

## CITY COUNCIL PROCEEDINGS

November 14, 2012

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 4<sup>th</sup> Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on November 8<sup>th</sup>, 2012 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 members Gary Kroesing, John Vandenberg, Bill Scribner, Mike Rogers, Ruddy Svoboda, City Attorney James Egr, Interim City Administrator Joan Kovar and Interim City Clerk Tami Comte. Council member Gary Smith was absent.

Also present were: Emergency Management Director Rick Schneider, Platte County Emergency Manger Tim Hofbauer, Librarian Cheryl Hein, Janis Cameron, Carolyn Yates, and Banner Press Editor Larry Peirce.

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 10<sup>th</sup>, 2012 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Kroesing. Voting AYE: Council members Svoboda, Scribner, Rogers, Vandenberg, and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.

Mayor Zavodny called for Committee and Officers Reports.

Mayor Zavodny stated that the air compressor at the water plant had a major repair issue that just happened. The estimated cost for repairs is about \$9,200.

Mayor Zavodny stated that the small shelter in the park collapsed in October and so we will need to decide what to do with that.

Interim Administrator Kovar noted that she found an insurance item that was not completed from 2010 and submitted the invoices to the insurance company and received a check for \$23,562 from the insurance company for the water department.

Mayor Zavodny asked Butler County Sheriff Mark Hecker if he had anything to report.

Sheriff Hecker stated that the transition is going very well. They hired three new deputies. He inventoried and moved all of the police department evidence into the County's secure location. They've dealt with cases and they haven't had any major issues.

Janis Cameron, owner of True Value, stated that she found a note in their door that the Sheriff's department had checked their building to make sure that the doors were secure. She stated that it was nice to know that they were doing that.

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

Council member Scribner made a motion to approve Final Payment No. 7 to Gehring Construction & Ready Mix Co., Inc. for Project No. 011-0758 for Street Improvements. Council member Vandenberg seconded the motion. Voting AYE: Council members Svoboda, Rogers, Scribner, Vandenberg, and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.



**CERTIFICATE OF PAYMENT NO. 7 Final**

201 East 2nd Street, Grand Island, Nebraska 68801

Date of Issuance: November 14, 2012

Project: Industrial Drive and 'O' Street Improvements, Municipal Street Improvements, David City, Nebraska, 2012 Project No. 011-0758

Contractor: Gehring Construction & Ready Mix Co., Inc., 5424 West Meadow Drive, Columbus, NE 68601

DETAILED ESTIMATE		
Description	Unit Prices	Extension
See Attached		

PLEASE REMIT PAYMENT TO: Gehring Construction & Ready Mix Co., Inc.

Value of Work Completed and materials stored: \$1,296,087.40

Original Contract Cost: \$1,104,946.05  
 Approved Change Orders:

No. 1	\$	153,466.70
No. 2	\$	37,674.65
No.		
No.		
No.		

Total Contract Cost: \$1,296,087.40

Value of completed work and materials stored.	\$1,296,087.40
Less retained percentage (0.00%)	\$0.00
Net amount due including this estimate	\$1,296,087.40

Less: Estimates previously approved:

No. 1	\$101,027.52	No. 7		No. 13	
No. 2	\$465,934.14	No. 8		No. 14	
No. 3	\$280,595.61	No. 9		No. 15	
No. 4	\$340,322.35	No. 10		No. 16	
No. 5	\$69,374.84	No. 11			
No. 6	\$32,352.50	No. 12			

Total Previous Estimates \$1,289,606.96

**NET AMOUNT DUE THIS ESTIMATE \$6,480.44**

The undersigned hereby certifies that the work done and materials delivered have been checked as to quantity and conformance with the plans and specifications and the Contractor, in accordance with the contract, is entitled to payment as indicated above.

OLSSON ASSOCIATES

By: *Mark Quinn*

Date: 11-6-12

cc: Owner, Contractor, File

Interim Administrator Joan Kovar stated that she spoke with Northwest Drainage Project engineer Jay Bitner and he stated that the project was approximately 90% complete. They still need to finish the gate valve, however, the gate valve may not be here until January. There was some discussion about not paying the invoice until the project is completed. It was noted that the City has retainage of \$184,680.47.

Council member Kroesing made a motion to approve Construction Progress Application Number 6 for the Northwest Drainage Project and payment to Van Kirk Brothers Contracting. Council member Scribner seconded the motion. Voting AYE: Council members Vandenberg, Scribner, Svoboda, and Kroesing. Voting NAY: Council member Rogers. The motion carried. Council member Smith was absent.

**AFFIDAVIT FOR PAYMENT**

PROJECT: David City NW Drainage Improvement Project

ENGINEER: Upper Big Blue Natural Resources District  
 ENGINEER'S PROJECT NO.

TO: (OWNER) City of David City  
 557 4th Street  
 David City, NE 68632

CONTRACTOR: Van Kirk Bros. Contracting  
 CONTRACT FOR: Storm Sewer Installation  
 APPLICATION DATE: 10/31/12

**CHANGE ORDER SUMMARY:**

FOR WORK ACCOMPLISHED THROUGH THE DATE OF: October 31, 2012  
 Application is made for payment, as shown below in connection with the Contract.

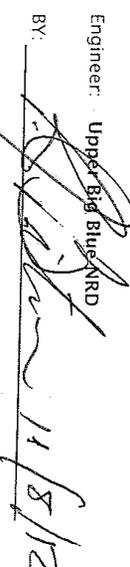
CO #	DATE	ADDITIONS	DEDUCTIONS
1	3/14/12		
2	3/14/12	\$ 39,500.00	\$ (39,495.35)
3	4/10/12	\$ 14,746.00	
4	9/31/12	\$ 10,852.00	
5	9/31/12	\$ 95.00	
<b>TOTAL</b>		<b>\$ 65,193.00</b>	<b>\$ (39,495.35)</b>
<b>NET CHANGE</b>		<b>\$ 25,697.65</b>	

The present status of the account is as follows:  
 ORIGINAL CONTRACT PRICE..... \$ 1,891,889.00  
 Net Change by Change Orders & Written Amendments..... \$ 25,697.65  
 CURRENT CONTRACT PRICE..... \$ 1,917,586.65  
 TOTAL COMPLETED & STORED TO DATE..... \$ 1,846,804.69  
 LESS RETAINAGE: 10% ..... 184,680.47  
 TOTAL COMPLETED & STORED TO DATE..... \$ 1,662,124.22  
 LESS PREVIOUS APPLICATION FOR PAYMENTS..... \$ 1,371,884.61  
 AMOUNT DUE THIS APPLICATION..... \$ 290,239.61

The undersigned CONTRACTOR certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract referred to above have been applied to discharge CONTRACTOR'S legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through 1, inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

CONTRACTOR: Van Kirk Bros. Contracting  
 BY: 

Engineer: Upper Big Blue NRD  
 BY:  11/8/12  
 OWNER: City of David City  
 BY: \_\_\_\_\_

Date: 11/5/12

Mayor Zavodny asked for consideration of claims. Council member Kroesing questioned the claim to Snap On Tools for a plasma cutter. Interim Administrator Kovar was asked to

check into this item and its necessity. Council member Kroesing made a motion to authorize the payment of claims with the exception of Snap On Tools and Council member Rogers seconded the motion. Voting AYE: Council members Svoboda, Scribner, Vandenberg, Rogers and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.

Platte County Emergency Manager Tim Hofbauer was present to request the use of the old water tower for the Nebraska Regional Interoperable Network Project to connect 911 centers regionally and statewide. He stated that he was representing the East Central Region which consists of the counties of Boone, Butler, Colfax, Dodge, Howard, Merrick, Nance, Platte, Polk and Saunders. Hofbauer stated that he is the coordinator for this project. Hofbauer distributed copies of a Memorandum of Understanding that would give the East Central Region permission to locate a 2.6' and 1.0' microwave dish antennas on the old water tower. These towers will be used to tie the 911 centers together. He stated that they have a number of uses for the system. It will be used for possibly sharing 911 equipment throughout the region, video arraignment for the courthouses, crime data, etc. They are putting base stations out throughout the area to enable them to talk to other responding agencies when they come in. They are building this out as a statewide network. There are eight regions throughout the state and each region is building their own network and then they are all connected together. They are going to create a governance board with representation from each of the regions to monitor and maintain this network throughout its lifetime.

Mayor Zavodny stated that the City will incur additional expenses for painting the water tower if there are additional antennas placed on it.

Butler County Emergency Management Director Rick Schneider stated that they can paint right over the coax lines.

Mayor Zavodny stated that if what they are proposing interferes with U.S. Cellular then they will have to do something else because U.S. Cellular placed their antenna on the water tower first.

Council member Kroesing made a motion to authorize the use of the old water tower for the Nebraska Regional Interoperable Network (NRIN) project to connect 911 centers regionally and statewide. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg, Scribner and Svoboda. Voting NAY: None. The motion carried. Council member Smith was absent.

# EAST CENTRAL REGION

Boone – Butler – Colfax – Dodge – Howard - Merrick – Nance – Platte – Polk – Saunders

## Memorandum of Understanding

November 9, 2012

Entity: East Central Region

Entity: City of David City

This Memorandum of Understanding is for the purpose of granting permission to the East Central Region to locate a 2.6' and 1.0' microwave dish antennas on the (old) water tower located in David City for the Nebraska Regional Interoperability (NRIN) system. The term of this agreement is revocable upon 90 days' notice of either party.

Entity: City of David City

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

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

Entity: East Central Region

By: Bob Carey (President-East Central Region)

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

Mayor Zavodny stated that Frontier Cooperative Company would like a commercial aeronautical operator's permit for the airport. He stated that this will be the third one at the airport. If anyone else wants to come onto our airport, they can, however, it would be expensive to pour a long taxiway to the runway. Mayor Zavodny stated that he met with Diane from Olsson Associates to look at the airport layout plan. They are looking at putting Frontier Coop's pad a little further south by the hangars. They also talked about putting in more hangars but that would be two to four years down the road.

Council member Scribner made a motion to approve the Commercial Aeronautical Operator Permit as submitted by Frontier Cooperative Company for aerial application services. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Rogers, Vandenberg, Scribner and Svoboda. Voting NAY: None. The motion carried. Council member Smith was absent.

Mayor Zavodny presented a 20 year service award to librarian Cheryl Hein.

City Attorney James Egr stated that the reason that he had Mrs. McLaughlin sign the release of easement was because there was a hint in there that said about damages to their crops. Since we already took care of everything, he wanted her to sign off that there was nothing else to do with that.

Council member Scribner made a motion to authorize Mayor Zavodny to execute a "Mutual Release of Easement, Agreement, and Agreement No. 1" concerning the McLaughlin property. Council member Svoboda seconded the motion. Voting AYE: Council members Scribner, Vandenberg, Svoboda, Rogers and Kroesing. Voting NAY: None. The motion carried. Council member Smith was absent.

**MUTUAL RELEASE OF EASEMENT, AGREEMENT,  
AND AGREEMENT AMENDMENT NO. 1**

This Mutual Release of Easement, Agreement, and Agreement Amendment No. 1, hereinafter referenced as "Mutual Release" is made and entered into between MARY L. McLAUGHLIN, a surviving Co-Trustee of the McLaughlin Family Trust, hereinafter referenced as "McLaughlin"; the CITY OF DAVID CITY, NEBRASKA, a Nebraska Municipal Corporation, hereinafter referenced as "City", and BUTLER COUNTY, NEBRASKA, a Nebraska County Government Political Subdivision, hereinafter referenced as "County".

WHEREAS, McLaughlin granted the City a Permanent Storm Sewer And Drainage Easement dated January 11, 2012 and recorded in Film Book 12 at Page 00123 in the Offices of the County Clerk of Butler County, Nebraska, which contained certain terms and conditions, as well as monetary conditions, as valuable considerations; and,

WHEREAS, McLaughlin entered into an Agreement addressing various easement matters, compensation, and damages with the City and with the County as per Exhibit "A", attached hereto, and incorporated herein by reference as if fully set forth; and,

WHEREAS, McLaughlin entered into an Agreement Amendment No. 1 with the City and the County that addresses liability issues as per Exhibit "B", attached hereto, and incorporated herein by reference as if fully set forth; and,

WHEREAS, McLaughlin executed an Easement to the County and City addressing easements as per Exhibit "C" attached hereto, and incorporated herein by reference as if fully set forth; and,

WHEREAS, it is necessary to satisfy the terms and conditions of the above referenced Permanent Storm Sewer Easement And Drainage Easement to release Exhibits "A", "B" and "C".

NOW, THEREFORE IN CONSIDERATION of the terms and conditions of the above referenced PERMANENT STORM SEWER AND DRAINAGE EASEMENT, which all parties agree to be valuable considerations, the parties agree as follows:

- (1) McLaughlin releases the City and the County from any and all payments not paid, crop damages, and all terms and conditions not fulfilled in Exhibit "A" and releases the City and the County from any and all liability contemplated in Exhibit "B".
- (2) The City releases McLaughlin from all terms and conditions and liabilities contained in Exhibits "A", "B" and "C".
- (3) The County releases McLaughlin from all terms and conditions and liabilities contained in Exhibits "A", "B" and "C".
- (4) This Release applies to the following described real estate contained in Exhibits "A" and "C", to-wit:

A tract of land located in the South Half (S ½) of Section Eighteen (18), Township Fifteen (15) North, Range Three (3), East of the 6<sup>th</sup> P.M., Butler County, Nebraska, described as follows:

A 20 foot wide permanent easement, located in the N ½ of the SW 1/4 of Section 18, Township 15 North, Range 3, East of the 6<sup>th</sup> P.M., Butler County, Nebraska, the South line of which is described as follows:  
Beginning at a point on the West line of said SW1/4, said point being 1221 feet South of the NW corner of said SW1/4; thence Easterly, 1320 feet, more or less, parallel with the North line of said SW1/4, to a point on the East line of the W1/2 of said SW1/4, excepting railroad right-of-way

AND

A 40 foot wide permanent easement, located in the N ½ of the SW 1/4 of Section 18 Township 15 North, Range 3 East of the 6<sup>th</sup> P.M., Butler County, Nebraska, the North line of which is described as follows:  
Beginning at a point on the East line of the W ½ of said SW1/4 said point being 1221 feet South of the NE corner of said W1/2; thence Westerly,

parallel with the North line of said SW1/4, to a point on the Northeasterly Burlington Railroad right-of-way line.

- (5) This Release shall be binding upon the heirs, successors, assigns, and personal representatives of the parties hereto.

McLAUGHLIN:

Mary E. McLaughlin  
Mary E. McLaughlin, Date  
Surviving Co-Trustee of the  
McLaughlin Family Trust

CITY:

THE CITY OF DAVID CITY, NEBRASKA,  
A Nebraska Municipal Corporation

by Alan Zavodny, Mayor Date

Attest By: Joan M. Kovar Date  
City Clerk

COUNTY:

THE COUNTY OF BUTLER, NEBRASKA  
A Nebraska County Government Political Subdivision

by David Mach 11/05/12  
David Mach, Chairman Date  
of the Butler County Board of Supervisors

Attest by Vicki L. Truksa 11/05/12  
Vicki L. Truksa Date  
Butler County Clerk

State of Nebraska )  
) ss.  
County of Butler )

On this 8<sup>th</sup> day of November, 2012, Mary L. McLaughlin, Surviving Co-Trustee of the McLaughlin Family Trust, personally appeared before me, whose identity was proved on the basis of Satisfactory evidence to be the person whose name is subscribed on this Mutual Release of Easement, Agreement, and Agreement Amendment No. 1, and acknowledged that she executed it.

Witness my hand and official seal.

Jami L. Comte  
Notary Public

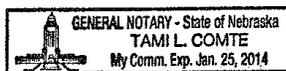




EXHIBIT "A"

AGREEMENT

The City of David City and Butler County, hereby enter into an agreement with William and Mary McLaughlin. This agreement allows

1.) For access for construction and maintenance purposes on a permanent easement area described as follows:

A 20 foot wide permanent easement, located in the N 1/2 of the SW 1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, the south line of which is described as follows:

Beginning at a point on the west line of said SW 1/4, said point being 1221 feet south of the NW corner of said SW 1/4; thence Easterly, 1320 feet, more or less, parallel with the north line of said SW 1/4, to a point on the east line of the W 1/2 of said SW 1/4, excepting railroad right-of-way.

and

A 40 foot wide permanent easement located in the N 1/2 of the SW 1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, the north line of which is described as follows:

Beginning at a point on the east line of the W 1/2 of said SW 1/4, said point being 1221 feet south of the NE corner of said W 1/2; thence westerly, parallel with the north line of said SW 1/4, to a point on the Northeasterly Burlington Railroad right-of-way line.

*Timothy  
McLaughlin*

2.) For the flow of water across the permanent Easement area. Such flow has been conducted in the study called the "David City Northwest Drainage Project - Phase II.

3.) That from the railroad right-of-way East to the property line, the flow be run through a culvert. This area described as follows:

A 40 foot wide permanent easement located in the N 1/2 of the SW 1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, the north line of which is described as follows:

Beginning at a point on the east line of the W 1/2 of said SW 1/4, said point being 1221 feet south of the NE corner of said W 1/2; thence westerly, parallel with the north line of said SW 1/4, to a point on the Northeasterly Burlington Railroad right-of-way line.

4.) That both the City of David City and Butler County agree to provide for a gravity flow pipe from a cistern west of the McLaughlin's basement, going to the south

directly into the ditch. The balance left from \$6500, after the drainage pipe is installed, would be given to the McLaughlins to utilize as they deem necessary.

5.) That during construction in the row-crop area the top soil be removed and stockpiled, then after construction be placed back for a suitable farming practice.

6.) That Butler County and /or the City of David City will pay Marion and Sally McLaughlin \$350.00 per acre, per year for any crop damages that may occur during construction or maintenance in the row crop area. Area described as follow:

A 40 foot wide permanent easement, located in the N 1/2 of the SW 1/4 of Section 18 T15N R3E of the 6th P.M., Butler County, Nebraska, the north line of which is described as follows: Beginning at a point on the east line of the W 1/2 of said SW 1/4, said point being 1221 feet south of the NE corner of said W 1/2; thence westerly, parallel with the north line of said SW 1/4, to a point on the Northeasterly Burlington Railroad right-of-way line.

This Agreement shall be appurtenant to the land.

6-16-98  
Date

6-16-98  
Date

5-5-98  
Date

6/16/98  
Date

William McLaughlin  
William McLaughlin

Mary McLaughlin  
Mary McLaughlin

William J. Prochaska  
Chairman, Butler County Board of Supervisors

Stephen Arnold  
Mayor, City of David City

EXHIBIT "B"

AGREEMENT  
AMENDMENT NO. 1

THIS AMENDMENT NO. 1 made and entered into between The City of David City and Butler County, and William and Mary McLaughlin.

WITNESSETH:

WHEREAS, the parties agree to include the following paragraph to the agreement between The City of David City and Butler County, and William and Mary McLaughlin:

*IT IS UNDERSTOOD by and between the parties hereto that execution of this Agreement is neither intended nor implied to release any of the parties from liability, claims, demands, or causes of action, which result, either directly or indirectly, from any action taken by the parties, their agents, successors and assigns, in furtherance of this Agreement.*

NOW THEREFORE the parties agree to amend the attached Agreement to include the following paragraph:

*IT IS UNDERSTOOD by and between the parties hereto that execution of this Agreement is neither intended nor implied to release any of the parties from liability, claims, demands, or causes of action, which result, either directly or indirectly, from any action taken by the parties, their agents, successors and assigns, in furtherance of this Agreement.*

This Amendment No. 1 shall become effective upon execution by all parties, and shall survive completion of the project contemplated by this Agreement, unless modified, terminated or extended by said parties.

6-16-98

Date

6-16-98

Date

Date

6/16/98

Date

*William & Mary McLaughlin*

William McLaughlin

*Mary McLaughlin*

Mary McLaughlin

Chairman, Butler County Board of Supervisors

*Stephen Lambert*

Mayor, City of David City



City Attorney James Egr received a certified letter from Union Bank, who hold the first lien on the Danyelle Emme and Cheryl Darnell property. The notice stated that they are going after their property. The proceedings were started a couple of years ago and then they stopped for a while, and now they are proceeding again. The reason that he brought it to the City's attention is that the City is the second lien, and usually what happens on those properties is that the trustee states what the bank needs to have so they can write it off, which is about what's owed against it, and if the City wants to bid a dollar above that, then the City would own the property except then the City would owe the bank the amount of the bid. Union Bank's lien against the property is \$66,364 and our lien through the economic development is \$13,000. So, if the bank gets it, the City is out \$13,000. City Attorney Egr stated that there is nothing further that the City needs to do.

The council members thanked Jim Egr for bringing the information to them.

Mayor Zavodny stated that the approximate amount of insurance that the City should receive for the shelter that blew down in the park is \$3,200. They had Tony Novak look at the shelter. Tony Novak told Mayor Zavodny that the City would need to hire a structural engineer before the shelter could be rebuilt. Mayor Zavodny stated that the best guess to put that shelter back up and have it strong and safe, is probably going to be about \$15,000.

Council member Scribner stated that he knows the shelter brings people to the park.

It was noted that there were several picnic tables that were ruined and some of them were new ones.

Council member Kroesing stated that the area should have a good base. All of the bricks from the old courthouse are buried under the shelter because there used to be a sunken garden in that location.

Mayor Zavodny asked the council members to think about what they wanted to do regarding the shelter, he will have Tony Novak put some figures together, and they will discuss it at the December council meeting.

Council member Kroesing made a motion to appoint Jerry Hain of Olsson Associates as the Class "A" Street Superintendent for the remainder of 2012, and years 2013 and 2014, on an annual hourly basis, not to exceed \$1,000 annually. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Rogers, Scribner, Vandenberg and Svoboda. Voting NAY: None. The motion carried. Council member Smith was absent.



LETTER AGREEMENT FOR  
PROFESSIONAL SERVICES

November 5, 2012

City of David City  
Mayor and City Council  
Attn: Joan Kovar  
557 4<sup>th</sup> Street  
PO Box 191  
David City, Nebraska 68632-0191

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**  
Class "A" Street Superintendent Services for remainder of 2012,  
and years 2013 and 2014 "Project"  
David City, Nebraska

Dear Mayor and City Council:

It is our understanding that the City of David City ("Client") requests Jerry G. Hain on behalf of Olsson Associates ("Olsson") to perform the following services pursuant to the terms of this Letter Agreement, Olsson's General Provisions and any exhibits attached thereto (hereinafter "the Agreement") for the Project.

1. 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 thereto), which are expressly made a part of and incorporated into this Agreement by this reference. In the event of any conflict or inconsistency between this Agreement and the General Provisions regarding the services to be performed by Olsson, the requirements of this Agreement shall take precedence.
2. Olsson shall provide Client all Basic Services for the Project as more specifically described in Exhibit A hereto. Should Client request work not described and included in the above Description of Basic Services, such as Additional Services, Olsson shall invoice Client for such services on the basis of Salary Costs times a factor of 2.5 for services rendered by our principals and employees engaged directly on the Project plus Reimbursable Expenses, unless otherwise agreed to by both parties. Olsson shall not commence work on Additional Services without Client's prior approval in writing.

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**

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

Anticipated Start Date: September 24, 2012  
Anticipated Completion Date: December 31, 2014

**COMPENSATION**

4. Street Superintendent Services shall be billed on a Time and Expense Basis Not to Exceed \$1,000 annually.

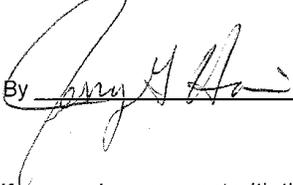
These financial arrangements are proposed with the assumption Olsson's bills will be paid promptly and the Project will progress orderly and continuously. Client agrees to pay Olsson the amounts due for services rendered and expenses incurred pursuant to the terms of this Agreement within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

**TERMS AND CONDITIONS OF SERVICE**

5. We have discussed with you the risks, rewards and benefits of the Project and our fees for services. The risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through us under this Agreement, shall not exceed the total amount of Olsson's fees earned under this Agreement. Client acknowledges that such causes include, but are not limited to, Olsson's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.
6. The Agreement represents the entire understanding between Client and Olsson with respect to the Project and may only be modified in writing signed by both parties.
7. If this proposal satisfactorily sets forth your understanding of our agreement, please sign the Letter Agreement in the space provided (indicating Client's designated Project representative if different from the party signing the Agreement). 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.

8. By signing below, you acknowledge that you have full authority to bind Client to this agreement.

**OLSSON ASSOCIATES**

By 

By 

If you are in agreement with the preceding proposal,  
please sign:

**CITY OF DAVID CITY, "Client"**

By \_\_\_\_\_

Title \_\_\_\_\_

Dated: \_\_\_\_\_

If different from above,

\_\_\_\_\_  
Client's Designated Project Representative

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Mayor Zavodny stated that the Board of Zoning Adjustment has had two vacancies for quite a while now and Council members Kroesing and Rogers stated that they would be willing to serve on the board.

City Attorney James Egr stated that he researched this and there is nothing that says that they can't be on the Board of Zoning Adjustment.

Council member Svoboda asked Kelly Danielson if he would be interested in serving on the board and he said that he would consider it.

Mayor Zavodny asked Council member Svoboda to have Mr. Danielson apply to be on the Board of Zoning Adjustment at the City Office and then this could be discussed further at the December council meeting.

There being no further business to come before the Council, Council member Kroesing made a motion to adjourn. Council member Rogers seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Svoboda, and Scribner. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 8:15 p.m. Council member Smith was absent.



CERTIFICATION OF MINUTES  
November 14, 2012

I, Tami L. Comte, duly qualified and acting Interim City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of November 14, 2012; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

\_\_\_\_\_  
Tami L. Comte, Interim City Clerk