduled _____ months from date of this review.

PART V : ANNUAL GOAL SETTING DOCUMENT

Employee _____ Date _____

Individualized Strategic Plan Goals for the coming year:

Employee's comments:

Supervisor's comments:

Employee's Signature

Supervisor's Signature

City Administrator's Review

PASSED AND APPROVED this 9th day of December, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

The Mayor and Council discussed the request by Goodwill Industries of Greater Nebraska, Inc. to place a 53' donation trailer in David City. There is really not a good location for a 53' trailer and concerns were expressed that people will be leaving junk if the trailer is not supervised and/or the items will be left outside of the trailer.

City Attorney Egr advised that a negative motion should not be made. Therefore, Council member Hotovy made a motion to approve the request by Goodwill Industries of Greater Nebraska, Inc. to place a 53' donation trailer in David City. Mayor Zavodny asked for a second. After some time, Mayor Zavodny once again asked for a second. Mayor Zavodny asked for a second for the third time. Mayor Zavodny declared the motion died for lack of a second.

Mayor Zavodny stated: "Next is discussion and consideration of the Airport Hangar Project and Resolutions No. 19-2015 and 20-2015. I just want to go on record saying "Thank You" to Counsel for really working on this and Joan also. This has been a battle for a while, some of it shouldn't have been. I think we have finally made some progress with the FAA and the State has been really pretty good about helping us out, and just today, we did receive some response so do you guys want to summarize where we're at now?"

City Clerk / Interim Administrator Joan Kovar stated: "I visited with Lynn Martin of the FAA. We have been visiting back and forth as they originally said our deadline was December 15th but now have extended it to December 31st. That still isn't a lot of time when we have to make changes to the lease agreements so that we are in compliance with FAA regulations. We will have to get those leases updated and reviewed with the tenants, get those signed off with the changes, and then get all that approved by the FAA to be sure we will receive our federal funding of \$600,000 for the new Airport Hangars. Nebraska Department of Aeronautics has been calling and asking us why the Mayor hasn't signed the agreement. I informed them that the Mayor is not going to sign off on that until we are guaranteed the Federal Funding. I have been talking to Barry Scheinost and Andre Amay of the Nebraska Department of Aeronautics and they have also called Lynn Martin of the FAA. Lynn finally went to her legal department and took the paperwork back and she reviewed it with some of her colleagues. Today at about 3:00 she sent me the revised suggestions for the lease agreements."

City Attorney Egr stated: "I finally sent an e-mail to both of them and I was afraid they would be offended because we got a little tough there, a little testy. I said they didn't give us the courtesy of responding to us in two months. So, I got that response, I sent it to Jared Storm's lawyer, the changes that they wanted, hopefully they should have no problems with that. I will get ahold of Bryon Forney tomorrow. They have several things. Number 1: They are big on equality. The number of acres that Jared Storm has and the number of acres that Bryon has, in relation to the rental price, they don't think is equal so we need to work that out. Then anything that is fifty years on a lease; they think that is almost like selling it. They don't understand Jared's putting in a ton of money into a new building, Bryon put money into buying that building, and I've talked to them till I'm blue in the face about, "*well this is for Industrial Development*". I said "*this is going to bring in jobs, we're going to have these benefits, we can't be equal penny for penny and dollar for dollar*", but they say "*well no, our rules say this*" and they've got the blinders on. Somehow we must have gotten ahold of some people. In discussion with Dawn Danley of Leo A. Daly, I asked her about this situation, and I got ahold of Eric Johnson from Kirkham Michael and I said "*Look, you're the engineer on this thing, this is what we pay you to do, now you get a hold of somebody at the State and get some answers.*" He talked to them also, but they didn't call him back. They won't call me back, they won't call him back, they won't call the Mayor back, but they'll talk to Joan, so, that's fine, she gets it done, Joan's nice with them and that's fine; Miss Congeniality, but we need to pass two resolutions to make sure that

the Mayor has the authority to sign it, so that if this comes in December 29th he can sign everything then.”

Mayor Zavodny stated: “We have a few more things to iron out. One thing they don’t understand is what Nebraska land is valued at versus Kansas City. This isn’t industrial property. The farm rent we are getting is significant, comparatively to what farm ground brings but getting them to understand those nuances has been challenging. So, we are close but what we need to have you do is authorize me to execute it if we can dot the i’s and cross the t’s here before the end of the month. We should be able to secure our \$600,000 plus what the State’s willing to kick in. The other consensus Jared made is, he said: *“you know what, I will take a grass taxi-way for now so we don’t screw up any of your airport layout plan, and down the road we can figure out if we’re going to do a taxi-way a different way”*. So that was a really big help for us too. So, how do you wish to proceed?”

Council member Kroesing introduced Resolution No. 19 – 2015 and moved for its passage and adoption. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Kobus, Rogers, Kroesing, and Smith. Voting NAY: None. The motion carried and Resolution No. 19 - 2015 was passed and adopted as follows:

RESOLUTION NO. 19 – 2015

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A CONTRACT AGREEMENT WITH TCW CONSTRUCTION INC. FOR JOB NO. AIP NO. 3-31-0025-0100 TO CONSTRUCT A 6-PLACE HANGAR, RAMPS, AND TAXI-LANES AT THE DAVID CITY MUNICIPAL AIRPORT.

BE it resolved by the Mayor and members of the City Council of David City, Nebraska, that:

1. The City of David City, as per Resolution No. 8 – 2013, dated April 10, 2013, entered into an Agency Agreement with the Department of Aeronautics for Project No. C01 to obtain federal assistance from the Department of the Federal Aviation Administration to obtain federal assistance for the development of the Airport.
2. As part of the AIP grants there are requirements to receive these grants. It was determined that the ground leases for Mr. Forney and Mr. Storm are not in full compliance with the grant assurances.
3. The City has received draft amendments and suggestions from the FAA to help in the progress of getting the leases in line with the assurances, however the City is faced with a December 31, 2015 deadline for submission of the Construction Contract.
4. Therefore, the Mayor of the City of David City, NE is hereby authorized and directed to execute a Contract Agreement with TCW Construction Inc. contingent upon the acceptance of the lease amendments and acceptance of the Federal Aviation Administration.

Passed and approved this 9th day of December, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Council member Smith introduced Resolution No. 20 – 2015 and moved for its passage and adoption. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Vandenberg, Rogers, Kroesing, Kobus, and Smith. Voting NAY: None. The motion carried and Resolution No. 20 - 2015 was passed and adopted as follows:

RESOLUTION NO. 20 – 2015

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AMENDMENTS TO THE LEASE AGREEMENT WITH MR. FORNEY AND MR STORM, AS SUGGESTED BY THE FEDERAL AVIATION ADMINISTRATION.

BE it resolved by the Mayor and members of the City Council of David City, Nebraska, that:

1. The City of David City, as per Resolution No. 8 – 2013, dated April 10, 2013, entered into an Agency Agreement with the Department of Aeronautics for Project No. C01 to obtain federal assistance from the Department of the Federal Aviation Administration to obtain federal assistance for the development of the Airport.
2. As part of the AIP grants there are requirements to receive these grants. It was determined that the ground leases for Mr. Forney and Mr. Storm are not in full compliance with the grant assurances.
3. The City has received draft amendments and suggestions from the FAA to help in the progress of getting the leases in line with the assurances.
4. Therefore, the Mayor of the City of David City, NE is hereby authorized and directed to execute the amendments to Mr. Forney and Mr. Storm's ground leases, contingent upon Mr. Forney and Mr. Storm's acceptance of the lease amendments and acceptance of the Federal Aviation Administration.

Passed and approved this 9th day of December, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

There being no further business to come before the Council, Council member Vandenberg made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Smith, Kroesing, Rogers, Kobus, and Vandenberg. . Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:00 p.m.



CERTIFICATION OF MINUTES
December 9, 2015

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of December 9th, 2015; 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.

Joan E. Kovar, City Clerk