

**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 **12th day of November, 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 November, 2015.

AGENDA AS FOLLOWS:

1. Roll Call;
 2. Pledge of Allegiance; _____
Mayor Alan Zavodny
 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 October 14th, meeting of the Mayor and City Council;
 5. Consideration of Claims;
 6. Committee and Officer Reports; Certificate of Appreciation to Nathan Blomenberg; _____
Council member Michael E. Rogers
 7. Update by Dawn Danley of Leo A. Daly concerning the Downtown Renovation Project; _____
Council member Thomas J. Kobus
 8. Consideration of accepting a design for "D" Street between 5th & 6th Street;
 9. Consideration of the 2016 Wholesale Power Contract (Option A) between Nebraska Public Power District and the City; _____
Council member Kevin N. Hotovy
 10. Consideration of the Capacity Purchase Agreement between Nebraska Public Power District and the City; _____
Council member Gary D. Smith
 11. Consideration of an Agreement with Olsson Associates for a fixed fee of \$8,750.00 for plans, specifications, and construction permitting (not the construction phase) for the City's WWTF Auger Monster; _____
Council member John P. Vandenberg
- _____
City Clerk Joan E. Kovar

12. Consideration of an Agreement with Olsson Associates for a total design and construction observation fee of \$80,355.00 to include a water main utility replacement and improvement design, and construction administration and observation at various locations within David City;
13. Consideration of paying for employee's Hepatitis A & B shots due to the elements they are exposed to at work;
14. Consideration of Ordinance No. 1236 amending Ordinance No. 1060 – Zoning Ordinances – by adding Mobile Food Units to Definitions; adding Section 4.25 Mobile Food Units; and amending Section 5.12.04 -Permitted Temporary Uses - by adding #6 – Mobile Food Units; (Passed on 1st reading only 10/14/15;
15. Consideration of Ordinance No. 1238 vacating 8th Street from the north side of “D” Street to the south side of “E” Street as requested by David City Public School District #56;
16. Consideration of Ordinance No. 1239 amending Ordinance No. 1040, Chapter 6 – Animal Regulations and Miscellaneous Misdemeanors;
17. Consideration of selecting an emergency notification system for the City/Utilities;
18. Consideration of Ordinance No. 1240 revising the penalty concerning All-Terrain Vehicles;
19. Consideration of Ordinance No. 1241 revising the penalty concerning Utility Type Vehicles;
20. Update by Jared Storm of Storm Land Holdings, LLC, concerning his building construction at the David City Municipal Airport and discussion concerning a taxiway;
21. Consideration of the Health Insurance options as presented by Ryan Ruth;
22. Consideration of the 2” Airport water line to the Administration Building;
23. Consideration of going into Executive Session to discuss personnel issues;
24. Adjourn.

CITY COUNCIL PROCEEDINGS

November 12, 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 November 5th, 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: Sheriff Marcus Siebken, Michelle Longenecker, Janis Cameron, Jim Vandenberg, Bryon Forney, David McPhillips, Ryan Ruth of Agency One Insurance, Chad Denker of David City Public Schools, Dawn Danley of Leo A. Daly, Jared Storm of Storm Land Holdings, LLC, Banner Press Editor Larry Peirce, Electric Plant Supervisor Eric Betzen, Street Supervisor Rodney Rech, Electric Supervisor Pat Hoefft, and Sewer Supervisor Kevin Betzen.

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 October 14th, 2015 meeting of the Mayor and City Council were approved upon a motion by Council member Hotovy and seconded by Council member Vandenberg. Voting AYE: Council members Smith, Kroesing, Kobus, Rogers, Vandenberg, and Hotovy. 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.

Sheriff Siebken stated they are receiving calls concerning an IRS scam. He stated the IRS would never notify the public by phone demanding money. He stated that there is also a scam in which the calling party says they are a Law Enforcement Officer, and unless they pay an outstanding bill immediately, they will come and arrest them. That is not how it works. He said whatever the circumstances, never give them money or credit card information.

A plaque was to be presented to Lineman Nathan Blomenberg for 5 years of faithful service, however Nathan was not present.

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

Dawn Danley of Leo A. Daly stated: "We are moving forward with the water design. We talked last time at the Committee of the Whole, just kind of a recap, we kind of located, with

working with Kevin, where we're putting the new line at, still considering a couple depth options just to make sure that we miss all the utilities that are out there. My main concern right now is what's going to happen on "E" Street between 4th & 5th. Obviously there is brick all the way to the sidewalk and a lot of those services of course are out in the brick, so when we pothole there, how are we going to repair that so it's not so patchy? That block is the most challenging to make sure that the final product looks cohesive. Everything else will just be in concrete. Last time, we talked about it being all concrete in front of the Fire Hall and that's been pretty much agreed upon. Question for you: "It is a pretty wide street section, there is no parking in the middle. Do you want that paint striped to kind of designate the drive lane? Right now you drive on the brick, but since it will all be concrete literally from the face of the Fire Hall to the face of Windstream, you know we'll have diagonal parking but then you're going to have 50' of just concrete there, so what do you guys think about that?"

Kevin Betzen said: "That's always been the turning lane for the big fire trucks going out of there so no-one parks there. We had the diagonal parking by Windstream for the fireman to park but that's always been wide open for the big rigs."

Dawn Danley stated: "So we are going to diagonally stripe the entire parking and then the drive lanes; I was just going to carry through and then paint mark the middle. Stripe it so it designates "No Parking". (Nothing is currently marked in the center going from the alley to the East to 6th Street.) I mean it's open since you won't have the brick anymore, so it's going to be a massive piece of concrete. I didn't know if there was any type of designation you wanted, or just leave it open."

Street Supervisor Rodney Rech stated: "I wouldn't really worry about it, from the alley east, because everybody knows anyhow."

Dawn Danley stated: "Also as a recap for those who weren't at the last meeting, we talked about using an industrial trench drain in front of the Fire Hall, at the back end, so the Fire Hall will be pretty flat and then we'll slope the pipe under the trench drain and we'll use something very industrial that's used on heavy traffic, even more, I'm going to look more towards ones that we use like on Airport facilities just because of the weight involved and the constant turning movement on these things. Ok, what about light poles on these streets? I know we've talked; you have the "D" Street west with the decorative light poles. Are you looking to match those?"

Mayor Zavodny stated: "I think we do want to do something easier to work on. That's something we want Pat and his department to be involved with."

Electric Supervisor Pat Hoefft agreed: "The taller street light poles are fine; the decorative poles are hard to work on. The pedestrian poles, you about need three people to work on them because you have to unbolt them and pick them up to undue the wires in them. They give you a little wall plate that nobody can get their hands in. We need a bigger based pole so we can get in there."

Mayor Zavodny stated: "It's a design issue of getting a bigger base, something we can work on."

Dawn Danley stated: "I can bring cut sheets on the decorative street lighting next time. I am only envisioning them west of the alley (between 5th & 6th on "D"). We won't have any in front of the Fire Hall and I don't see a need for them on the other (south) side; it would just be the tall street lights. Let me show where we think they should be, bring something with a bigger

base, and then we'll decide next time. As we talked last time, I am not working on a design of "D" Street yet, just because we have a question of what we are putting back in, and that's where we left it at the last meeting."

Council President Gary Kroesing stated: "That's where we left it and that's where we're planning on picking it up and finishing it off at this meeting."

Dawn Danley stated: "So obviously the east half we are good, it was the west half; what are we going to put back? Obviously we got back to, is there brick, how much brick? I showed brick in the drive lanes and the parallel parking that we talked about and then the conversation evolved from there. I think the purpose, from my understanding when we left, was to come to a decision, on what the pavement section's going to be, tonight."

Council member Rogers stated: "It needs to be concrete."

Mayor Zavodny stated: "Ok. I think the decision tonight effects how the whole project will look at the finish."

Council President Kroesing stated: "The whole thing is, Dawn brought it to our attention; we've been discussing this issue for two years. It's time to put this horse to rest. It's not going anywhere; we're just sitting here spinning our wheels. Mike made the comment that we've got to vote on it and finish it off, and I made the comment at the meeting, knowing full well that we couldn't vote on it, that it was the consensus of this group that we want to get this done. We want to vote on it now, put it to rest, and live with it."

Dawn Danley stated: "And that being said, we're not the same project we were two years ago. We're building an out block in front of the Fire Hall, in front of the bank, and it's not the whole thing. So, from my thought process, you still have probably more discussion potentially about this subject when you really get into the court house square. These outlying blocks, outside the Court House square, could be a different scenario and you still have that opportunity in the Court House square to do, when you do those, and are discussing this, but we are holding up and we are discussing this on this one block where half of it we all agree needs to be concrete anyway; almost no different from the Kobza block up there (5th to 6th on "E" Street) so, I don't want everyone to think we are doing the whole downtown this way because that's not our project right now, we are just looking at these two blocks."

Mayor Zavodny stated: "Well it's not, but it is."

Council member Hotovy stated: "What concerns me is this could affect the bigger comprehensive plan of the Downtown, and the only way that's going to probably more than likely happen, is with a new sales tax in five years, and there's no guarantee that's going to happen, and in five years every single person in this room could be different, so you're making a decision that could possibly hamstring what the opinion could be then. I mean, I'm not completely against it because it isn't around the square, but it's a big deal, it's a terrible decision."

Mayor Zavodny asked: "If we go concrete up to that intersection, is that transition going to be fairly easy?" As far as straightening it out and going into brick?"

Dawn Danley stated: "I think so, the radius on the northeast corner, you may need to do a little massaging of that, but I would like to not remove any of the intersection, and you have to come around the curve and then that's where we'll start, so that the intersection piece will be

part of the future. So we just do the linear piece of concrete and then I try to get out of the bricks as soon as possible, and leave you the whole intersection so that we're not messing with that."

Mayor Zavodny stated: "My feeling right now would be, we go to concrete, and I would like to see at least those two intersections stay brick and use the brick for the crosswalks. I think that would be a good way to compromise on it."

Discussion followed. It was noted that east "D" Street should mirror west "D" Street but not using colored concrete as the colored concrete has not weathered well.

Dawn Danley stated: "As far as drainage it is very flat. I am not ever going to promise that you won't have standing water, but the goal is to get it underground as quick as possible. Your inlets on the corner are very shallow, they're like 3½ feet deep. I think the trench drain, and we're going to make it a big one, not a tiny little 6" one, we're going to make it a big one so we get the water down in there; I think we'll see some success getting the water off. The other thing about the drainage is, I am going to try to extend a pipe west and cap it and see how I can get some sort of grades for you for the future. So I need to do some analyzing of 4th & "D" and do some quick grading just to see what kind of fall we have and if I can get some sort of storm sewer in there and plan for it. So if we can plan for it and get a storm sewer sitting there at the intersection, that's what the goal is."

Mayor Zavodny stated: "I don't want to misrepresent what you are saying. We are going to go concrete up to the intersection. I'd say that's probably the best plan for that."

Michelle Longenecker and David McPhillips both spoke in favor of the bricks. Michelle stated: "I realize ideally, we can't address the drainage issues without disturbing the bricks. The second best options would have been to lift all those bricks and put them back down but at a 2 million dollar cost it is out of reach, and as Kevin pointed out, if the public knew it was going to be 2 million dollars their support of it would have changed. The third best option would be kind of similar to what I saw in front of Kobza Motors (northwest corner of 6th & "E") where they kept the original brick but put it in that center parking because that is what David City is known for. They are known for their parking down the middle of the street, plus if you could salvage a few of those bricks and put them in the center, it's a nod to the past, it ties what was here to the future. I don't know what the cost of that would be. Perhaps we could look at some compromise that adds something of that fashion when you look at the west end of "D" Street."

David McPhillips stated: "I would say concrete the east half of "D" between 5th & 6th Street by the Fire Hall and leave the west side of the block in brick until we have a plan for the rest of the downtown area."

Mayor Zavodny stated: "If we concrete that whole area to the intersection, can we put new pavers in the walkway?"

Street Supervisor Rodney Rech stated: "Drive down "O" Street in Lincoln and look at them. You can drive straight, a little dip, come up a little dip where the bricks are, then it's got patching material in a lot of the spots where the new brick were laid because they must have been disintegrated or something."

Dawn Danley stated: "Let's see where the limits end because I don't know if we want to put the new pavers right next to the existing brick."

Mayor Zavodny stated: "I am just talking about that gives you that opportunity down the road. If we stop before the crosswalk with the concrete pour then that's great."

Power Plant Supervisor Eric Betzen stated: "I think those pallets that he (Rodney Rech) has at the maintenance building are just those decorative ones along the sidewalk, I don't think they're for heavy traffic." (Rodney agreed.)

Mayor Zavodny stated: "Let me be clear on what I'm trying to say. If we're going to move on down the road and leave that opportunity, I think we need to pour then up to where the crosswalk would be and leave it alone at this point. Ok, now I would say that we are ready to listen to what your design is, and what I'm hearing is concrete to the intersection."

Council member Kroesing made a motion to concrete "D" Street between 6th and 5th Street, up to where the crosswalk would be. Council member Rogers seconded the motion. Voting AYE: Council members Kobus, Hotovy, Smith, Vandenberg, Rogers, and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "Ok, that takes us to item #9 – Consideration of the 2016 Wholesale Power Contract. After reading everything, and I'm going to kind of defer to counsel here momentarily, it seems like we have a lot more questions that need to be at least clarified before.....I am really uncomfortable us even making any decision at this point. We are still so many years out from our contract ending. These are complicated things and there are a lot of questions still out there that I feel are unresolved. Is there any reason we shouldn't wait on this?"

City Attorney Egr stated: "There is no reason."

Council member Kroesing made a motion to table indefinitely the 2016 Wholesale power Contract between Nebraska Public Power District and the City. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Smith, Hotovy, Kobus, and Kroesing. Voting NAY: None. The motion carried.

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

City Clerk Kovar stated: "Just so you know, Chad Podolak of NPPD stopped in and visited with Pat and me about a week ago. Chad said that if any of you have questions regarding the Capacity Purchase Agreement or the Wholesale Agreement, he would be willing to come to David City and visit with any of you. He said we could do it one on one, or, if a few of you want to get together so that questions you have can be addressed, or if you want to have a special council meeting, he would come out and visit with you. He said *"make sure you let them know that if any of them have questions regarding either of these agreements, I'll stop anytime at the Office and visit with them if that's what they'd like"*. So he said to just let you know that option is available."

Mayor Zavodny stated: "I would also encourage it. If you have specific things from the list of questions that have been proposed by counsel or anything in the agreement, let's get a finer point on this, maybe we're closer to working out parts of this with him. This is for such a long term contract and so much amount of money, I'm wondering, do other towns hire a consultant to help them through this kind of thing? We need someone who specializes on this.

It's such a big thing, it's such a long term effect on this community, probably long after most of us aren't drawing breaths here anymore, so I just think it's important to get it right."

Sewer Supervisor Kevin Betzen stated: "In order to get a permit from the Department of Environmental Quality to put the auger monster at the Waste Water Treatment Facility (WWTF) into the channel, it has to be engineered, electrical inspected, and the permit applied for to DEQ to even lower it into the channel. The electricity is there, the auger's there, the water's there, but we can't legally put it into the system without this permit through the DEQ."

Council member Hotovy made a motion to approve an agreement with Olsson Associates for a fixed fee of \$8,750.00 for the City's WWTF Auger Monster Permitting. Council member Kroesing seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Smith, Kroesing, Kobus, and Hotovy. Voting NAY: None. The motion carried.

The next proposal with Olsson Associates would be for water main improvement and replacement design consisting of approximately 9 blocks:

1. 2nd Street from N to O Streets
2. North Oak Street from D to E Streets
3. 5th Street from I to F (Railroad Track)
4. B Street from 11th to 13th Street
5. C Street from 13th to 14th Streets from C to D Street

Sewer Supervisor Kevin Betzen stated: "This basically is for this year's construction. We (Craig Reinsch of Olsson Associates & Kevin) talked with Dawn (Danley of Leo A. Daly) too, and we worked with her on the connections that we need on 4th Street and on 5th Street for future....this part is mostly for 5th Street, taking care of some broken valves, and taking care of a few of these dead end lines."

Mayor Zavodny asked: "Since we've done some of the work, I assume we aren't getting as many complaint calls, but what about around the Villa and that area?"

Sewer Supervisor Kevin Betzen stated: "They need to touch up some seeding areas next year, just some finishing things, but as far as water quality, pressures, I haven't heard anything. Mark Kovar (Environmental Services/Maintenance) of St. Joseph's Villa has been really happy as they now have good flow, good pressure, good quality, and other than that, I haven't heard a thing.

Council member Kroesing made a motion to approve an agreement with Olsson Associates for a total design and construction observation to include a water main utility replacement and improvement design, and construction administration and observation at various locations within David City. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Kobus, Smith, and Kroesing. Voting NAY: None. The motion carried.



LETTER AGREEMENT FOR PROFESSIONAL SERVICES

October 28, 2015

City of David City
Attn: Ms. Joan Kovar
557 North 4th Street
David City, Nebraska 68632

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**
WWTF Auger Monster Permitting (the "Project")
David City, Nebraska

Dear Ms. Kovar:

It is our understanding that the City of David City, Nebraska ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence. Olsson shall provide the following services to Client ("Scope of Services") for the Project:

DESIGN SERVICES

- The project is anticipated to include plans, specifications, and construction permitting for the City's auger monster building. The building has been constructed, but in order for it to be placed in operation, a construction permit from the Nebraska Department of Environmental Quality (NDEQ) is required. A review of the building, equipment, including mechanical/electrical, will be reviewed prior to submitting it to the NDEQ. Once the construction permit is granted, the City may place the equipment into service.
- Project Initiation and Administration Services, include general administrative services to manage and support the design and permitting of the project will also be provided.
- Design will include one (1) site visit to confirm and measure existing facilities and equipment, evaluate if existing conditions meet appropriate electrical and mechanical code and other regulation requirements, as well as to prepare detailed drawings and technical specifications for the work and for all equipment and materials required under the contract.

The documents will be prepared for construction permitting. The specifications shall include technical information only, and will not contain contracts, bid forms, bidding instructions, General and Supplementary Conditions. A combined set of plans and specifications will be prepared for all proposed building components and equipment.

- Submit the project documents to the NDEQ) and incorporate review comments. Olsson will coordinate the project with NDEQ, and submit the project plans and specifications as required for approval and issuance of a construction permit. Permit review fees shall be the responsibility of the Client.

ADDITIONAL AND EXCLUDED SERVICES

- Exclusions:
 - Construction administration and observation.
 - Survey, research, and associated services for new easements.
 - The items described in the Exclusions section may be provided as additional services to the Client, if so requested.
- Additional Services: Should Client request work in addition to the Scope of Services (Optional Additional Services), Olsson shall invoice Client for such services at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson would expect to begin performing its services under the Agreement promptly upon your signing.

Anticipated Start Date: November 16, 2015
Anticipated Completion Date: March 31, 2016

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services a fixed fee of Eight Thousand Seven Hundred Fifty Dollars (\$8,750.00), which does not include Construction Phase Services which is provided later on. A breakdown of the fee is provided below:

Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

REIMBURSABLE EXPENSE: Olsson's reimbursable expenses for this Project are included in the fees set forth above.

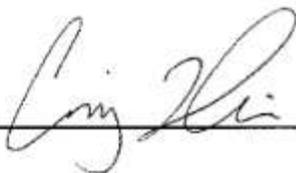
TERMS AND CONDITIONS OF SERVICE

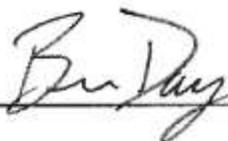
We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project representative shall be: Mr. Kevin Betzen

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

OLSSON ASSOCIATES, INC.

By 

By 

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DAVID CITY

By _____

Name: _____

Title _____

Dated: _____

If different from above,

Client's Designated Project Representative

Attachments

General Provisions

Labor Rate Schedule

Reimbursable Expense Schedule

**LETTER AGREEMENT
FOR PROFESSIONAL SERVICES**

October 7, 2015

City of David City
Attn: Ms. Joan Kovar
557 North 4th Street
David City, Nebraska 68632

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**
Water Main Improvement and Replacement – 2016 (the "Project")
David City, Nebraska

Dear Ms. Kovar:

It is our understanding that the City of David City, Nebraska ("Client") requests Olsson Associates, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project. This Letter Agreement supersedes the February 25, 2015 document, provided previously due to discussions held with the City Council since that time.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence. Olsson shall provide the following services to Client ("Scope of Services") for the Project:

DESIGN SERVICES

➤ The project is anticipated to include a water main utility replacement and improvement design, construction administration and observation at the following locations within David City, Nebraska:

1. 2nd Street from N to O Streets.
2. N. Oak Street from D to E Streets.
3. 5th Street from I to F (railroad tracks) Streets.
4. B Street from 11th to 13th Streets.
5. C Street from 13th to 14th Streets and 14th Street from C to D Streets.
6. Total water main to be replaced is approximately 9 blocks.

Final locations will need to be confirmed as part of the project design and results of topographical survey. View the updated Exhibit 1 for the proposed areas.

- Project Initiation and Administration Services, including a project initiation meeting will be conducted with all parties involved to review the project site, identify specific goals, establish schedule for completion, and coordinate with Client's representative for the project. Olsson shall attend one design review meeting with City staff at the 90-percent design level for each project location. General administrative services to manage and support the design of the project will also be provided.
- Topographic survey data will include all necessary field and property surveys required for design and construction of the water utility replacement. This will also provide vertical and horizontal control points. It is anticipated that the water utility replacement will occur within the City's existing ROW, and no easements will be necessary. If additional easements are required for the project, this service can be provided, but will be considered an additional service.
- Prepare detailed drawings and technical specifications for the proposed construction work and for all equipment and materials required under the contract. The documents will be prepared for construction by a private contractor selected by the Client as part of a competitive bidding process. The specifications shall contain contracts, bid forms, bidding instructions, General and Supplementary Conditions. A combined set of plans and specifications will be prepared for all proposed utility replacement locations.
- Provide three (3) sets of drawings and specifications to the Client for review at 90 percent, for each project location. As part of the review of each submittal, meet with Client or Client's designee to discuss their review comments and resolve any questions.
- Perform an "in-house" quality control review of each set of drawings and specifications at 90 percent completion.
- Opinion of Probable Construction Costs - Prepare an opinion of probable construction costs for the project work for utility replacement locations.
- Submit the water main utility replacement project documents to the Nebraska Department of Health and Human Services (NDHHS) and Incorporate Review Comments - Olsson will coordinate the project with NDHHS, and submit the project plans and specifications as required for approval and issuance of a construction permit. Permit review fees shall be the responsibility of the Client.
- Provide three (3) sets of final plans and specifications to the Client for their use.

BIDDING PHASE SERVICES

- The Project Engineer will coordinate the issuance of notices to bidders and the distribution of bidding documents. Notices will be placed in the official publications directed by the City, and in bidding services known to provide data to contractors in the area. In addition, invitations will be mailed directly to contractors whom the project team and/or the City staff know will be interested in the project. Documents will be available for inspection at Olsson offices.
- The Project Engineer will coordinate answering questions raised by bidders. Specialists will be used to address technical questions. Addenda will be prepared, as required, to provide clarification to questions. The City will be contacted regularly to keep them aware of any project changes resulting from bidders' questions.

- The Project Manager and/or Project Engineer will attend the bid opening. All bids properly received will be reviewed. Any inconsistencies or irregularities found in the bids will be reported to the City. In addition, the Project Manager and/or Project Engineer will attend the following City Council meeting to present the bid results to the City Council for consideration of recommending the award.
- Conformed copies of the contract documents, including all insurance and bond forms, will be prepared by the Project Engineer. The Project Manager will review the documents to confirm that all procedures have been properly followed. Copies of the conformed documents will be provided to the City for review. Approved copies will be distributed to the City, the Contractor, regulatory agencies, and Olsson. These documents form the official contract between the City and the Contractor, as well as the basis for decisions concerning the work.

CONSTRUCTION ADMINISTRATION SERVICES

- Perform construction administrative services including communication with the Contractor and City personnel, attendance at the pre-construction meeting, as well as up to four (4) site visits to verify construction activities, review of the Contractor's pay applications, shop drawing or submittal review (as defined below), respond to field questions from the City and/or Contractor, and other items requested by the City during construction, within the budget amount stated for construction administration.
- Perform construction staking services for the Client based on the plans prepared by Olsson. Fees are based on two (2) round trips to the job site.
- Shop Drawing Submittal Review – Review drawings and other data submitted by the Contractor as required by the construction contract documents. Olsson's review shall be for general conformity to the construction contract drawings and specifications for the Contract and shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
- Substantial and Final Completion Inspections – Upon the Contractor completing substantial and final completion, inspection of the construction work and preparation of a tentative list of the items to be completed or corrected before final completion of the contract. Following substantial completion, conduct a final inspection to determine if the work is completed. A total of two (2) additional site visits will be made, than previously referenced Olsson shall provide written recommendations concerning final payment to Client, including a list of items, if any, to be completed prior to making such payment. This item includes a site visit to review the completed items.

CONSTRUCTION OBSERVATION

Olsson will furnish a part-time Resident Project Representative (RPR), at approximately 2-3 full days per week, for an anticipated construction schedule of 10-12 weeks. The RPR will observe the Contractor's work and perform the services listed below. The RPR shall not have the responsibility for the superintendence of construction site conditions, safety, safe practices or unsafe practices or conditions, operation, equipment, or personnel other than employees of Olsson. This service shall in no way relieve the Contractor of complete supervision of the work or the Contractor's obligation for complete compliance with the drawings and specifications. The Contractor shall have sole responsibility for safety and for maintaining safe practices and avoiding unsafe practices or conditions. Specific services performed by the RPR are as follows:

- Conduct on-site observations of the general progress of the work to assist Project Manager in determining if the work is proceeding in accordance with the construction contract documents.
- Attend pre-construction conference and assist Project Manager in explaining administrative procedures which will be followed during construction.
- Submit to the Client construction progress reports containing a summary of the Contractor's progress, general conditions of the work, problems, and resolutions or proposed resolutions of problems.
- Verify that all construction testing conforms to the contract documents.
- Maintain a marked set of record drawings and specifications at the job site based on data provided by the Contractor. This information will be combined with information maintained by the Contractor and a master set of record documents produced.
- Before Olsson issues a Certificate of Substantial Completion, assist the Project Manager in submitting to the Contractor a punch list of observed items requiring completion or correction.
- Assist the Project Manager in conducting final inspection in the company of the Client and the Contractor, and prepare a final list of items to be completed or corrected.
- Compile data from the Contractor and from our records to prepare conforms-to-construction-records drawings. These drawings will reflect the best information available about the facility as constructed.
- Conduct a warranty inspection at eleven months after completion of the project. The Project Manager will attend the inspection to review the project with the Client. Minutes will be developed from the inspection to confirm actions and schedules for corrections should any deficiencies be found.

ADDITIONAL AND EXCLUDED SERVICES

- Exclusions:
 - Survey, research, and associated services for new easements.
 - The items described in the Exclusions section may be provided as additional services to the Client, if so requested.
- Additional Services: Should Client request work in addition to the Scope of Services (Optional Additional Services), Olsson shall invoice Client for such services at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson would expect to begin performing its services under the Agreement promptly upon your signing.

Anticipated Start Date: November 1, 2015
Anticipated Completion Date: August 31, 2016

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services a fixed fee of Forty Three Thousand Five Hundred Eighty Dollars (\$43,580.00), which does not include Construction Phase Services which is provided later on. A breakdown of the fee is provided below:

<u>Description</u>	<u>Design Fee</u>
Project Management and Coordination	\$ 4,790.00
Design Services	\$34,940.00
Bidding Services	\$ 3,850.00
Total Design Services	\$43,580.00*

*Construction Phase Services shall be completed on a time and expense basis as described below.

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing construction observation services only, and all actual reimbursable expenses in accordance with the Labor Rate Schedule and the Reimbursable Expense Schedule attached to this Agreement. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

If applicable: Olsson's Scope of Services for construction phase (administration, staking, and observation) services will be provided on a time and expense basis not to exceed Thirty Six Thousand Seven Hundred Seventy Five Dollars (\$36,775.00).

The total design and construction observation fee (combined fixed fee and time and expense basis) is Eighty Thousand Three Hundred Fifty Five Dollars (\$80,355.00).

Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

REIMBURSABLE EXPENSE: Olsson's reimbursable expenses for this Project are included in the fees set forth above.

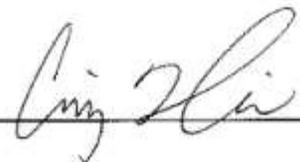
TERMS AND CONDITIONS OF SERVICE

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project representative shall be: Mr. Kevin Betzen

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

OLSSON ASSOCIATES, INC.

By 

By 

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DAVID CITY

By _____

Name: _____

Title _____

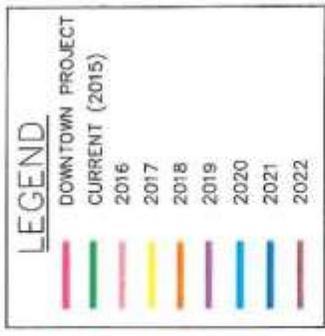
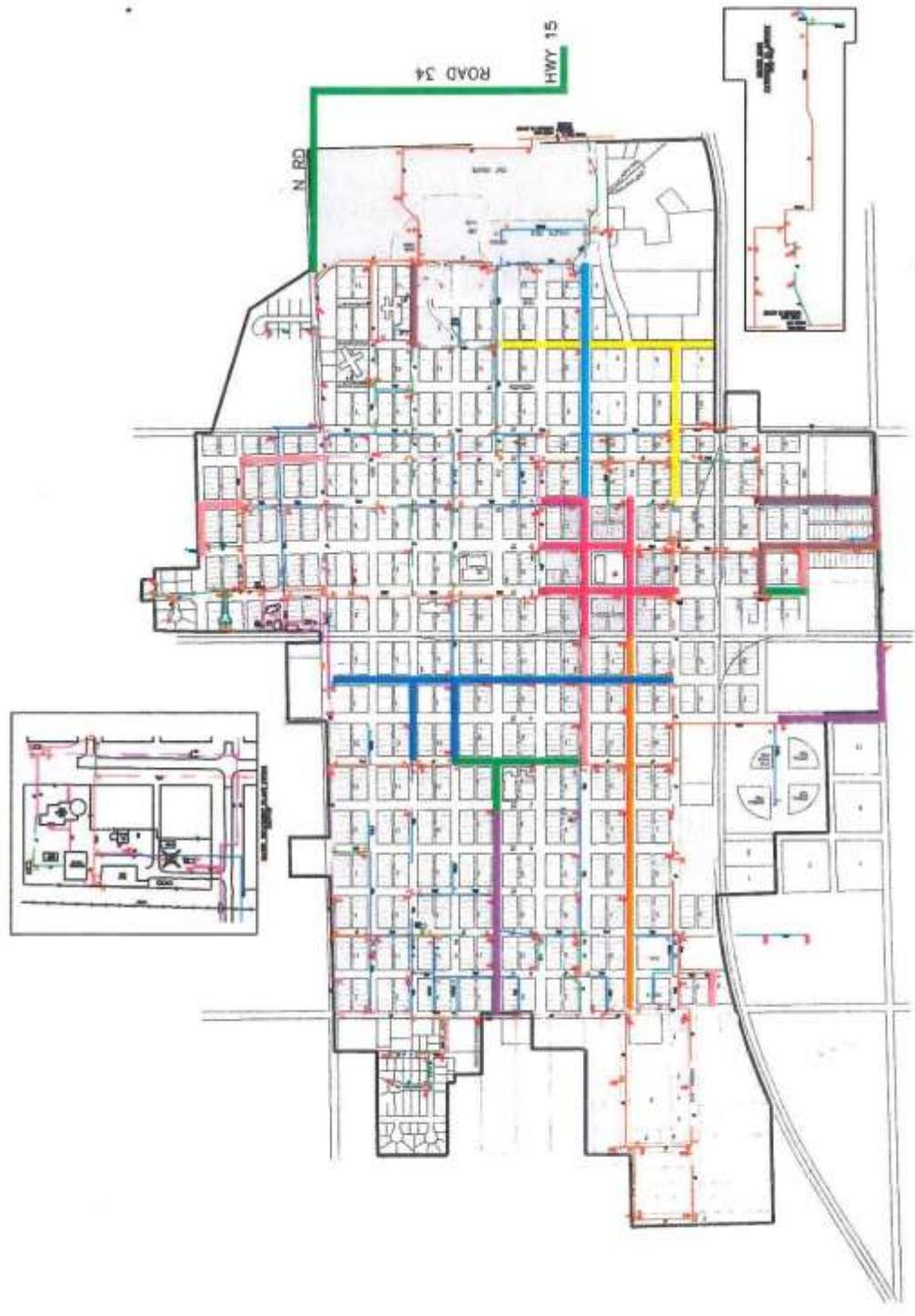
Dated: _____

If different from above,

Client's Designated Project Representative

- Attachments
- General Provisions
- Labor Rate Schedule
- Reimbursable Expense Schedule

DMC: F:\Projects\015-0094\40-Design\AutoCAD\Exhibits\David City Water Distribution Planning
 DATE: Sep 24, 2015 8:23am
 XREFS: WALL_MAP_WATER
 USER: hangel



PROJECT NO: 015-0094
 DRAWN BY: T.J.L.
 DATE: 09/24/2015

PROPOSED WATER SYSTEM IMPROVEMENTS
DAVID CITY, NE

MOLSSON
 ASSOCIATES

801 W. Grand, Suite 200
 P.O. Box 64008
 Lincoln, NE 68506
 TEL: 402.441.1111
 FAX: 402.441.0100

EXHIBIT

1

Council member Kroesing made a motion to have the City pay for employee's Hepatitis A & B shots due to the elements the employees are exposed to at work. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Smith, Hotovy, Kobus, and Kroesing. Voting NAY: None. The motion carried. (*It was later determined that if this is properly coded at the clinic, the shots should be covered by insurance as "Preventative care"*).

Council member Smith made a motion to pass Ordinance No. 1236 amending Ordinance No. 1060 – Zoning Ordinances – by adding Mobile Food Units to definitions, adding Section 4.25 Mobile Food Units, and amending Section 5.12.04 – Permitted Temporary use by adding #6 – Mobile Food Units. Council member Rogers seconded the motion. Voting AYE: Council members Kobus, Kroesing, Vandenberg, Hotovy, Rogers, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1236 was passed on 2nd reading only as follows:

ORDINANCE NO. 1236 - Passed on 2nd reading only

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 specific zoning districts; however, these uses shall be required to abide by the following requirements:

1. All units shall be located on vacant lots 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. 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 a vacant lot on personal property or in an enclosed structure.

SECTION 5.12 C-2 DOWNTOWN COMMERCIAL DISTRICT

5.12.04 Permitted Temporary Uses

6. 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 _____, 2015.

Passed on 2nd reading only

Mayor Alan Zavodny

Passed on 2nd reading only

City Clerk Joan Kovar

Chad Denker, Superintendent of David City High School, was present and distributed a site survey and pictures of the proposed addition to the High School. Chad stated: "Thought I would first give you an update on the designs just so you have an idea of what we are looking at in terms of hopefully the first of other additions, which probably doesn't interest you as much as the real reason I am here tonight, and that is the request to vacate 8th Street just east of the High School. The new addition is shown in gray with the black dotted lines. That's the new addition: that's the new weight room, commons, and concession area that we are proposing, hoping to break ground in March, and have it done in October. In order to do that though, we would like to put a plaza area and the entrance on the east side which would extend out onto the street, and so we are asking you, as of June 1, 2016, to close down one block of 8th Street from "D" to "E" Streets. We will put up some concrete posts or metal posts so we don't have people driving up north. Right now we only need the north half of that block for this first addition, but we do own the entire City block east of the High School, and so we are asking to go ahead and close down the whole thing because then we would take over the maintenance of that street, snow removal, those things come June 1st. As a side note, and I know we can't talk about it tonight but I have talked briefly with Joan and Tami in the Office, this addition extends into that tree line on the north side of the school and I'm not sure if there's anything additionally that we'll need to do in order to make that happen, so, I made sure that I gave you a drawing of that tonight as well. There's that row of trees on the north side of the High School and this property extends into that first row of trees."

Mayor Zavodny asked: "It's probably really clear, but given where the elementary school is and access to that parking lot, there would never be any consideration....because now this is starting to get to be more like a campus which is a good design, but that street, we don't ever see that..... looking at closing that down the road or anything? You'd kind of land lock your parking lot."

Chad stated: "I wouldn't think so. What this does also is it actually helps our traffic flow. Right now, before and after school, some of you can attest to how many accidents or near accidents you've seen. Right now after school you get east and west traffic there and then you get traffic coming south to north and it gets bottlenecked there after school anyway, so even if we weren't doing this new addition I would be here asking you to close that street down. This is the first phase of hopefully many phases in the future, that is why we own the block east of the High School, so Phase 2, if we would get to that point would be some new high school offices, we would also include some new security measures. That would literally be right on 8th Street and extending over to the east where the old maintenance building is; also looking at a theatre at some point down the road and that would be directly east of the current gym, so that too would sit right on 8th Street and extend to where that little white house is that Zeger's lived in (456 8th Street). So as we try to plan for the next 20 years, this would help us as we're developing our plans. I know Kevin and I are going to have to talk a lot about water mains and a few other things here in the next few years but I figure we can address those on an as needed basis. We're also hoping what this does by closing 8th Street, as we put additional parking to the east, after ball games people can walk across that street without worrying about any traffic coming from south to north because it will be blocked off."

Street Supervisor Rodney Rech stated: "The only thing I would ask is that when you set your poles on the north and south ends that you set them back off the curb at least 2' because when you're plowing snow you're rubbing the curb and I don't want to rub your pipe and take them out."

Council member Hotovy asked: "What about parking spaces that will be eliminated for the next school year and going forward? Are you confident you're going to be alright with parking and stuff?"

Chad Denker stated: "We're going to lose thirteen parking spots but we are supposed to be closing on half a City block here December 1st. The reason we bought those six lots is we're going to actually move our current bus parking down to those six lots and so that will hopefully give us about 30 more parking spots to more than make up for the thirteen we are losing right next to the building."

Council member Hotovy introduced Ordinance No. 1238 vacating 8th Street from the north side of "D" Street to the south side of "E" Street as requested by David City Public School District #56. Mayor Zavodny read Ordinance No. 1238 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Kobus, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1238 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Kobus, Kroesing, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1238 was passed on 3rd and final reading as follows:

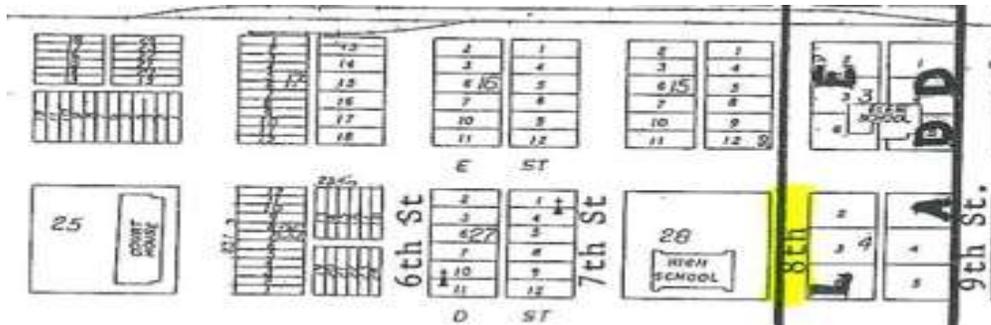
ORDINANCE NO. 1238

AN ORDINANCE VACATING 8th STREET FROM THE NORTH SIDE OF "D" STREET TO THE SOUTH SIDE OF "E" STREET, DAVID CITY, NEBRASKA; PROVIDING FOR THE FILING OF CLAIMS AND ASCERTAINMENT OF ALL DAMAGES SUSTAINED BY THE CITIZENS OF SAID CITY AND BY THE OWNERS OF PROPERTY THEREIN; PROVIDING FOR THE EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. That the vacation of 8th Street from the north side of "D" Street to the south side of "E" Street (80' x 300') was requested by the David City Public School District #56, 750 "D" Street, so that they may expand their facilities. David City Public School District #56 owns both blocks abutting 8th Street between "D" and "E" Street, described as Original Town of David City, Block 28, and Miles 1st Addition to David City, Block 4.

SECTION 3. That 8th Street from the north side of "D" Street to the south side of "E" Street (80' x 300') shall be vacated effective June 1, 2016.



SECTION 4. That the portion of vacated 8th Street (80' x 300') shall revert to the abutting property owners; that being David City Public School District #56.

SECTION 5. That the City of David City, Nebraska shall retain all utility easements located in the portion of the street (80' x 300') herein vacated as needed.

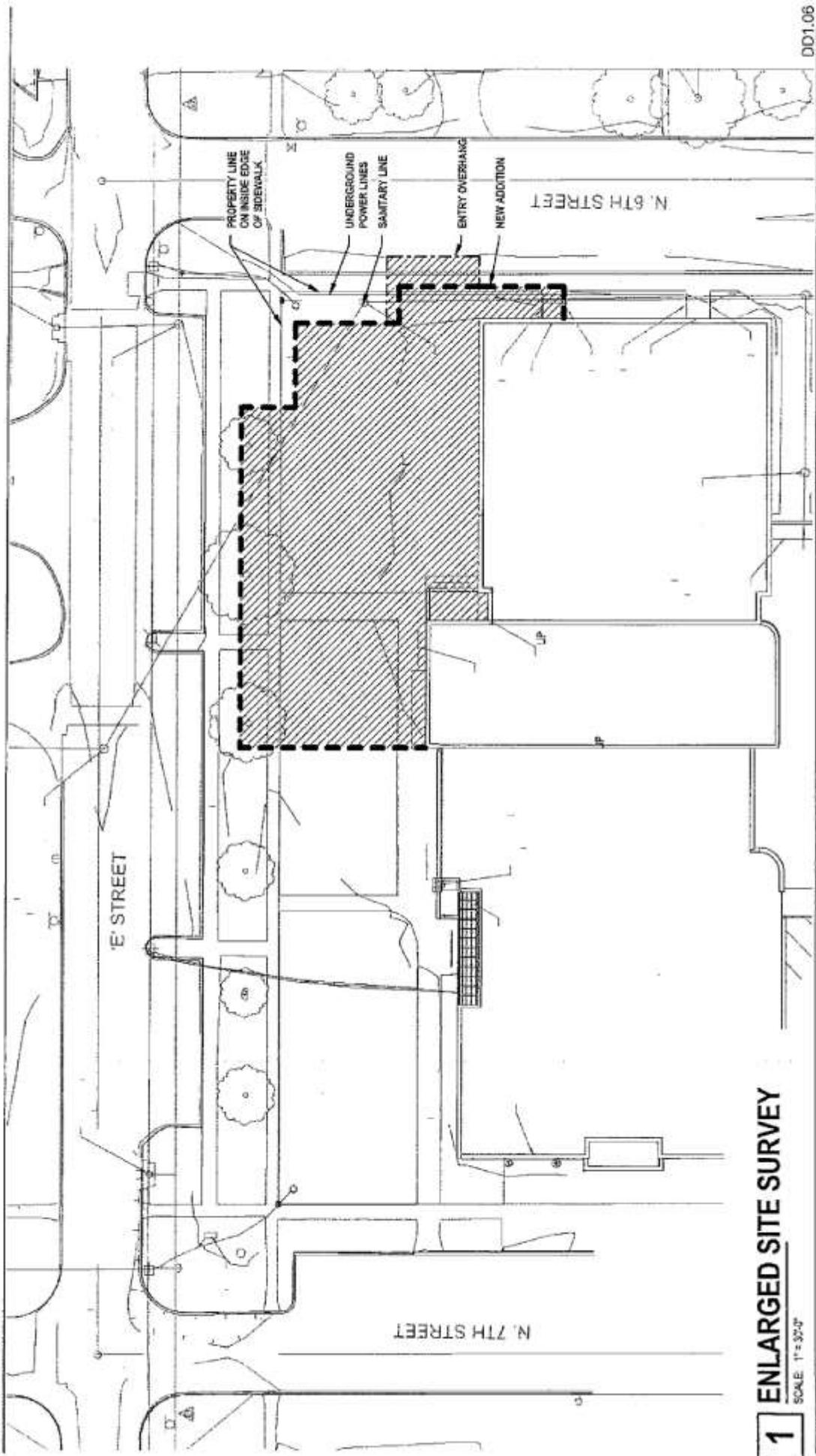
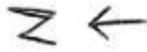
SECTION 6. That any citizen of the City or any owner of property therein may file a claim with the City Clerk of said City on or before the 9th day of December, 2015, for any and all damages sustained by the vacation aforesaid.

SECTION 7. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Passed and approved this 12th day of November, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

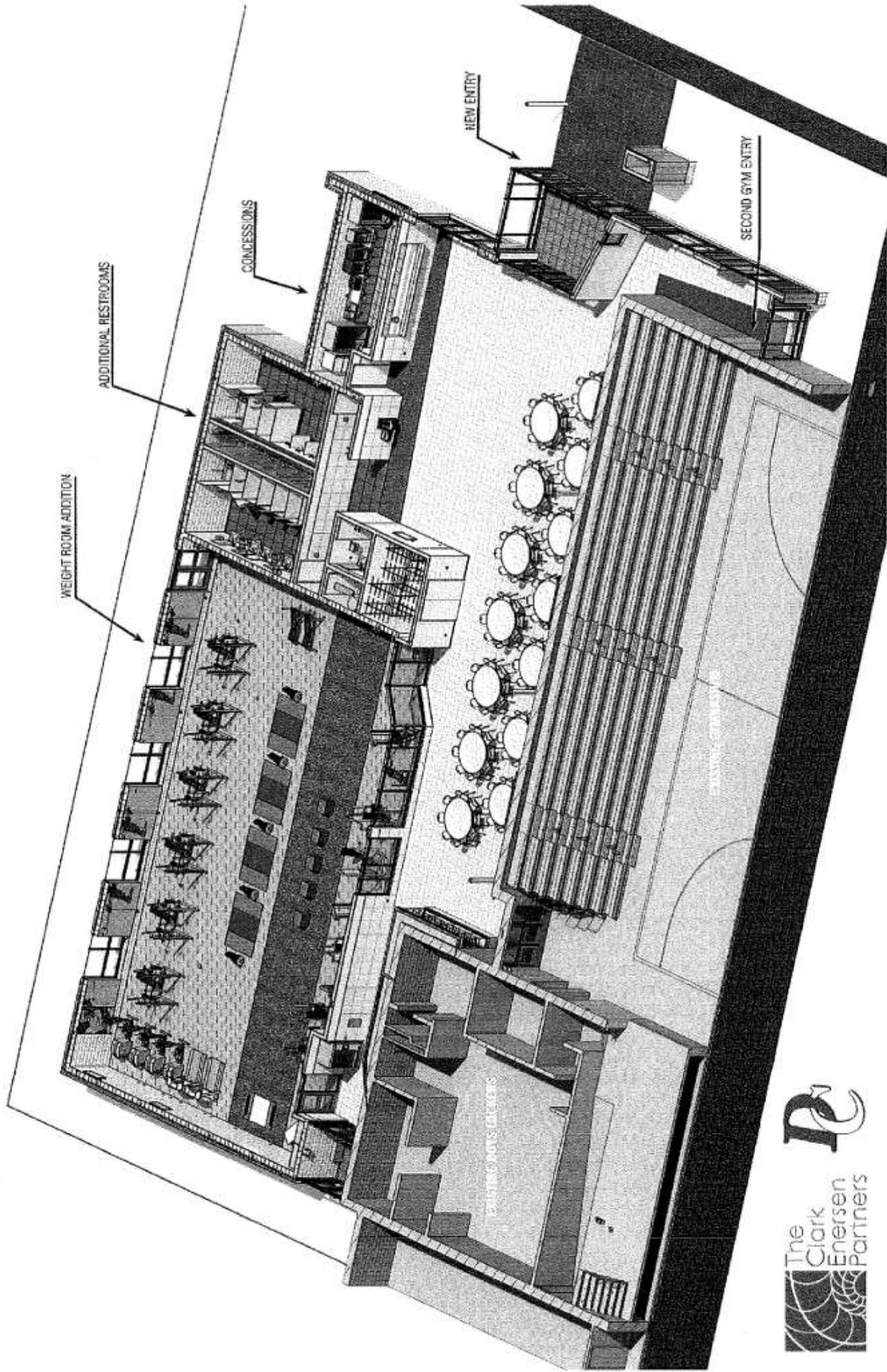


1 ENLARGED SITE SURVEY

SCALE: 1" = 30'-0"

DD1.06

David City Public Schools
David City High School



WEIGHT ROOM ADDITION

ADDITIONAL RESTROOMS

CONCESSIONS

NEW ENTRY

SECOND GYM ENTRY

EXISTING GYM LOCKERS



Council member Hotovy introduced Ordinance No. 1239 amending Ordinance No. 1040, Chapter 6 – Animal Regulations and Miscellaneous Misdemeanors. Mayor Zavodny read Ordinance No. 1239 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Kobus, Rogers, Kroesing, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1239 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Hotovy, Kobus, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1239 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1239

AN ORDINANCE AMENDING ORDINANCE NO. 1040 – CODIFYING THE GENERAL ORDINANCES OF THE MUNICIPALITY, BY AMENDING CHAPTER 6 OF THE DAVID CITY MUNICIPAL CODE BOOK; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

SECTION 1: Chapter 6 – Animal Regulations and Miscellaneous Misdemeanors, is hereby amended to read as follows:

Chapter 6

ANIMAL REGULATIONS & MISCELLANEOUS MISDEMEANORS

Article 1. Dogs

§6-101 **DOGS; LICENSE.** Any person who shall own, keep, or harbor a dog over the age of six (6) months within the Municipality shall within thirty (30) days after acquisition of the said dog acquire a license for each such dog. The renewal date for a dog license shall be the first (1st) day of January of each year. Licenses shall be issued by the Municipal Clerk upon the payment of a license fee of ten (\$10.00) dollars for each spayed or neutered dog, and twenty (\$20.00) for each dog not spayed or neutered. Said license shall not be transferable and no refund will be allowed in case of death, sale, or other disposition of the licensed dog. The owner shall state at the time the application is made and upon printed forms provided for such purpose, his name and address and the name, breed, color, and sex of each dog owned and kept by him/her. A certificate that the dog has had a rabies shot, effective for the ensuing year of the license, shall be presented when the license is applied for and no license or tag shall be issued until the certificate is shown. (Ref. 17-526, 54-603, 71-4402 RS Neb.)

§6-102 **DOGS; LICENSE TAGS.** Upon the payment of the license fee, the Municipal Clerk shall issue to the owner, a dog license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the

thirty-first (31st) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original tag was issued in accordance with the provisions herein, the Municipal Clerk shall issue a duplicate or new tag for the balance of the year at no charge. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the Municipal Clerk to issue tags of a suitable design that are different in appearance each year.

- §6-103** **DOGS; WRONGFUL LICENSING.** It shall be unlawful for the owner, keeper, or harbinger of any dog to permit or allow such dog to wear any license, metallic tag or other Municipal Identification than that issued by the Municipal Clerk for dogs, nor shall the owner, keeper, or harbinger wrongfully and knowingly license an un-spayed or un-neutered dog with a license prescribed for a neutered or spayed dog.
- §6-104** **DOGS; OWNER DEFINED.** Any person who shall harbor or permit any dog to be for ten (10) days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such dog and shall be deemed liable for all penalties herein prescribed. (*Ref. 54-606, 71-4401- 71-4402 RS Neb.*)
- §6-105** **DOGS; DANGEROUS DOGS.** It shall be the duty of the Governing Body whenever in its opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dangerous dogs shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least one foot. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten feet from any property line of the owner. The owner of the dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog is on the property. Each warning sign shall be no less than ten inches by twelve inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided. (*Ref. 54-619 thru 54-624 RS Neb.*)
- §6-106** **DOGS; UN-COLLARED.** All dogs found running at large upon the streets and public grounds of the Municipality without a collar or harness are hereby declared a public nuisance. Un-collared dogs found running at large may be killed by The Sheriff's Department. (*Ref. 54-604, 54-605 RS Neb.*)
- §6-107** **DOGS; RUNNING AT LARGE.** It shall be unlawful for the owner of any dog, whether licensed or unlicensed, to allow such dog to run at large in the Municipality. "Running at Large" shall mean any dog found off the premise of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. (*Ref. 17-526 RS Neb.*)

- §6-108** **DOGS; IMPOUNDMENT FEES WHEN DOGS LICENSED OR UNLICENSED ARE IMPOUNDED.** Impoundment of dogs within the City of David City, Nebraska, shall be accomplished by The Sheriff's Department or person(s) designated by the Mayor when found "running at large." There shall be a boarding fee for each day the dog is impounded by the City, which shall be the responsibility of the owner. In addition there shall be a general impoundment fee of five dollars (\$5.00) for the first impoundment of a dog during any license year; then ten dollars (\$10.00) for the second impoundment during any license year; fifteen dollars (\$15.00) for the third impoundment during any license year. All such fees, together with proof that a dog is licensed in accordance with the provisions of this Chapter, shall be paid before any dog is released. When all fees have been paid to the City, the dog may be returned to the owner.
- §6-109** **DOGS; CAPTURE IMPOSSIBLE.** The Sheriff's Department shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved. (*Ref. 54-604 RS Neb.*)
- §6-110** **DOGS; VICIOUS.** It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite. If any vicious or dangerous dog is allowed to run at large, The Sheriff's Department shall have the authority to put the dog to death. Upon the complaint of one (1) or more affected persons, filed with the Sheriff's Department, that any dog owned by the person named in the complaint is committing injury to persons or property, or is an annoyance, dangerous, offensive or unhealthy, The Sheriff's Department shall investigate the complaint and, if in their opinion the situation warrants, shall notify the owner to dispose of the dog. If The Sheriff's Department is unable to locate the owner of the dog, or if the owner of the dog fails to restrain such dog, the Sheriff's Department shall take custody of the dog, and impound said dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-108, before the dog will be released.
- §6-111** **DOGS; INTERFERENCE WITH SHERIFF.** It shall be unlawful for any person to hinder, delay, or interfere with any Sheriff or authorized deputy who is performing any duty enjoined upon him/her by the provisions of this Article. (*Ref. 28-906 RS Neb.*)
- §6-112** **DOGS; KILLING AND POISONING.** It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog.
- §6-113** **DOGS; BARKING AND OFFENSIVE.** It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any person or neighborhood, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. Upon the complaint of one (1) or more affected persons from different households, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section of the Municipal Code, the Sheriff's Department shall investigate the complaint and, if in the opinion the situation warrants, shall notify the owner to silence and restrain such dog. If the Sheriff's Department is unable to

locate the owner of the dog, or if the owner of the dog fails to silence and restrain such dog, the Sheriff's Department may take custody of the dog, and impound such dog. The owner of the dog shall be required to pay impoundment fees as set forth in Municipal Code 6-108, before the dog will be released.

§6-114 DOGS; LIABILITY OF OWNER. It shall be unlawful for any person to allow a dog owned, kept, or harbored by him/her, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained. (*Ref. 54-601, 54-602 RS Neb.*)

§6-115 DOGS; REMOVAL OF TAGS. It shall be unlawful for any person to remove or cause to be removed, the collar, harness, or metallic tag from any licensed dog without the consent of the owner, keeper, or possessor thereof.

§6-116 DOG AND CATS; LIMITATION OF NUMBERS WITHIN CITY LIMITS.
It shall be unlawful for the owner or occupant of any residence or premises within the City Limits of the City of David City, to own, keep, or harbor more than three (3) dogs, cats, or a combination of dogs and cats who are over the age of six (6) months.

Nothing in this provision shall alter or modify the provisions of the City Code concerning kennels within the City Limits of the City of David City, Nebraska. To the extent that the owner/occupant of the premises within the zoning jurisdiction of the City of David City, complies with zoning restrictions concerning a kennel, that ordinance shall remain in full force and effect.

Article 2. Animals Generally

§6-201 ANIMALS; RUNNING AT LARGE. It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to permit a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked out in such a manner so as to allow such animal to reach or pass into any public way.

§6-202 ANIMALS; CRUELTY. No person shall cruelly or unnecessarily beat, overwork, or insufficiently shelter or feed any animal within the Municipality.

§6-203 ANIMALS; KILLING AND INJURING. No person shall kill or injure any animal by the use of firearms, stones, clubs, poisons, or any other manner unless the animal is vicious or dangerous and cannot be captured without danger to the persons attempting to effect a capture of the said animal. (*Ref. 54-624 RS Neb.*)

§6-204 ANIMALS; ENCLOSURES. All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

§6-205 **FOWLS; RUNNING AT LARGE.** It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits, except in enclosed places on private property. (Ref. 17-547 RS Neb.)

§6-206 **ANIMALS; PROHIBITED WITHIN THE CORPORATE LIMITS.** It shall be unlawful for the owner, keeper, or harbinger of any livestock, namely cows, horses, sheep, goats, swine or mules, to keep such livestock within the corporate limits of the City of David City, Nebraska, except as provided herein. All properties, within the corporate limits, where any of the above listed livestock are being kept at the time of the passage of this ordinance, shall be permitted to continue to keep livestock.

Article 3. Exotic Animals

§6-301 **EXOTIC ANIMALS.** It shall be unlawful for any person to possess or sell any exotic animals. It is the intent of the City of David City to protect the public against health and safety risks that exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. Exotic animals are wild and potentially dangerous in a captive environment.

§6-302 **DEFINITIONS.**

A. "Animal control authority" means any agency designated by the mayor and city council responsible for animal control.

B. "Exotic animal" means those species of animals that are wild by nature, including any or all hybrids, which, because of habitat, mode of life, or natural instinct, are incapable of being completely domesticated, and require the exercise of art, force, or skill to keep them in subjection, whether bred in the wild or in captivity. Examples of wild or exotic animals include, but are not limited to hawks, owls, mink, monkeys, deer, skunks, alligators, crocodiles, caimans, raccoons, opossums, any cat not a member of the family felis domestica, including, but not limited to, tigers, lions, panthers, and lynxes, and any dog not a member of the family canis familiaris, including, but not limited to, wolves, foxes, and coyotes. All venomous snakes and non-venomous snakes including but not limited to Paupan python, Peruvian black-tailed boa, Guyana red-tailed boa, Suriname red-tailed boa, argentine boa, green anaconda, yellow anaconda, oenpelli python, amethystine python, bar-neck amethystine python, boelens python, Burmese python, tiger reticulated python dwarf reticulated python and African rock python. Also included as an exotic animal are the following types of lizards: gila monster, Mexican beaded lizard, Bengal monitor, gray's monitor, blackthroat monitor, gould's/sand monitor, nile monitor, green iguana, water monitor, lace monitor.

C. "Domestic Animal" means any of various animals domesticated by people to live and breed in a tame condition and shall include, but not limited to dogs, cats, ferrets, guinea pigs, rabbits and gerbils.

D. "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative thereof.

E. "Possessor" means any person who owns, possesses, keeps, harbors, brings

into the state, has in one's possession, acts as a custodian, or has custody or control of an exotic animal.

F. "Wildlife sanctuary" means a non-profit organization described in Section 170(b)(1)(A)(vi), Internal Revenue Code 1986, and its subsequent amendments, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced exotic animals are provided care for their lifetime or released back to their natural habitat and, with respect to any animal owned by the organization, does not: conduct any activity that is not inherent to the animal's nature; use the animal for any type of entertainment; sell, trade or barter the animal or the animal's body parts; or breed the animal for any purpose.

§6-303 **KEEPING OF EXOTIC ANIMALS PROHIBITED.** It shall be unlawful for any person within the corporate limits of the city to own, sell, possess, keep, harbor, bring into the city, have in one's possession, act as a custodian, or have custody or control of an exotic animal, except in compliance with this act.

It shall be unlawful for a person to breed an exotic animal.

§6-304 **EXOTIC ANIMALS; EXEMPTIONS.**

The provisions of this act shall not apply to:

Licensed Zoos and Aquariums.

Duly incorporated non-profit animal protection organizations.

Animal control or law enforcement agencies or officers.

Licensed veterinary hospitals or clinics.

Any wildlife sanctuary as defined under this act.

Any licensed or accredited research or medical institution.

Any licensed or accredited educational institution.

Any lawfully operated circus or rodeo.

Any person exempted by Nebraska law consistent with Chapter 37 of Neb. Rev. Stats.

§6-305 **EXOTIC ANIMALS; PERMITS.**

Any person owning an exotic pet with the exception of all venomous snakes, constricting snakes more than 7 feet in length, monkeys, deer, skunks, alligators, crocodiles, tigers, caimans, raccoons, any cat not a member of the family felis domestica, including, but not limited to lions tigers, panthers, and lynxes, and any dog not a member of the family canis familiaris, including, but not limited to, wolves, foxes, and coyotes on or before February 9, 2005 shall file for a permit with the City of David City. All exotic pets listed above are not covered by this exception and are banned under this ordinance. Each permit, which will be kept on file at the David City Office, shall include the owner's name, address, phone number, type of animal in possession and the animal's length and weight. The city administrator and the city clerk shall sign all permits. The owner shall then be responsible for filing another permit with the City of David City if he/she moves. If a new permit is not filed with the city within one month of the owner moving the owner will no longer be allowed to keep the specified animal within the corporate limits of David City. This exception does not cover owners who have had a pet die or who have sold a pet. (Ref 54-7, 105.01 RS Nebr.)

§6-306 **EXOTIC ANIMALS; ENFORCEMENT.** The city animal control authority, its staff, its agents, any city, county or state law enforcement officer, are authorized and empowered to enforce the provisions of this ordinance.

§6-307 **EXOTIC ANIMALS; INSPECTION.** The possessor of an exotic animal consistent with this act, at all reasonable times, shall allow the animal control authority, its staff, and its agents to enter the premises where the animal is kept to ensure compliance with this act.

§6-308 **EXOTIC ANIMALS; CONFISCATION AND DISPOSITION OF EXOTIC ANIMALS.**

A. The animal control authority or law enforcement officer may immediately confiscate any exotic animal if the animal is kept in contravention of this act. The possessor is liable for the costs of placement and care for the exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility.

B. If an exotic animal is confiscated due to the animal being kept in contravention of this act, the possessor must post a security bond or cash with the animal control authority in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal, including but not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The security bond or cash shall not prevent the animal control authority from disposing of the animal at the end of the thirty (30) days unless the person claiming the animal posts an additional security bond or cash with the animal control authority to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional thirty (30) days, and does so prior to the expiration of the first thirty (30) day period. The amount of the security bond or cash shall be determined by the animal control authority and based on the current rate to feed, provide medical care, and house the animal.

C. If a confiscated animal possessor cannot be located or if a confiscated animal remains unclaimed, in the discretion of the animal control authority, the animal control authority may contact an approved facility and allow the animal to be adopted by an authorized person or facility or may euthanize the animal.

D. If the exotic animal cannot be taken up or recaptured safely by the animal control authority or if proper and safe housing cannot be found the animal control authority may immediately euthanize the animal.

E. An exotic animal may be returned to the possessor only if, to the satisfaction of the animal control authority, the possessor is exempt from this act or has a legal possession permit, has corrected the conditions resulting in the confiscation, and has paid the cost of placement and care of the animal while under the care and control of the animal control authority.

§6-309 EXOTIC ANIMALS; PENALTIES.

Any person, upon violation of the provisions of this ordinance, who shall fail, neglect, or refuse to comply with any of the provisions of this section shall be in violation of this ordinance and upon conviction thereof, shall be fined as follows:

First violation	\$25.00 fine; forfeiture of animal
Second violation	\$50.00 fine; forfeiture of animal
Third violation	\$75.00 fine; forfeiture of animal
Fourth violation	\$100.00 fine; forfeiture of animal

Article 4. Miscellaneous Misdemeanors

§6-401 MISDEMEANORS; IMPERSONATING AN OFFICER. It shall be unlawful for any person other than a State or Federal Officer to wear an official badge or uniform, or to falsely and willfully impersonate the said officials. (Ref. 28-638, 28-609, 28-610 RS Neb.)

§6-402 MISDEMEANORS; RESISTING OFFICER. It shall be unlawful for any person to resist any Municipal Officer when lawfully requested to do so by him/her. Any person who refuses to assist an officer when lawfully requested to do so shall be fined in any amount not exceeding fifty (\$50.00) dollars. (Ref. 28-904 to 28-906 RS Neb.)

§6-403 MISDEMEANORS; ABUSING OFFICER. It shall be unlawful for any person to abuse a Sheriff's officer or Municipal official in the execution of his office. (Ref. 28-929, 28-931, 28-931.01 RS Neb.)

§6-404 MISDEMEANORS; TRESPASSING. It shall be unlawful for any person to trespass upon any private grounds within the Municipality, or to break, cut, or injure any tree, shrub, plant, flower, or grass growing thereon, or without the consent of the owner or occupant to enter upon an improved lot or grounds occupied for residence purposes and to loiter about the same. (Ref. 28-520 to 28-522 RS Neb.)

§6-405 MISDEMEANORS; MALICIOUS DESTRUCTION OF PROPERTY. It shall be unlawful for any person within the corporate limits to purposely, willfully, or maliciously injure in any manner, or destroy real or personal property of any description belonging to another. (Ref. 28-519 RS Neb.)

§6-406 MISDEMEANORS; THEFT BY DECEPTION. It shall be unlawful for any person within the corporate limits to obtain property of another by deception. A person deceives if he intentionally:

- (1) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; or
- (2) Prevents another from acquiring information which would affect his judgment of a transaction; or

- (3) Fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or
- (4) Uses a credit card, charge plate, or any other instrument which purports to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer (a) where such instrument has been stolen, forged, revoked, or canceled, or where for any other reason its use by the actor is unauthorized, or (b) where the actor does not have the intention and ability to meet all obligations to the issuer arising out of his use of the instrument.

The word deceive does not include falsity as to matters having no pecuniary significance, or statements unlikely to deceive ordinary persons in the group addressed. (*Ref. 28-512 RS Neb.*)

§6-407 **MISDEMEANORS; THEFT OF PROPERTY.** It shall be unlawful for any person within the corporate limits who comes into control of property of another that he or she knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to a person entitled to have it. Any person violating the provisions of this section shall, upon conviction thereof, be punished by the penalty prescribed in the next lower classification below the value of the item lost, mislaid, or delivered under a mistake pursuant to section 28-518. Any person convicted pursuant to this section when the value of the property is five hundred dollars or less shall be guilty of a Class III misdemeanor for the first conviction, a Class II misdemeanor for the second conviction, and a Class I misdemeanor for the third or subsequent conviction. (*Ref. 28-514 RS Neb.*)

§6-408 **MISDEMEANORS; INJURY TO TREES.** It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy the fruit of any trees planted or growing in the corporate limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Governing Body to do so, and the written permit of the Governing Body in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so.

§6-409 **MISDEMEANORS; DRINKING IN PUBLIC.** It shall be unlawful for any person to consume alcoholic beverages in the public streets, alleys, roads, highways, or upon any property owned by the Municipality or other governmental subdivision thereof, or inside vehicles while upon the public streets, alleys, roads, or highways, except when said consumption is in accordance with the provisions of the Nebraska Liquor Control Act and the licensing requirements of the State of Nebraska (*Ref. 53-186, 53-186.01 RS Neb.*)

§6-410 **MISDEMEANORS; MINOR IN POSSESSION.** Except as provided in Section 53-168.06, no minor may sell, dispense, consume, or have in his or her possession or physical control any alcoholic liquor in any tavern or in any other place, including public streets, alleys, roads, or highways, upon property owned by the State of Nebraska or any subdivision thereof, or inside any vehicle while in or on any other place, including, but not limited to, the public streets, alleys,

roads, or highways, or upon property owned by the State of Nebraska or any subdivision thereof, except that a minor may consume, possess, or have physical control of alcoholic liquor in his or her permanent place of residence or on the premises of a place of religious worship on which premises alcoholic liquor is consumed as a part of a religious rite, ritual, or ceremony

The governing body shall have the power to, and may by applicable resolution or ordinance, regulate, suppress, and control the transportation, consumption, or knowing possession of or having under his or her control beer or other alcoholic liquor in or transported by any motor vehicle, by any person under twenty-one years of age, and may provide penalties for violations of such resolution or ordinance.

- §6-411** **MISDEMEANORS; POSTED ADVERTISEMENTS.** It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted, and the same remains of value.
- §6-412** **MISDEMEANORS; POSTING.** It shall be unlawful for any person to post, paste, or paint any sign, advertisement, or other writing of any nature upon a fence, pole, building, or other property without the written permission of the owner of the said property.
- §6-413** **MISDEMEANORS; DISCHARGE OF FIREARMS.** It shall be unlawful for any person, except an officer of the law in the discharge of his official duty, to discharge firearms, rockets, powder, fireworks, or any other dangerous combustible material in the streets, lots, grounds, alleys, or about or in the vicinity of any buildings; to regulate, prevent, and punish the carrying of concealed weapons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act; and to arrest, regulate, punish, fine, or set at work on the streets or elsewhere all vagrants and persons found without means of support or some legitimate business. *(Ref. 17-556 RS Neb.)*
- §6-414** **MISDEMEANORS; CONCEALED WEAPONS.** It shall be unlawful for any person or persons to carry about their person any concealed pistol, revolver, knife, billy club, sling-shot, metal knuckles, or other dangerous weapon of any kind. Nothing herein shall be construed to apply to The Sheriff's Department. *(Ref. 28-1202, 28-1204 RS Neb.)*
- §6-415** **MISDEMEANORS; SLINGSHOTS, AIR GUNS, BB GUNS, ARCHERY EQUIPMENT, INCLUDING CROSSBOWS AND ANY OTHER PROJECTILE WEAPONS OR DEVICES.**
- (1)** It shall be unlawful for any person to discharge a slingshot, air gun, BB gun, paint ball gun or the like loaded with rock or other dangerous missiles at any time or under any circumstances within the municipality.
 - (2)** It shall be unlawful for any person using archery equipment including crossbows, within the corporate limits, without having at least a 6' x 8' plywood backstop, three-quarters inch (3/4") thick or of a comparable material of at least the same dimensions and depth to provide the necessary stopping power for the equipment being used.

- §6-416** **MISDEMEANORS; FIRECRACKERS.** It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers, except:
- (1) Any display fireworks purchased from a licensed distributor; or
 - (2) Any display fireworks purchased by the holder of a display permit issued pursuant to section 28-1239.01; or
 - (3) Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this state; or
 - (4) Any fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal to any holder of a distributor's license; or
 - (5) Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a grain of explosive material. (*Ref. 28-1245 RS Neb.*)
- §6-417** **MISDEMEANORS; ASSAULTS.** It shall be unlawful for any person to assault or threaten any other person or persons. Any person who assaults another person or persons shall be deemed to be guilty of a misdemeanor.
- §6-418** **MISDEMEANORS; PROVOKING ASSAULT.** It shall be unlawful for any person or persons within the Municipality to intentionally provoke or attempt to provoke an assault upon him/herself or another by the uttering of insulting words, cursing and swearing, or to use slander against any other person.
- §6-419** **MISDEMEANORS; MENACING THREATS.** It is hereby declared unlawful for any person within the corporate limits of this Municipality to assault or threaten another in a menacing manner or strike or injure another.
- §6-420** **MISDEMEANORS; ASSAULT AND BATTERY.** It shall be unlawful for any person to assault, threaten, strike, or injure any other person or persons. Any person who assaults or batters another person or persons shall be deemed to be guilty of a misdemeanor. (*Ref. 28-309, 28-310 RS Neb.*)
- §6-421** **MISDEMEANORS; DISTURBING THE PEACE.** It shall be unlawful for any person or persons to assemble or gather within the Municipality with the intent to do an unlawful or disorderly act or acts, by force or violence against the Municipality, or resident therein, or who shall disturb the public peace, quiet, security, repose, or sense of morality. Any person or persons so assembled or gathered shall be deemed to be guilty of a misdemeanor. (*Ref. 28-1322, 55-474 RS Neb.*)
- §6-422** **MISDEMEANORS; DISORDERLY CONDUCT.** Any person who shall knowingly start a fight, fight, commit assault or battery, make unnecessary noise, or otherwise conduct themselves in such a way as to breach the peace shall be deemed to be guilty of a misdemeanor. (*Ref. 17-129, 17-556 RS Neb.*)
- §6-423** **MISDEMEANORS; LITTERING.** It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body, any rubbish, debris, grass, leaves, or waste, and any person so doing shall be guilty of littering. (*Ref. 39-311, 28-523 RS Neb.*)

- §6-424** **MISDEMEANORS; PROHIBITED FENCES.** It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits.
- §6-425** **MISDEMEANORS; APPLIANCES IN YARD.** (1) It shall be unlawful for any person to permit a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance to be in the open and accessible to children whether on private or public property and possession of the same shall be deemed a nuisance.
(2) Upon the report being received by a City employee of a refrigerator, icebox, freezer or any other dangerous appliance being in the open and accessible to children, whether on private or public property, or, upon observation by a Sheriff's officer of a refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or any other dangerous appliance being in the open and accessible to children, whether on private or public property, the Sheriff's Department shall serve notice to the owner of said refrigerator, icebox, freezer, or any other dangerous appliance to remove same within five (5) days. In the event that the refrigerator, icebox, freezer, stove, range, clothes washing machine, clothes dryer, dish washing machine, or other dangerous appliance is not removed within the five (5) days, the City will remove or cause to be removed said appliance(s) and assess the expense of the removal to the owner of said appliance(s). (*Ref. 17-563, 18-1720 RS Neb.*)
- §6-426** **MISDEMEANORS; OBSTRUCTION OF PUBLIC.** It shall be unlawful for any person to erect, maintain, park, or suffer to remain on any street, alley, or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same.
- §6-427** **MISDEMEANORS; OBSTRUCTING WATER FLOW.** It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.
- §6-428** **MISDEMEANORS; REMOVING DIRT.** It shall be unlawful for any person to remove, disturb, or take away from any street, alley, or public grounds any dirt, earth, stones, or other materials forming a part of such street, alley, or public grounds without first having obtained written permission to do so from the Governing Body.
- §6-429** **MISDEMEANORS; WEED REMOVAL.**
- (1) It shall be a nuisance to permit or maintain any growth of eight inches (8") or more in height of weeds, grasses, or worthless vegetation. It shall be the duty of each owner or owner's duly authorized agent or occupant of real estate in the Municipality to cut and clear such real estate, together with one-half (½) of the streets and alleys abutting thereon, of all weeds, grasses or worthless vegetation that are noxious, obstruct travel on public ways, or create a fire or health hazard. Such weeds, grasses and worthless vegetation shall be cut so as not to extend more than eight inches (8") in height above the ground. Subsequent to the cutting of the said weeds, grasses and worthless vegetation, all loose vegetation shall be immediately removed. Upon the failure of the owner or owner's duly authorized agent or occupant having control of any real estate to cut and clear the said weeds, grasses and worthless vegetation as set forth hereinbefore, the County Sheriff, or designated officer, shall give notice to abate and remove such

nuisance to each owner or owner's duly authorized agent or occupant, if any, by personal service or first-class mail which has been conspicuously marked as to its importance. Within five (5) days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by the Mayor and City Council. A decision on the appeal shall be rendered within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. Within five days after receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing with the city, or fails to comply with the order to abate and remove the nuisance, the city may have such work done, and the cost thereof shall be paid by the owner. (*Ref. 17-563 RS Neb.*)

(2) The cost and expenses of any such work shall be paid by the property owner. If unpaid for two months after such work is done, the Municipality may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (b) recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining street and alleys. (*Ref. 17-563 RS Neb.*)

(3) For purposes of this section:

- (a) Litter includes, but is not limit to: (i) trash, rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood, plaster, cement, brick, or stone building rubble; (iii) grass, leaves, and worthless vegetation; (iv) offal and dead animals; and (v) any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and
- (b) Weeds includes, but is not limited to, bindweed, puncture vine, leafy spurge, Canada thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp plant, and ragweed. (*Ref. 17-563 RS Neb.*)

§6-430 MISDEMEANORS; ABANDONED AUTOMOBILES.

- (1) A motor vehicle, all-terrain vehicle, a utility-type vehicle, or a mini-bike is an abandoned vehicle:
 - (a) If left unattended, with no license plates or valid In Transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, for more than six hours on any public property;
 - (b) If left unattended for more than twenty-four hours, on any public property, except a portion thereof on which parking is legally permitted;
 - (c) If left unattended for more than forty-eight hours, after the parking of such vehicle has become illegal, if left on a portion of any public property on which parking is legally permitted;

- (d) If left unattended for more than seven days on private property if left initially without permission of the owner, or after permission of the owner is terminated;
 - (e) If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner; or
 - (f) If left unattended for more than seven days on private property, and the Municipality or Sheriff's Department has determined such vehicle to be abandoned, unlicensed, junked, inoperable, discarded, stored on private property in Residential areas, or deteriorating the value of neighboring property. (RS 60-1901)
- (2) The Sheriff's Department, on behalf of the Municipality, shall notify the last-registered owner, if any, that the vehicle in question has been determined to be an abandoned vehicle and that, (a) if unclaimed within seven days from the date such notice was mailed, the vehicle will be towed and (b) if not claimed within thirty days of towing, the vehicle will be disposed of pursuant to Section 7. If the agency described in Section 6 (a) or (b) also notifies the local authority or state agency that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee.
- (3) A Municipal employee or the Sheriff's Department shall cause the vehicle to be towed. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. (RS 60-1903)

The following charges for towing and storage will apply:

Towing: \$60.00 minimum charge plus sales tax, and

Storage Fees: \$25.00 minimum charge plus \$25.00 for each additional day.

The towing and storage fee charges shall be paid to the Municipal Clerk prior to the release of the vehicle. After the payment of all fees in full, the Municipal Clerk shall arrange for the release of the vehicle(s).

- (4) A mobile home is an abandoned vehicle if left in place on private property for more than thirty days after a local governmental unit has sent a certified letter to each of the last-registered owners and posted a notice on the mobile home, stating that the mobile home is subject to sale or auction or vesting of title. (Mobile home means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. (RS 71-4603) Mobile home does not include a mobile home or manufactured home for which an affidavit of affixture has been recorded. (RS 60-1901 & 60-1903)
- (5) If an abandoned vehicle, at the time of abandonment, has no license plates of the current year or valid In Transit stickers affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of two hundred fifty dollars or less, title shall immediately vest in the Municipality having jurisdiction thereof. Any certificate of title issued under this section to the Municipality shall be issued at no cost to such authority or agency. (RS 60-1902)
- (6) The Sheriff's Department, on behalf of the Municipality having custody of an abandoned vehicle, shall make an inquiry concerning the last registered owner of such vehicle as follows:

- (a) Abandoned vehicle with license plates affixed, to the jurisdiction which issued such license plates; or
 - (b) Abandoned vehicle with no license plates affixed, to the Department of Motor Vehicles.
- (7) The towed vehicles, if unclaimed after thirty days from the date that it was towed, either (a) will be sold or will be offered at public auction or (b) title will vest in the Municipality.
- (8) Title to an abandoned vehicle, if unclaimed, shall vest in the Municipality (a) if the vehicle will be sold or offered at public auction under 6(a) of this section, (b) thirty days after the date the notice is mailed if the Municipality will retain the vehicle, or (c) if the last registered owner cannot be ascertained, when notice of such fact is received. (Ref. 60-1903)
- (9) After title to the abandoned vehicle vests pursuant to subsection (8) of this section, the Municipality may retain for use, sell, or auction the abandoned vehicle. If the Municipality has determined that the vehicle should be retained for use, the Municipality at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the Municipality intends to retain the abandoned vehicle for its use and that title will vest in the Municipality thirty days after the publication. (RS 60-1903)
- (10) Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the Municipality or Sheriff's Department shall be held by the City without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, the proceeds shall be paid into the general fund of the City. (RS 60-1904 – 60-1905)

§6-431 **MISDEMEANORS; DISCHARGING PROJECTILES.** It shall be unlawful for any person to discharge or release any instrument which propels a projectile across or into any public place or in the private property of another person.
(Ordinance #1122, 2/10/10)

Article 5. Penal Provisions

§6-501 **VIOLATION; PENALTY.** Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§6-502 **ABATEMENT OF NUISANCE.** Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.
Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. (Ref. 18-1720, 18-1722 RS Neb.)

SECTION 2. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASSED AND APPROVED this 12th day of November, 2015.

Mayor Alan Zavodny

City Clerk Joan Kovar

Emergency Notification Software was discussed as follows:

Company

Nixle	\$3,000 Annually Up to 10,000 citizens Unlimited use	\$250 One Time Installation * (* could possibly waive)
Iris	.60 cents per user per year Unlimited Service 2,950	No set up charges
Blackboard	\$1.92 / recipient / yr. Unlimited use	\$957.13 License Fee annually

Council member Hotovy stated: "Is your office going to be the liaison with IRIS, with this technology, to be sending these messages out? If the Department Heads are going to have an issue do they bring them to you, or to your office, and your people are going to be the ones doing it, because I can see multiple ways this can be used but how is it implemented? I don't want to be creating a bigger headache, but there's going to have to be a way this is done and done every time so it's consistent and done correctly."

Mayor Zavodny stated: "I thought of that too. Someone moves, you have to take them off the IRIS list, add people as they move to town. I think the uses of this are almost limitless for notifying someone that there's been a main break, etc. It's up to us how much or how little we use it, so I think it's a really good thing, and come a disaster we will be very glad we have something like this." Mayor Zavodny stated that he agreed that the City Office Staff should handle the notifications.

Council member Smith made a motion to select Immediate Response Information System (IRIS) / TechRadium for an emergency notification system for the City/Utilities. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Rogers, Hotovy, Kroesing, Kobus, and Smith. Voting NAY: None. The motion carried.

Council member Kroesing introduced Ordinance No. 1240 revising the penalty concerning all-terrain vehicles. Mayor Zavodny read Ordinance No. 1240 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Hotovy, Rogers, Vandenberg, Kobus, Kroesing, and Smith. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1240 on the third and final reading. Council member Kroesing seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Hotovy, Rogers, Kroesing, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1240 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1240

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of all-terrain vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that all-terrain vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (A) Any person desiring to operate an all-terrain vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said all-terrain vehicle.

- (B) A non-refundable application fee of \$50.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (C) The permit is valid from January 1 to December 31 of the current year;
- (D) Operators of all-terrain vehicles must be at least 21 years of age and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (E) All-terrain vehicles may be operated only between the hours of sunrise and sunset.
- (F) Operators shall have liability insurance coverage for the all-terrain vehicles effective while operating the same within the corporate limits of the City.
- (G) Operators shall not operate an all-terrain vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (H) A person operating an all-terrain vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (I) When a person is operating an all-terrain vehicle the headlight and taillight of said vehicle should be on.
- (J) When a person is operating an all-terrain vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (K) When operating an all-terrain vehicle, the operator must follow and obey all rules of the road.
- (L) An all-terrain vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
 - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
 - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: PENALTY

Any person violating the terms of this Ordinance shall be guilty of a Class V Misdemeanor as defined in Section 28-106(1) of the Revised Statutes of Nebraska as amended from time to time.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, since it is the express intent of the Mayor and City Council to enact each section, subsection, clause or phrase separately.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASSED AND APPROVED this 12th day of November, 2015.

Mayor Alan Zavodny

ATTEST:
(Seal)

City Clerk Joan Kovar

Council member Kroesing introduced Ordinance No. 1241 revising the penalty concerning utility type vehicles. Mayor Zavodny read Ordinance No. 1241 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Vandenberg, Hotovy, Kobus, Rogers, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1241 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Kroesing, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1241 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1241

AN ORDINANCE AUTHORIZING THE OPERATION OF UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF DAVID CITY, NEBRASKA; TO ESTABLISH CONDITIONS OF OPERATION OF THE SAME; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

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

SECTION 1: Pursuant to Section 60-6,356(7) of the Revised Statutes of Nebraska, Reissue of 2010, a City may adopt an Ordinance authorizing the operation of utility-type vehicles.

SECTION 2: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that utility-type vehicles should be authorized to be operated within the corporate limits of the City in accordance with Section 60-6,356(3) of the Revised Statutes of Nebraska, Reissue of 2010.

SECTION 3: It is hereby found and determined by the Mayor and City Council of the City of David City, Nebraska that the following restrictions for the operation of all-terrain vehicles within the corporate limits of the City be as follows:

- (M) Any person desiring to operate a utility-type vehicle upon the public streets of the City of David City, Nebraska, other than in parades which have been authorized by the mayor and City Council of David City, Nebraska, and which has not been specifically prohibited to be upon the public streets of the City of David City, Nebraska, shall first apply for a permit upon application forms furnished by the City Clerk and receive from the City Clerk a permit for said utility-type vehicle.
- (N) A non-refundable application fee of \$50.00 shall accompany each application. Further, Applicant shall pay all other expenses and costs associated with Applicant's application.
- (O) The permit is valid from January 1 through December 31 of the current year;
- (P) Operators of utility-type vehicles must be at least 21 years of age and have a valid Class "O" operator's license or a farm permit as provided in Section 60-4,126 of the Revised Statutes of Nebraska, Reissue 2010.
- (Q) Utility-type vehicles may be operated only between the hours of sunrise and sunset.
- (R) Operators shall follow and obey all rules of the road.
- (S) Operators shall have liability insurance coverage for the utility-type vehicles effective while operating the same within the corporate limits of the City.

- (T) Operators shall not operate a utility-type vehicle at a speed in excess of thirty (30) miles per hour on highways and not to exceed the speed limit posted or provided in Nebraska Statutes, whichever is less, within the corporate limits of the City.
- (U) A person operating a utility-type vehicle shall provide proof of insurance coverage for the same to any peace officer requesting such proof within five (5) days of such request.
- (V) When a person is operating a utility-type vehicle the headlight and taillight of said vehicle should be on.
- (W) When a person is operating a utility-type vehicle, it shall have the same equipped with a bicycle safety flag which extends not less than five feet (5') above ground attached to the rear of the vehicle. Said safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.
- (X) A utility-type vehicle may be operated without complying with the aforesaid paragraphs for the crossing of a highway only if:
 - (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway.
 - (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.
 - (4) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway.

SECTION 4: PENALTY

Any person violating the terms of this Ordinance shall be guilty of a Class V Misdemeanor as defined in Section 28-106(1) of the Revised Statutes of Nebraska as amended from time to time.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASS AND APPROVED this 12th day of November, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Jared Storm of Storm Land Holdings, LLC, provided an update stating: "I was going to update everybody on our project at the Airport. We have the water line pretty much in; the Olsson Associates Engineer that oversaw that project did a really good job with that as far as making sure they were doing what they supposed to be doing. We are trying to set a date when we can move into the building and talking to the FAA about that we came up with June 1, 2016. The last thing we have to do is come up with a taxi way from our building to the run way. So, I put together a packet of bids and what we are proposing because right now, we don't have any formal way of getting from our building to the runway. It's not ever been really discussed or formalized. I tried to get as much information as I could. We kind of proposed we go on the north route, the shortest route, relocating that one T-hangar, and then we have the breakdown, the costs of the bids. I took bids from Shane O'Dell and Joe Kobus to do dirt work and Tony Lierman of Wahoo does flatwork and dirt work as well. The cost to move it by Scribs; his bid."

City Clerk Kovar asked: "Is this the only plan you have for a taxi way, to move that hangar, because I thought the Department of Aeronautics said they were against that because they saw it as a safety issue?"

Eric Johnson <ejohnson@kirkham.com> Mar 5 at 3:41 PM
To: Gary Peters (gary.peters@chiefind.com)
CC: Jared Storm (jmstorm123@yahoo.com)

Hi Gary,

We are working on our scope of services for the civil portions of this project. With the new layout you provided Tiffany, the attached is how it will look on the site. Also, please note that we placed the proposed t-hangar further easterly which will save some costs for the City and provide more area for future development directly east of the highway and, works better for Airport Hangar development. Please verify that we have the building positioned correctly.

Also, during our pre-design conference, FAA indicated that if the City removes a hangar, one stall in the new hangar will not be eligible for funding. However, it is our understating if they remove and replace or relocate the existing hangar, the total project would be eligible for full funding. We will need something in writing from FAA for clarification. This is a City determination and we can make your taxiway work at any location.

David Scribner <scribsmoving@yahoo.com> Oct 21 at 7:35 AM
To: jmstorm123@yahoo.com

Mr. Storm,

Dave Scribner came to the David City Airport and looked over your project. Our price for moving your metal building out there would be 4,500 dollars.

Thank you for the opportunity to bid on your project, and we wish you the best of luck on your new business in our community.

Bill Scribner
Scrib's Moving and Heavy Hauling

Joe Kobus
Mid Nebraska Grading
402-672-6258

Airport Taxiway Bid (as given in a phone conversation on 11/10/15)
Option 1 (Short way): \$25,510
Option 2 (Long way): \$43,000

Lierman Excavating Co. Inc

1490 N. Chestnut
P.O. Box 265
Wahoo, NE 68066

Estimate

Date	Estimate #
11/4/2015	71

Name / Address
Jared Storm

			Project
Description	Qty	Rate	Total
(option #1 north road)Concrete paving for new Hershey flying service building in David City,NE - Bid Includes: 425' x 25' x 6" road with rebar reinforcing for all control joints and 1500 additional square feet of of 6" concrete for transition into existing approach	12,125	4.90	59,412.50
(option # 2 south road) 715' x 25' x 6" concrete paving with rebar reinforcing for all control joints and 1500 additional square feet of 6" concrete for transition into existing approach	19,375	4.90	94,937.50
Importing dirt as needed, grading for road, subgrade prep, soil testing, backfilling, final grading for option #1	1	17,500.00	17,500.00
Importing dirt as needed, grading for road, subgrade prep, soil testing, backfilling, final grading for option #2	1	39,750.00	39,750.00
<p><i>Straight Taxiway - 76,912.50 Total Cost (4,500 to move building)</i></p> <p><i>5" shape Taxiway - 134,687.50 Total Cost</i></p>			
Please call with any questions or comments 402-432-9626		Total	931,500.00

Home Ph. (402) 542-2160
Cell Ph. (402) 432-1369

O'DELL

SHANE O'DELL
P.O. Box 113
Rising City, NE 68658

CONCRETE and CONSTRUCTION

Performing all types of Concrete Construction
Specializing in Textured Concrete

BID PROPOSAL

JOB NAME & LOCATION:

DATE 10-27-15

Airport David City

MATERIALS:

LABOR:

<u>432' x 25' x 6" + Approx 1,500 Square Foot</u>	<u>\$52,275.-</u>
<u>Rebar</u>	<u>\$2,860.-</u>
<u>total</u>	<u>\$55,135.-</u>
<u>700' x 25' x 6" + Approx 1,500 Square Foot</u>	<u>\$0,750.-</u>
<u>Rebar</u>	<u>4,810.-</u>
<u>Total</u>	<u>\$5,560.-</u>
<u>3500 PSI with 10% Reck Concrete Labor on 2' Centers</u>	

We propose hereby to furnish material and labor-complete in accordance with above specifications, for the total sum of: \$ _____.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Owner to carry fire, tornado and other necessary insurance.

Acceptance of Proposal:

Signature _____ Date _____

Signature _____ Date _____

A service charge of 1.5% per month will be applied to all past due balances.

David City Airport Taxiway Summary

Hershey Flying Service

11/12/15

Summary of Options:

Option 1 (Shortway):

- About 430 feet from building to apron directly East and West
- Must move existing T-Hangar
- Hugs the fence line and leaves valuable land open for future development

Option 2 (Longer "S" Shape):

- About 700 feet from building to apron in an "S" shape pattern
- Do not need to move any existing buildings but must take into account the layout of future T-hangars and other expansion projects
- Blocks a considerable amount of valuable land for future development

Summary of Bids:

Option 1:

- O'Dell + Kobus + Scribs = \$85,145
- Lierman + Scribs = \$81,412.50

Option 2:

- O'Dell + Kobus = \$128,560
- Lierman = \$134,687.50

Difference between Option 1 and Option 2:

- O'Dell (\$128,560 - \$85,145) = \$43,415
- Lierman (\$134,687.50 - \$81,412.50) = \$53,275

Jared Storm stated that he highlighted the section about relocating the existing hangar on the letter dated March 5, from Eric Johnson. Jared stated this is the first time he had ever heard anything about a safety issue and questioned what the safety issue was. It was stated that he would be coming from behind the existing hangars onto the runway. Street Supervisor Rodney Rech and Council President Gary Kroesing agreed that they had both heard that also. Discussion followed.

Jared Storm stated: "If you do an S shaped taxi way out of our building and tie into their project, this whole area here now is, how are you ever going to develop that? You're just going to have a taxi way."

City Attorney Egr stated: "We have been waiting for over a month to get approval on the new leases on Bryon Forney and Jared Storm and we are still waiting on approval. I submitted them to both Andre Amay (Nebraska Department of Aeronautics Deputy Director and Legal Counsel) and Lynn Martin (Compliance Specialist FAA) and we are still waiting on approval. They have been sitting on those since October 7th."

Mayor Zavodny stated: "We have to make absolutely sure we are going to get the federal funds. If we don't get the federal funds the project doesn't go."

City Attorney Egr stated: "Jared's Attorney and myself have worked trying to get them to get something to us. The last contact was October 29th; they don't even acknowledge that they got it. I know they got them because they were emailed and we got receipts back on the email."

Mayor Zavodny stated: "It seems to me like part of the problem is the way we have been communicating. They send a request, we respond, it's all that back and forth, wait, it probably sits on somebodies desk or in their computer for how long before they start to work it through. Maybe it's a long shot but I'm wondering if maybe we could sit down with the principals and actually have a meeting?"

City Attorney Egr stated: "We would have to go to Kansas City. Lynn Martin is not going to come out here." *(It was noted Lynn was in David City earlier this year.)*

Mayor Zavodny stated: "I think we're probably at that point. What we've done up to know has proven fruitless. I just think maybe getting the principals all in a room and say "*Here's what we want to do, we want to follow the rules, we want to do what you're going to allow and figure out a way to get this done*". I know they were clear we can't get rid of a hangar; that's been clear, but it gets frustrating; it is time we get this handled. We will know by December where we stand on our T-Hangar project. If that doesn't happen we have understood from the start that they have approved that "s" approach. I've been on record as saying, and I will say it again, you know a straight shot makes more sense but if that's what they're going to do, you have to sometimes play by their rules and we'll have to wind it around there. We will know by December if our funding is secured because we've complied with everything they've asked of us. I have no reason to believe we won't get it, but if we don't, then the T-Hangar project is done, and then we are back to focusing on getting our taxi way."

Discussion followed.

Ryan Ruth, Agency One Insurance presented the following Health Insurance options for the City employees:

CITY OF DAVID CITY

MEDICAL SUMMARY

Effective: 1/1/2016

Proposal Type	PROPOSED		PROPOSED		PROPOSED	
Carrier	BCBSNE		UHC		COVENTRY	
Note	HSA - Embedded		HSA - Embedded		HSA - Embedded	
Plan Name	HSA \$2,700 70% - Option 203		HSA \$2,600 80% - 8K-T w/1S		HSA \$2,600 80% - 20%	
Option Type	Silver		Silver		Silver	
Network	In Network		In Network		In Network	
Deductible - EE	\$2,700		\$2,600		\$2,600	
Deductible - Family	\$5,400		\$5,200		\$5,200	
Coinsurance	70%		80%		80%	
Out of Pocket Max	\$4,500		\$4,400		\$4,500	
Out of Pocket Max - Family	\$9,000		\$8,800		\$9,000	
Physician/Specialist Copay	Ded. then 30%		Ded./Ded.		Ded. then 20%	
Copay Note						
Urgent Care Copay	Ded. then 30%		Ded.		Ded. then 20%	
Emergency Room Copay	Ded. then 30%		Ded.		\$250 then 20%	
Prescriptions	Ded. then 30%		\$10/\$35/\$60		Ded. then \$3/\$10/\$40/\$80	
Specialty Rx	Ded. then 30%		\$10/\$100/\$300		Ded. then 30% up to \$250/50% up to \$500	
Major Diagnostic Copay (MRI, CT, etc.)	Ded. then 30%		Ded.		Ded. then 20%	
Pediatric Dental	Ded. then 30%		Ded. then 20%		Yes	
Provider Network	BluePreferred		UHC		CHC	
Employee	12	\$364.47	12	\$380.58	12	\$416.23
Spouse	1	\$694.68	1	\$694.79	1	\$759.07
Child(ren)	0	\$0.00	0	\$0.00	0	\$0.00
Sp + Children	8	\$703.50	8	\$735.36	8	\$803.39
Employee Cost	\$4,373.68		\$4,571.79		\$4,994.73	
Dependent Cost	\$6,292.68		\$6,577.55		\$7,166.16	
Admin Fee	\$0.00		\$0.00		\$0.00	
Combined Monthly Cost	\$10,666.36		\$11,149.45		\$12,160.89	

Rates and benefits are illustrative only and represent only a brief summary of the plan highlights. Final rates will be determined from effective date, actual enrollment and/or health conditions. For actual benefits refer to carrier proposal. *After calendar year deductible is satisfied **per admittance deductible

CITY OF DAVID CITY

MEDICAL SUMMARY

Effective: 1/1/2016

Proposal Type	PROPOSED		PROPOSED		PROPOSED	
Carrier	UHC		BCBSNE		COVENTRY	
Note	HSA - Aggregate		HSA - Aggregate		HSA - Aggregate	
Plan Name	HSA \$1,500 80% - AC-MO w/1S		HSA \$1,500 90% - Option 106		HSA \$1,500 80% - 20%	
Option Type	Gold		Gold		Gold	
Network	In Network		In Network		In Network	
Deductible - EE	\$1,500		\$1,500		\$1,500	
Deductible - Family	\$3,000		\$3,000		\$3,000	
Coinsurance	80%		90%		80%	
Out of Pocket Max	\$6,250		\$2,000		\$2,500	
Out of Pocket Max - Family	\$6,850		\$4,000		\$6,000	
Physician/Specialist Copay	Ded./Ded.		Ded then 10%		Ded. then 20%	
Copay Note						
Urgent Care Copay	Ded.		Ded then 10%		Ded. then 20%	
Emergency Room Copay	Ded.		Ded then 10%		Ded. then 20%	
Prescriptions	Ded. then \$10/\$35/\$60		Ded then 10%		Ded. then \$3/\$10/\$40/\$80	
Specialty Rx	Ded. then \$10/\$100/\$300		Ded then 10%		Ded. then 30% up to \$250/50% up to \$500	
Major Diagnostic Copay (MRI, CT, etc.)	Ded.		Ded then 10%		Ded. then 20%	
Pediatric Dental	Yes		Yes		Yes	
Provider Network	UHC		BluePreferred		CHC	
Employee	12	\$375.67	12	\$459.82	12	\$550.43
Spouse	1	\$688.93	1	\$838.57	1	\$1,003.80
Child(ren)	0	\$0.00	0	\$0.00	0	\$0.00
Sp + Children	8	\$727.05	8	\$887.54	8	\$1,062.42
Employee Cost	\$4,520.09		\$5,517.87		\$6,605.12	
Dependent Cost	\$6,503.34		\$7,938.89		\$9,503.19	
Admin Fee	\$0.00		\$0.00		\$0.00	
Combined Monthly Cost	\$11,023.43		\$13,456.76		\$16,108.31	



Rates and benefits are illustrative only and represent only a brief summary of the plan highlights. Final rates will be determined from effective date, actual enrollment and/or health conditions. For actual benefits refer to carrier proposal. *After calendar year deductible is satisfied **per admittance deductible

Ryan Ruth stated: "Right now the City contributes \$1,500 to an individual HSA, or \$3,000 to the family, and if you look at that middle Blue Cross Blue Shield plan, that then covers their deductible and then the only thing after they meet their deductible at a 90/10 co-insurance rate the city employee has to come up with \$500 as an individual or \$1,000 as a family. After meeting with the City employees that was the census of what they wanted to go with effective January 1st.

Council member Smith made a motion to accept the bid of Blue Cross Blue Shield of Nebraska for the Gold HSA Plan, estimated at \$13,456.76. Council member Kobus seconded the motion. Voting AYE: Council members Kobus, Smith, Vandenberg, Hotovy, Rogers, and Kroesing. Voting NAY: None. The motion carried.

Sewer Supervisor Kevin Betzen reported that Obrist had stated to Craig (Reinsch – Olsson's) that they may need an extension. At first they wanted four weeks, however Craig said he couldn't come up with a rhyme or reason why we should grant them that. They have since determined they have been moving along with extra crews and think they will be about a week late. Per our agreement the City could deduct for them not meeting the deadline. We need to abandon the water line across the field because it is leaking right now, and replace it with a new 2" line. Perhaps the City could propose to Obrist that we waive any fees associated with not meeting their deadline in exchange for them putting in the 2" water line. Kevin said that he has the pipe already.

Council member Rogers made a motion to provide the option to Obrist that the City waive any penalties for not meeting their deadline in lieu of them replacing the water line across the field by the Airport with a new 2" line. Council member Kroesing seconded the motion. Voting AYE: Council members Hotovy, Vandenberg, Kobus, Smith, Rogers, and Kroesing. Voting NAY: None. The motion carried.

Council member Rogers made a motion to go into executive session to discuss a personnel issue. Council member Hotovy seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Kobus, Smith, Hotovy, and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny stated, "At 9:02 p.m. we are going into executive session to discuss a personnel issue." Mayor Zavodny, Council members Kroesing, Kobus, Hotovy, Smith, Vandenberg, and Svoboda, City Attorney Egr, and City Clerk Kovar went into executive session at 9:02 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:18 p.m.

There being no further business to come before the Council, Council member Smith made a motion to adjourn. Council member Kobus seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Kobus, Hotovy, Smith, and Rogers. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:21 p.m.



CERTIFICATION OF MINUTES
November 12, 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 November 12th, 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