

CITY COUNCIL PROCEEDINGS

October 13, 2021

The City Council of the City of David City, Nebraska, met in open public session at 7:00 p.m. in the lower level of the David City Auditorium at 699 Kansas Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on October 7, 2021, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting. The meeting was held at the City Auditorium due to the COVID-19 pandemic so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.]

Present for the meeting were: Mayor Alan Zavodny, Council members Tom Kobus, Bruce Meysenburg, Pat Meysenburg, Kevin Woita, Jessica Miller, City Attorney Joanna Uden, City Administrator Clayton Keller and City Clerk Tami Comte. Council member John Vandenberg was absent.

Also present for the meeting were: Sheriff Tom Dion, Bob and Laura Kobza, Dr. Russ Heller, Dr. Steven Saalfeld, and Interim Water Supervisor Aaron Gustin.

The meeting opened with the Pledge of Allegiance.

Mayor Alan Zavodny informed the public of the "Open Meetings Act" posted on the north wall of the meeting room and asked those present to please silence their cell phones. He also reminded the public that if they speak tonight in front of the Council that they must state their name and address for the record.

Council member Jessica Miller made a motion to approve the minutes of the September 22, 2021 meeting as presented. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1


Council member Pat Meysenburg made a motion to approve the payment of the claims as presented. Council Member Kevin Woita seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Mayor Zavodny stated that he had a couple items to bring up during committee and officers reports. Mayor Zavodny said, "The first one is you may have noticed if you've been downtown toward the evening, we're making progress on getting our lights on downtown. I see that we have a bunch of them out. We'll slowly work on those kinds of things. To my understanding, we are still working on a permanent solution to that where they will be on more

consistently. Also, I don't see the Sheriff here so I will report quickly. I know it has happened a couple of times, the first time I don't think they fully understood what went wrong but the 911 system went down again and there was a great explanation of why that happened in the paper and so we appreciate that, but the Sheriff said due to a problem in Seward it went down and was down for a while. It's instances like that where I think that our decision years ago to go with that IRIS system is helpful and even people who aren't signed up for that know enough people that they find out why things are down. I haven't heard of us having a major problem because of that, but I did indicate to the Sheriff that one of the things that I think is very important is that we figure out that system to make sure that if we can avoid it at all, we never have that system go down. That's something that you don't want to have happen. We all rely on that. So, that's the couple of things that I had. Anyone else?"

Interim Water Supervisor Aaron Gustin introduced himself and said, "I handed out a packet to the Council members, Tami, Joanna and Clayton. Page number one is, as everybody here is aware, we have made quite good progress on that section of water main that we chose to have our crew install with some assistance from an outside contractor with the boring of that. I wanted to put it into monetary terms, was this worth it for us? And, ultimately, it will be up to the Council if we should proceed with this trend moving forward. So, I reached out to JEO who is doing our water treatment plant update to see, given the scope of the section of the project that we were working on, what he would estimate the construction cost, since we had already purchased the materials, we were mainly looking at the construction cost. You'll see that itemized in his opinion of probable cost on page one that I gave you. Are there any questions in regard to that page?"

| ENGINEER'S BUDGETARY OPINION OF PROBABLE COST | | | | | | |
|--------------------------------------------------|---------------------------------------------------|------|----------|-------------------------------------------|---------------------------------------------------------------------------------------|------------------|
| David City Water Main | | | | |  | |
| David City, NE | | | | | | |
| JEO Project No. XXXXXXXX | | | | | | |
| | | | | | Date Prepared: October 4, 2021 | |
| ESTIMATE OF QUANTITIES | | | | | | |
| Item # | Description | Unit | Quantity | Unit Price | Total | |
| BASE BID INSTALL 4 BLOCKS OF 8" WATERMAIN | | | | | | |
| 1. | Mobilization | LS | 1 | \$20,000.00 | \$20,000 | |
| 2. | Bonding and Insurance | LS | 1 | \$7,500.00 | \$7,500 | |
| 3. | 8" PVC Water Main, DR 18, RJ, Directionally Bored | LF | 1,500 | \$80.00 | \$120,000 | |
| 4. | 8" Gate Valve and Box, MJ | EA | 9 | \$2,500.00 | \$22,500 | |
| 5. | Connect to Existing Water Main | EA | 4 | \$3,500.00 | \$14,000 | |
| 6. | 6" Fire Hydrant Assembly | EA | 4 | \$5,500.00 | \$22,000 | |
| 7. | 1" PE Water Service (SDR 11) | LF | 500 | \$20.00 | \$10,000 | |
| 8. | 8" x 1" Saddle | EA | 20 | \$250.00 | \$5,000 | |
| 9. | 1" Corporation Stop | EA | 20 | \$200.00 | \$4,000 | |
| 10. | Connect to Existing Water Service | EA | 20 | \$500.00 | \$10,000 | |
| 11. | Erosion Control, Complete | LS | 1 | \$3,500.00 | \$3,500 | |
| 12. | Seeding, Complete | LS | 1 | \$4,500.00 | \$4,500 | |
| 13. | Miscellaneous Fittings | LS | 1 | \$7,500.00 | \$7,500 | |
| | | | | Construction Subtotal | Base Bid | \$250,500 |
| | | | | Contingency | 10% | \$25,050 |
| | | | | Total Opinion of Construction Cost | | \$275,550 |
| PROFESSIONAL SERVICES | | | | | | |
| 1. | Overhead (Engineering, Legal, Fiscal, Etc.) | | | 25% | \$62,630 | |
| | | | | Subtotal | \$62,630 | |
| | | | | Total Opinion of Project Cost | | \$338,180 |

JEO Consulting Group Inc.'s (JEO) Opinions of Probable Cost provided for herein are to be made on the basis of JEO's experience and qualifications and represent JEO's best judgment. However, since JEO has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, JEO cannot and does not guarantee that proposal, bids, or actual construction cost will not vary from Opinions of Probable Cost prepared by JEO.

Interim Water Supervisor Aaron Gustin said, "Ok. The following page is quite simple. It's easier for me to navigate that way. I itemized our costs. The things that are highlighted in blue is material costs and supplies. Anything that is highlighted in green is construction and labor associated. That is spelled out there. Overall cost of us doing this project was \$177,587.62, give or take since they are finalizing some of the services. There are three services that are waiting for coliform samples. Basically, if you boil it down in terms of the estimated cost for construction if we were to have subbed it out, we were looking at roughly \$275,000. The cost of the staff doing it in-house was \$78,727.28. The approximate savings is that bottom number \$196,172 that those three guys saved the City in the last two and a half months. I can't sing their praises enough for the amount of work that they did, for the amount of on-site reengineering that John did, the long days, the hard work in 105° heat. Everyone is aware but John wanted me to make a point to ask the question – was it worth it? That is for the people around this table to decide. If it was worth it, we need to think about investing in continuing that trend. I do rely on information that was provided by Kevin and Travis in terms of how far behind we actually are on water main replacements. We exposed a water main that probably should have been ahead of this one on the list, two weeks ago, given the state that it was in. We have a lot to do and do we want to continue this trend? Do we want to pay someone to do it or do we want to have it done in-house?"

2021 Water Main Project Cost Analysis and Comparison

| | |
|---------------------------------------|--------------|
| Pipes, Valves, Fittings: | \$78,573.30 |
| Engineering Redesign: | \$7,544.82 |
| Pipe Boring: | \$50,800.00 |
| Contract Labor: | \$765.00 |
| Miscellaneous Supplies: | \$1,569.64 |
| Lab Testing: | \$169.12 |
| Rock/Sand: | \$2,041.76 |
| Packer Rental: | \$2,420.70 |
| Vac Trailer Rental: | \$6,541.00 |
| Payroll Costs: | \$27,162.28 |
| <hr/> | |
| Construction Costs: | \$78,727.28 |
| Material/Equipment Costs: | \$98,860.34 |
| Total Costs: | \$177,587.62 |
| | |
| JEO Opinion of Construction Costs: | \$275,000.00 |
| Construction Completed by City Staff: | \$78,727.28 |
| Approximate Savings on Construction: | \$196,272.72 |

JEO Opinion of Cost does not include Cost of Materials

Interim Water Supervisor Aaron Gustin said, "I feel like the initial reason for this project being pushed back was sticker shock at the cost. Four years ago, we were looking at \$530,000 for both stretches to be done and that was four years ago, in 2017, and costs are a lot higher. Do we want to have this done in-house or do are we wanting to take care of our distribution system via contractor? There will be different ways that we take the department, either way."

Mayor Zavodny said, "I'll start. That is not as simple of a question as it might seem. We have to factor in what are we not able to do when we're spending a lot of hours doing that. Obviously, we saved over half of the total cost, so that is significant. If I was to predict, we're going to have some fairly major extensions of our system over the next few years. We have to factor in that. Now, the other part that I would say causes me some significant concern is we don't know what's underground. You can guess where your worst parts are based on what's the oldest. We're guessing to some extent on where our biggest priorities are. We knew around the Villa was problematic years ago. We knew this was an area that needed to be addressed so, you know, you're going to be doing some guessing and then a main is going to break somewhere totally different than where you were planning to work. My biggest question is, especially with the conversion of the water treatment plant, and some things that could be

happening at wastewater, how thin does that put you and what do we give up by saving that amount of money.”

Interim Water Supervisor Aaron Gustin said, “That’s why I brought this for conversation here. Obviously, bringing in new staff is a hurdle. We can put an ad out there and people will maybe express a little interest but as far as filling out the application and making a commitment to the City and wanting to work here and wanting to stay here, it does put us in a bit of a bind. I do not enjoy being spread thin and I do not enjoy seeing my guys spread thin so you bring up a very good point. That is why I wanted to bring it up for discussion tonight.”

Council member Jessica Miller said, “Unfortunately, you’re not alone in that. That’s everywhere. I’m just pointing out that it’s everywhere.”

Interim Water Supervisor Aaron Gustin said, “I understand that.”

Mayor Zavodny said, “You know, this Council, certainly over the past several years, has worked hard and has put the City in a good financial place. The proprietary operations of the City I think need different considerations than the governmental supported ones. A lot of the governmental supported ones don’t generate enough revenue based on the way that they are structured by tax receipts to sustain themselves. So, we really need to be careful about the proprietary. However, those are the things that generate the revenue and the ratepayers are all contributing to that so its all a symbiotic relationship and I think it’s worked pretty well. Now, we’ve got some new projects that, if we can overcome some obstacles that we have had in the last few days, we’re going to need to extend our system, we’re going to need to accommodate some new things around town and we’re going to have to figure all of that out. So, hiring is going to be a priority. I’m going to reiterate what I’ve said in the past. Every minute that we have John is such a benefit to us with his experience and expertise. We need to tap that as long as we can and hope that he stays healthy and with us for as long as he wants to.”

Interim Water Supervisor Aaron Gustin said, “I do want to utilize his expertise. I was really looking at one other individual, someone who can take what John has to teach and apply it in the field, because we have twenty-seven miles of water main and over the next twenty or thirty years, if you think about the cost of replacing the thirty percent that we would have to, over that timeframe, contracting it out seems cost prohibitive and doing it in-house is personnel prohibitive it seems. Rock or hard place, it’s just for us to navigate.”

Mayor Zavodny said, “What I’m going to say and, obviously, this is going to be for future Councils to look at as well, is that we probably need some kind of a hybrid approach. For new, wide-open areas where we can trench, we have the ability to just lay pipe. I make it sound simple but that’s better than some of the confined areas where maybe a contractor makes more sense, as far as efficiency and a combination, you could get more done. Now, I understand you’re paying a premium to hire someone else to do it, but to get the amount of work that we’re going to need done, if we’re going to rely on our crews to do it, it’s going to take a long long time. Because no one is doing the other work. If they are working on that, the other stuff is not getting done so I think some sort of combination is the most prudent and realistic approach.”

Interim Water Supervisor Aaron Gustin said, “I like that. John did bring up that if there were three guys on staff and it was just their job to replace short stretches of main, we could have somebody come and bore it in. Valves and fire hydrants, just on this project alone there

was eight valves that were replaced along with the three blocks of water main and multiple services. We took care of the dead end, which you had really wanted us to get rid of the dead ends around town, so we created a loop there. I do really like the idea of the approach that the items that are a little more easily facilitated by our crew doing those and then the ones, like this one that could have been one of them – it was a mess, so it would have been nice to have that and, luckily, we did have John because there were multiple days where he had to reengineer on the fly and it was impressive for all three of those guys. I have two greenhorns and John and they were able to do that – that should speak volumes to everybody in here.”

Mayor Zavodny said, “Well, that’s my eleven years of sitting in this chair. So, everyone else, what are your inputs on this?”

Council member Tom Kobus said, “I know John will never give up but he’s getting older and a lot of times he’s in the hole doing the tough work, so I think that he needs to train these guys. I’m sure he’s trying to train them. I think that if you’re going to lay water main and try to do all of this other stuff, that you need to hire one more man for the water department for the simple reason that you need to start training at least another guy to do this stuff. He runs the backhoe and he does all of the other hook-ups. It’s tough.”

Interim Water Supervisor Aaron Gustin said, “We have had heavy equipment experienced individuals that have shown interest but their issue was our starting pay. We had to pass on two people that really could have filled those shoes, with the experience that they had.”

Council member Tom Kobus said, “I don’t think there’s anybody out there that can run a backhoe like John can. That takes a lot of training and a lot of practice.”

Mayor Alan Zavodny said, “Let me address a couple things that came up there. I’m going to go as far as to say that we probably need a couple people, given what I know is on our horizon. Some of this stuff that I am not talking about, is coming whether we’re ready or not. We might as well be ready. The other thing is that I fully believe that it is within my purview to look at experience and not necessarily start them on our starting salary schedule. When that happens, come talk to me and we will evaluate how many years of experience and if we’re saving money. It costs more money to advertise, train someone and get them up to productivity than someone who has experience. We’re saving money spending more on their salary, to be honest. So, if we have a good candidate, we’ll figure something out.”

Council member Tom Kobus said, “I totally agree with that.”

Interim Water Supervisor Aaron Gustin said, “I do too. You can put me on record, and I’ve said it before, I would take a pay cut to get someone in here with experience because, I’m like John, I don’t want to walk away. I don’t want to fail. I would like to see us, as a team, succeed.”

Mayor Zavodny said, “First of all, I’m not going to ask you to take a pay cut, so don’t bring that up again. Secondly, I think that we have a responsibility to the rate payers to have a system that can...when those IRIS alerts are coming out all the time where people are going to be without water for a while, it’s an inconvenience but most people are great about understanding that to have progress, they’re going to have a couple days’ inconvenience. They

also know that most of our infrastructure underneath this City is a hundred years old. But we grew again in the census, we have industry coming. We better be prepared. We can't just do it with what we have today, so I think that we need to increase our staff a couple of people, to be honest and we need to hit these things. And then forget the fact that you're going to go to reverse osmosis and we have a wastewater treatment plant that I don't even know what our status is, at this point."

Interim Water Supervisor Aaron Gustin said, "I have a list."

Mayor Zavodny said, "I think that becomes our priority."

Interim Water Supervisor Aaron Gustin said, "The savings that, obviously, were extended to the city by their efforts, those would assist in paying for that extra staff. Over the past couple years, we've dropped our water loss. I've actually got this on here, too. Gil did the water loss reports and we dropped again, which was good. When I took over it was 19.88 percent, and at twenty percent the state is coming to see why. Through our efforts and tracking, we got that number down to 9.88 last year and now we are at 9.43 percent water loss. I know that there is a big question in regard to the meters. The delay in the installation of the meters actually proves to be a benefit to us. There was new legislation that was passed. Inspection of the types of materials inside a home is going to be required of the plumbing. They are looking for copper galvanized pipe, lead goosenecks, pecks, and we're going to be required to start tracking all of that. This would give us the opportunity to, not only when we go in to do the meters, to see what type of plumbing materials are there to report to the state and also, we'll be able to put eyes on and see....we just had the north side sliplined and in that three inch rain, we were called out that "G" Street was overwhelmed. Since we just had the sliplining done, that should not be that way. It's probably all of those taps that are ground water related that are dumping into the sanitary sewer. This way that will give us the opportunity to have an idea what percentage of the residents are actually tapped in. How we go about that is, obviously, up to the Council."

Mayor Zavodny said, "I'd also suggest, at this point, that we have eighteen months to figure out how to allocate the federal money that is coming to us. I don't think we can use it for personnel but find out what we can and can't do. Investing in our infrastructure makes sense to me because that way it's a long-term benefit to everybody in the community and it's not earmarking ongoing expenses versus one-time things that we can actually track the money on. Those are some of the processes that as we go we should do simultaneously with this, I think."

Council member Tom Kobus said, "I just thought of this. Has the City ever thought of providing steel-toed boots for their employees? Gloves for winter, boots and that type of thing."

Interim Water Supervisor Aaron Gustin said, "Yes. Clayton addressed the importance of safety apparel and equipment. Getting away to get those items sometimes proves difficult, especially if you are on the field crew working with John. There's no leaving. Emmalyn is looking into hard hats and safety vests right now."

Council member Tom Kobus said, "I'd even go so far as to get coveralls."

Interim Water Supervisor Aaron Gustin said, "We've done that, too."

Mayor Zavodny said, "I can tell you this, I hand sign every check and I've noticed that we have been spending some money in those areas. I'm glad we're making that a priority to make sure that our guys can stay safe and be able to do the job."

Interim Water Supervisor Aaron Gustin said, "The final things that I have for the water treatment plant. Last month they kicked off the design portion, we had seven engineers in the building. That was great. In that packet you will find, and this was a spec sheet/possibility, everybody knows that we had the vac truck repaired. Upon pickup, the technician, not a salesman, the technician told John to dump it as soon as you can. Get what you can out of it because it's just going to keep costing you money. By the end of this year, we're probably looking at about twenty-five thousand dollars that we will have put into that for maintenance. I'm sure that the mayor is aware and anybody else, when Kevin was here, he had to put a new fan assembly on there and that was not cheap. I'm thinking that was about thirty thousand at the time. It's now about fifty thousand. They informed us that it is the wrong style of truck for the stuff that we do with it, because we use it for everything. We use it for hydro excavating, clean up, jetting sewers – which is what it's designed for - and pumping out sewers. But when you start pulling pits and debris, those fans and that fan assembly, it hits those. I'm sure that anybody has heard that thing running, you can hear it bark halfway across town and that's because that motor and that fan assembly are cavitating and, for anybody that wants to know, it's not in alignment so it's going to continue to work its way out and go from there. Right now, with the unit that we have, they were going to offer us a trade-in value, they would be hard pressed to offer us twenty to twenty-five thousand dollars. We wanted to see what they would recommend for us and so they brought a unit up and Clayton and Kevin were able to attend. They are very knowledgeable. They build it per your specs. Clayton and I did ask them about the potential for a used unit because they offer a very similar type of agreement that we have with the Cats, whereas you're leasing it and at seven years there is a guaranteed buy back amount, so long as you agree to maintain it on an annual basis and then that rolls over into your next purchase. So, these are all things that we're looking at. I'm not asking for anything at this point, but we're investigating that, given the information that we were told."

Mayor Zavodny said, "Have we evaluated the outright purchase versus the lease purchase option? You know I'm not trying to offend you with this but, what we're doing is stupid. By the time something is broken down and you have to go rent one, that's an expense that you're never getting back, that's money that you're throwing away. Making repairs to this when it has exceeded its useful life doesn't make sense. This is where I apply farming principles. When you start putting more and more money into it, at some point you have to say we need a new piece of equipment or we have to do something else because your profit margin, not that we're worried about that so much, but its efficiency and that's how we stay in good positions is to do smart things with money. This isn't smart."

Interim Water Supervisor Aaron Gustin said, "The outright purchase price was on that sheet. It went up considerably from just four or five months ago when he had to quote a very similar unit to another town. The unit that he quoted to another town was \$267,000 for a very similar unit, now we're looking at \$311,000."

Mayor Zavodny said, "How far out are they?"

Interim Water Supervisor Aaron Gustin said, "They are custom built. It would be nine to ten months out."

Mayor Zavodny said, "So, we're looking at a year."

Interim Water Supervisor Aaron Gustin said, "He said that it's dependent upon chassis. They can use two chassis and they haven't had too many issues getting them, but it's a popular truck and they custom build them. So, the sheet that everybody has in their packet is what would accommodate David City's needs. That's the outright purchase option. A used option on a seven-year-old unit that Clayton and I were discussing, both of these, the benefits on a new unit, obviously we know what that is and the benefit of trying to locate a used unit means that you could probably have one very soon."

Mayor Zavodny said, "Unless it's totally different than how everything else is working, used vehicles are bringing a premium, more than their value would normally be, given availability and scarcity of the resource. So, buying someone else's potential problem and why are they getting rid of it unless they got something bigger and better. To me, it just seems to make more sense to get some warranty to have a unit that we know what the maintenance is. I just can't imagine that the price difference is enough to warrant."

Interim Water Supervisor Aaron Gustin said, "I think he said that they can warranty a used unit for like sixty days and then it's our problem."

Mayor Zavodny said, "What I'm telling you is that spending two hundred thousand on a used unit that has a sixty-day warranty and you don't know what its history is, there's a lot of stuff, was the oil changed? They can tell you that it's all great, but..."

Interim Water Supervisor Aaron Gustin said, "Kevin had the opportunity to look at a similar unit. It was the largest that they sell which is not what we would be looking at, but we would be looking something very similar in size to the vac truck that we have now and he can probably attest to the complexity of everything there but also to the quality of the equipment that goes on that particular unit. If anyone has questions, they can probably send them Kevin's way."

Mayor Zavodny said, "I don't think we need to buy more than we need, but right size it and have the right features that meet our needs and then let's figure out what it costs and we'll figure out how to proceed."

Council member Kevin Woita said, "My comment is that the company that came out to show us what they had, I liked everything that they said and it was a quality built, top of the line truck. It was a very large unit that we wouldn't use but everything they said I agreed with one hundred percent. As complex as these machines are, I don't think that we want to buy something used at all because we need the warranty on it. He said that the main thing is the water pump and he has only worked on this style of pump twice in his career and he said when they do break, it's very expensive."



in connection with



-CONTACT INFO-

| | |
|---------------------------------|---------------------------------------------|
| Vendor: | Macqueen Equipment Group |
| Contact Person: | Greg Oliverius |
| E-mail: | Greg.oliverius@macqueengroup.com |
| Kinetic Leasing Contact: | Sutton Lauinger- Slauinger@kineticlease.com |
| | DL# 701-551-7265 PH# 701-476-0221 |

-LEASE QUOTE-

David City, NE

| | Option A |
|---------------------------|---------------------------------------------------------|
| Date: | October 12, 2021 |
| Equip. Desc.: | 2022 Vactor |
| Equip. Cost: | \$299,101.00 (\$311,601.00 – 12,500.00 trade) |
| Term: | 7 Year Annuals |
| Commencement Date: | October 2021 |
| Payment date: | July 01, 2022 |
| Lease Payments : | \$48,499.38 (7) Annual Payments |
| Interest Rate: | 3.5% |
| Purchase Option: | \$1 |

**Quoted payments are good for 60 days*

**Payments do not include any applicable state and local sales tax*

**All quotes are subject to credit approval*

**\$499 Documentation fee due at signing*

Notes:

- This transaction will be structured as a Municipal Lease Purchase Agreement specifically for (Bank-Qualified) tax-exempt municipal entities and will contain the usual clauses required to include \$1.00 purchase option, early payoff privileges, annual appropriations provisions, etc.
- This proposal is subject to the lease documentation being mutually satisfactory to the Lessee and Lessor, as well as final credit approval by Kinetic Leasing, Inc.
- End of Lease Term Options for A & B:
Purchase equipment for purchase option.

PRODUCT DESCRIPTION

· IMPACT Combination Machine with Roots 616-15" Hg. Blower, 3 Yard Debris body, 500 Gallons of Fresh Water

STANDARD FEATURES

- Curbside Toolbox w/ Nozzle Storage Rack, 42W X 22H X 24D
- Aluminum Fenders
- Mud Flaps
- Electric / Hydraulic 180 degree rotation 5ft extendable boom
- Color Coded Sealed Electrical System
- Intuitouch Electronic Package
- Double Acting Hoist Cylinder
- Handgun Assembly w/ 3/5" x 3/8" Hose w/ Quick Disconnects
- Ex-Ten Steel Cylindrical Debris Tank
- Flexible Hose Guide
- (2) Nozzles w/ Carbide Inserts
- Suction Tube Storage - 5 Pipe
- 3/4" Nozzle Pipe
- Stainless Steel Float Shut Off System
- Horizontal Microstrainer Prior to Blower
- Debris Body Vacuum Relief System
- Low Water Alarm with Water Pump Flow Indicator
- Water Tank Sight Gauge
- Liquid Float Body Level Indicator
- Front Controlled Blower Drive
- Digital Water Pressure Gauge
- Joystick Boom Control
- Boom Hose Storage, Post
- 40 GPM/2500 PSI
- Rodder System Accumulator - Jack Hammer on/off Control w/ manual valve
- 3" Y-Strainer at Water Pump
- Multi-Flow Water System
- 1" Water Relief Valve
- Midship High Pressure Coupling
- 500' x 3/4" Sewer Hose 2500 PSI, Piranha
- Hose Wind Guide (Dual Roller), Manual
- Digital Hose Footage Counter
- Rotating Hose Reel, 3/4" x 500' Capacity, 180 Deg. Rotation
- Hydraulic Tank Shutoff Valves
- Tachometer / Chassis Engine w/ Hour Meter
- Water Pump Hour Meter
- PTO Hour Meter
- Hydraulic Oil Temp Alarm
- Tachometer / Blower w/ Hour Meter
- Circuit Breakers
- LED Lights, Clearance, Backup, Stop, Tail, & Turn
- Tow Hooks, Front
- Tow Hooks, Rear
- Electronic Back-Up Alarm
- Camera System, Rear Only
- 6" Vacuum Pipe Package
- Emergency Flare Kit
- Fire Extinguisher 5 Lbs.
- Module Paint, DuPont Intron Elite - Sanded Primer Base
- Vector Standard Manual and USB Version

ADDITIONAL FEATURES

- Centrifugal Separators (Cyclones)
- Plastic Lube Chart, included with Lube Manifold
- Body Washout
- Digital Water Level Indicator
- Digital Debris Body Level Indicator
- Final Filter and Silencer Ball Valve Drains
- Bellypack Wireless Controls, including hose reel controls
- 6" Knife Gate Valve, 6:00 position
- Rear Door Splash Shield
- Additional Water, Water and Debris Tanks Joined
- Lube Manifold
- Pinch Roller
- Cold Weather Recirculator, PTO Driven, 12 GPM
- Hydro Excavation Kit - Includes Lances, Nozzles, Storage Tray, and Vacuum Tube
- Worklights (2), Extendable Boom
- Manhole Worklight
- Rear Directional Control, LED Arrowstick
- Rear Mounted, LED Beacon Light w/ Limb Guard
- Front Mounted, LED Beacon Light w/Limb Guard
- High Pressure Hose Reel
- Rodder Pump Drain Valves
- 25' Leader Hose (in lieu of standard)
- Rear Directional Control, LED Arrowstick
- Rear Mounted, LED Beacon Light w/ Limb Guard
- Front Mounted, LED Beacon Light w/Limb Guard
- Waterproof, Rechargeable, Wireless, Handheld, LED Spot Light w/12V Charger and Plug
- H.A.L.O. (Handsfree Accessory Light Option)
- 10 Light Package, 10 Federal Signal Strobe Lights, LED
- Toolbox, Behind Cab - 14w 36h x 88d
- Safety Cone Storage Rack - Post Style
- Module Paint, DuPont Imron Elite - Sanded Primer Base
- Vector/Guzzler Logos - Applied
- Vector Standard Manual and USB Version
- Vector Supplied Chassis, Single Axle, 2023 Freightliner M2 106, 300 HP, Auto, 26000 GVWR, Air Brakes, GHG

REPLACEMENT BUDGET WORKSHEET
 CITY OF DAVID CITY, NE

2022 Vactor Impact

| Year | Budget Year | Purchase Price 3% ANNUAL INCREASE | Guaranteed Buyback | Budget Replacement Amount | Est. Fixed Annual Maintenance Fee |
|------|-------------|--------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------------------|
| 1 | 2022-2023 | \$299,101 | <i>Assuming Maintenance Plan Is Continued Throughout Ownership</i> | <i>Estimate Only as Prices may Increase +/- 3% Per Year with like machine</i> | \$3,500 |
| 2 | 2023-2024 | \$308,074 | | | \$0 |
| 3 | 2024-2025 | \$317,316 | | | \$3,500 |
| 4 | 2025-2026 | \$326,836 | | | \$0 |
| 5 | 2026-2027 | \$336,641 | \$134,600 | \$202,041 | \$3,500 |
| 6 | 2027-2028 | \$346,740 | \$119,640 | \$227,100 | \$5,295 |
| 7 | 2028-2029 | \$357,142 | \$104,685 | \$252,457 | \$6,295 |
| 8 | 2029-2030 | \$367,857 | \$89,730 | \$278,127 | \$6,295 |

Mayor Zavodny said, "You just hit on the component that I was most concerned about. The thing can run great, but it's the pumps and all of the valve system. You don't know if it was left out and something froze and is cracked. Then you start having other problems."

Interim Water Supervisor Aaron Gustin said, "A lot of the issues that plague us now, this has built-in safeguards because, obviously, people have had those issues with older units. There are some built-in safeguards with this unit, too, to help prevent with valves binding up and things of that nature in the hydraulic system, the air system."

Mayor Zavodny said, "Unless someone disagrees, bring us a proposal, bring us the break-downs. I think we need to look at the options, but I just can't imagine that there will be a big enough price difference on used to justify the difference between a full warranty and a sixty-day warranty. I don't think that's in our best interest."

Interim Water Supervisor Aaron Gustin said, "I'll bring you the vendor so you can ask them directly. There are some photos in that packet and I will try to move through these quickly. These are in regard to the Wastewater Treatment Plant headworks building. This first photo is a sixteen-inch pinch valve or plug valve, but this particular valve has seized. It is seventeen thousand dollars and a twelve-to-fourteen-week non-guaranteed lead time. There are two of these on these basins so we are down a basin, as we speak. We are running in single basin mode. Jared was able to work his magic in SCADA and be able to do this. Emmalyn and I are

going to crack open this valve, we have to jackhammer out a little bit of concrete. We are going to see if we can't get a grinder in there, clean it up and try to break it loose. That way we can have two working basins. In the meantime, I wanted to know what the Council thought about looking at acquiring a new one or if we can get it working, leave it as we have it? Everything's breaking. I'm here every two weeks."

Council member Tom Kobus said, "It's not your fault. Everything's old."

Interim Water Supervisor Aaron Gustin said, "I didn't set the prices, that just blew my mind that a valve like that is seventeen grand. We have two of them that are the same age."

Council member Tom Kobus said, "They are pretty important valves. My thought is – don't even fool with it."

Mayor Zavodny said, "I would like to concur with that. It doesn't make any sense."

Interim Water Supervisor Aaron Gustin said, "The sense that it made to us is that we can get treatment back and being efficient because we were showing a really positive trend in our ammonia levels and that's our goal."

Mayor Zavodny said, "Ok. Here's what you're going to do. Let's get the new one going because this is an emergency. We still have the EPA stuff and we can't be messing with this ammonia. If you can break it loose and use it as a bridge until the new one comes and you can install it, but I'm telling you right now to get the thing coming."

Council member Tom Kobus said, "How soon can you get it?"

Interim Water Supervisor Aaron Gustin said, "Twelve to fourteen weeks."

Mayor Zavodny said, "That's too slow."



Interim Water Supervisor Aaron Gustin said, "As you're probably all aware of the safety evaluation that we had on the headworks building sometime ago. Recently, Bob Veenstra of Veenstra and Kimm, started his evaluation and is going to be making his recommendations probably within the next month but, one way or another, until something is done on a construction level, we are still entering an unsafe building so we got to work. If you look at the recommended improvements from Olsson they were upward of \$120,000. We should be able to finish what we need to do and have a safe building for entry for under \$5,000. So, we poured a wall. We have an issue that continually, I was told that it's probably ground water, I was told this by our engineering firm. We did not believe that statement, so we did some investigatory work since we had the heavy equipment in the area. The line that Erikson did work on to install for the anaerobic lagoon has, whether it be tapped a ground water vein or is pulling wastewater from one direction or the other and pooling it right at that building. So, once we discovered that, John was able to dig a hole three feet deep right above our line. Everybody who has seen a pipe installed knows that there's gravel and rock that line that so the water can disperse. Three feet - four feet to the west, he dug a hole of similar depth, absolutely dry. That tells me water, whether it be ground water or sanitary sewage is following that line back and pooling right at our headworks building, which is why this looked the way this looked for the last year and a half. I do not recall it being as bad as it was until after the anaerobic lagoon deal was done. They had a tiny little sump pit, actually it was a five-gallon bucket with holes installed in it in there to just take care of ground water as it came, but we took it one step further because the concrete walkway in front of there is starting to settle in. It's dropped an inch in the past couple of months and I said 'no', it's our only headworks option right now and it's going to cave in and then we'll have nothing. So, I touched base with Roger a week and a half ago and he said if you can get eyes on the issue, we will come out. We cannot put eyes on the issue because it's too large of a scope for us to diagnose. I'm going to reach out to Craig and reach out to Roger and see what can be done. By rights, they should have stopped anything on the other side of the road where our valve junctures are but I wanted to just inform everybody that this is in process, we are going to be communicating with those individuals that we need to, to see how we can keep that away from the headworks building."

Mayor Zavodny said, "So, we are proposing no solution, at this point? We're still evaluating? Logic would probably tell you that the water is following that path of least resistance and tracking there and if you have something dropping that fast, there's something going on underneath with your concrete."

Interim Water Supervisor Aaron Gustin said, "We're just trying to make it safe."

Mayor Zavodny said, "Who is going to give us a solution to this? I would like one that I can trust, right now."

Interim Water Supervisor Aaron Gustin said, "Our two options for this are the contractor or the engineering firm that designed and then installed it."

Mayor Zavodny said, "What happens is that they blame it on design, then the design people blame the contractor. We're letting the fox guard the chicken coop here. Nobody is going to admit that they screwed up. It never happens. I've never seen it happen. This has

been so frustrating to me. I'm sorry that you have to be on the end of it. It is not you. I'm asking the Council now, how are we going to fix this?"

Council member Tom Kobus said, "How close did you dig to that pipe?"

Interim Water Supervisor Aaron Gustin said, "We're right on top of it. There's plenty of water there and then just a few feet to the west it's dry. That's how we were able to diagnose. We know that it's following the pipe, whether it's a ground water vein or sanitary sewer. John said it should have been stopped on the other side of the road and not allowed to follow to there. If it followed to there, it should have stayed in the ditch and not..."

Mayor Zavodny said, "What is the distance that it went?"

Interim Water Supervisor Aaron Gustin said, "We have absolutely no idea. It could be coming from one way or the other. We could be talking three-eighths of a mile or we could be talking a quarter of a mile or we could be talking fifty more feet. I'm guessing that it heads to the east, toward the anaerobic lagoon, given the increase that we've seen in the water in the front of that building since the installation of that project. I could be wrong."

Council member Kevin Woita said, "That's just logic."

Council member Tom Kobus said, "It's all supposed to get redone anyway, right?"

Interim Water Supervisor Aaron Gustin said, "Exactly. Do we just bide our time? This is information that I'm going to give to Bob tomorrow. I'll make a phone call and let him know that we're going to have to diagnose and follow our lines."

Council member Tom Kobus said, "Everything that the City needs to do that really needs to happen, it takes two years to do it. That's what is sad."

Mayor Zavodny said, "You're not wrong. But, if I'm a bureaucrat sitting in DEQ or EPA, I'm sick and tired of listening to David City's explanations of everything that's wrong. I'll tell you I don't think that we've spared any expense. We've never said 'no' to trying to fix things and we are still sitting here now with something that doesn't work after millions of dollars."

Interim Water Supervisor Aaron Gustin said, "Not only does it not work, it is faulty."

Mayor Zavodny said, "It's detrimental and we're not able to come into compliance with someone who has, actually, shown quite a bit of patience with us."

Interim Water Supervisor Aaron Gustin said, "I had a conversation with them and we'll touch base on that after this point."

Mayor Zavodny said, "I'm done sitting here saying 'oh, well, let's keep going'. Someone needs to be accountable now."

Council member Tom Kobus said, "This should have been done with that project or before."

Interim Water Supervisor Aaron Gustin said, "I would agree, but here we are. Hindsight is quite clear."

Mayor Zavodny said, "I appreciate you being optimistic because right now, I am not. Thank you for that."

Interim Water Supervisor Aaron Gustin said, "I can't help it. Here's my optimism. I spoke with Seth Draper of the EPA because we had not received a response to the updated comprehensive compliance plan and that was making me extremely nervous, so I reached out to him, I couldn't take it anymore. I reached out to him and he said that everything looked agreeable and acceptable. He did thank us for our efforts in trying to solve these issues. The EPA is waiting to respond until Mr. Veenstra is able to give us his recommendations with the evaluation. They will come back and they will amend the consent decree with verbiage stating that will extend the time based on David City's willingness and acceptance of one of his proposals."

Mayor Zavodny said, "You have the authority to share with him our commitment to do whatever it takes to make this right because I'm done."

Council member Kevin Woita said, "Can we go back on Eriksen?"

Council member Tom Kobus said, "You know how that works."

Interim Water Supervisor Aaron Gustin said, "The warranty expired about three weeks ago, however, this problem had been reported before..."

Mayor Zavodny said, "I think it was documented before the warranty expired."

Interim Water Supervisor Aaron Gustin said, "We can go back in meeting minutes, even."

City Administrator Clayton Keller said, "We've made them aware."

Council member Kevin Woita said, "I think that they should be contacted to come and fix it. They need to come and at least look at it."

Council member Tom Kobus said, "We fought those guys every step of the way when they put that in. It still isn't right."

Council member Kevin Woita said, "I think they had two different supervisors working on it."

Mayor Zavodny said, "I think what this Council has asked is not unreasonable. Give us what we paid for that should work. That's it. It's not complicated. Give us what we paid for, a system that works. So, that's what we're going to pursue."

Interim Water Supervisor Aaron Gustin said, "That is all that I have to add to the Committee and Officer's Reports."

Mayor Zavodny said, "That was a wonderful report, thank you very much."

Council member Kevin Woita said, "I will add one more thing. I'm a big fan of doing things in-house. I agree with everything that the mayor said. Getting the work done. We're not alone. There's a community close to us with a large population that has hired specialized people to start doing work for the city. I can see that they are saving money, big time. They were hiring contractors to do work and now their city employees are doing it. In the long run I like the idea of doing in-house work with qualified people, of course. I think that's the right way to go."

Mayor Zavodny said, "I think that you have built-in accountability that way and that's worth a lot. We need to reestablish the confidence that our citizens have because, right now, how can they have any confidence?"

Council member Tom Kobus said, "I agree with Kevin. I would give them all of the tools and equipment that they need to do the job right. Just like that truck, if they need it and it doesn't work, then everybody is sitting. That truck probably gets used just as much as the line truck or that type of thing, if not more."

Mayor Zavodny said, "If there are no other comments, I would entertain a motion to accept the committee and officer's reports."

Council member Bruce Meysenburg made a motion to approve the committee and officer's reports as presented. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1









Council member Tom Kobus made a motion to approve Progress Estimate #1 for Garver, LLC in the amount of \$48,841.00 for the Airport Layout Plan. Council Member Pat Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

PROGRESS ESTIMATE

**NEBRASKA DEPARTMENT OF TRANSPORTATION
 AERONAUTICS DIVISION**


Sponsor: City of David City
557 N. 4th Street
David City, NE 68632
 Contractor: Garver, LLC
PO Box 6565
Lincoln, NE 68506

Estimate No. 1 Date: 9/3/2021
 AIP No.: 3-31-0025-014-2021
 Garver Project No.: 20A14400 David City Municipal Airport
 Date of Contract: 4/28/2021

| ITEM NO. | DESCRIPTION | ESTIMATED QUANTITIES TO DATE | UNIT | UNIT PRICE | AMOUNT |
|----------|----------------------------------|------------------------------|------|-------------|-------------|
| 1 | Project Initiation & Admin | 85% | LS | \$7,536.18 | \$6,405.75 |
| 2 | Inventory of Existing Conditions | 50% | LS | \$52,047.61 | \$26,023.81 |
| 3 | Aviation Activity Forecasts | 10% | LS | \$23,496.81 | \$2,349.68 |
| 4 | Facility Requirements | 0% | LS | \$13,572.76 | \$0.00 |
| 5 | Airport Alternatives | 0% | LS | \$39,469.11 | \$0.00 |
| 6 | Airport Layout Plan Development | 5% | LS | \$51,237.11 | \$2,561.86 |
| 7 | Implementation Plan | 0% | LS | \$8,105.63 | \$0.00 |
| 8 | Aeronautical Survey | 13% | LS | \$90,909.00 | \$11,500.00 |
| 9 | Closeout | 0% | LS | \$9,131.92 | \$0.00 |

As Project Engineer, I hereby certify that the quantities shown above have been completed from measurements made by me or my predecessors and that the work has been performed according to plans and specifications.


 Project Engineer 9/3/2021
 Date

Approved for payment
 as per Project
 Engineer's certification 
 NDA Project Engineer 9/3/2021
 Date

| | |
|------------------------------|-------------|
| Grand Total | \$48,841.10 |
| Less Previous Estimates | \$0.00 |
| Due Contractor This Estimate | \$48,841.10 |

APPROVED: _____
 Airport Sponsor Date

Council member Jessica Miller made a motion to pass and adopt Resolution No. 20-2021 updating the Building Permit Fee Schedule. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

RESOLUTION NO. 20-2021

WHEREAS, the City of David City has determined a need to increase and change the fees charged for Zoning Application Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA that the following application fees are hereby approved and adopted.

Schedule of application fees:

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Residential Remodel / Structural Repair / Additional living space..... | \$75.00 |
| New Residence..... | \$250.00 |
| Multi-Unit Residential / Per Unit..... | \$250.00 |
| Commercial / Industrial – New / Remodel..... | \$250.00 Minimum |
| \$0 to \$50,000..... | \$250.00 |
| \$50,001 to \$100,000..... | \$350.00 |
| \$100,001 to \$250,000..... | \$450.00 |
| \$250,001 to \$500,000..... | \$550.00 |
| \$500,001 to \$1,000,000..... | \$750.00 |
| \$1,000,001 and over..... | \$1,000.00 + 25¢ per \$1,000 fraction thereof. |
| Sign, Fence, Awning, Deck, Patio, Concrete, Egress Window, Structural Mailboxes in the R.O.W. and Demolition permits..... | \$25.00 |
| Temporary Storage Container | \$25.00 |
| Accessory Buildings and/or additions to such..... | \$75.00 |
| Temporary Structures, including but not limited to: Tent structures, Greenhouse/Hoop Buildings, Carports, and Sheds less than 200 square feet with a built-in floor on skids, (Without a foundation)..... | \$25.00 |
| Join / Divide Lots..... | \$50.00 |
| Conditional Use..... | \$100.00 |
| Zoning Amendment Hearing..... | \$150.00 |

| | |
|-------------------------------------|---------------------------|
| Zoning Variance Hearing..... | \$100.00 |
| Zoning Change Hearing..... | \$150.00 |
| Subdivision – Preliminary Plat..... | \$300.00 +\$10.00 per lot |
| Subdivision – Final Plat..... | \$175.00 |

(Final Plat must be submitted within 90 days of Preliminary Plat,
or Preliminary Plat may be void.)

If a special council meeting is required the applicant will be charged for the cost of the special council meeting in addition to the above charges.

All fees are non-refundable.

Dated this 13th day of October, 2021.

Mayor Alan Zavodny

City Clerk Tami L. Comte

City Administrator Clayton Keller introduced Russ Heller who is with the Friends of David City group. City Administrator Clayton Keller said, “The Friends of David City would like to be allowed to erect a shelter in the Jaycee Park as the agenda item says. Their idea is to place it where the current well house is located. It would happen after the well house is taken down and abandoned.”

Russ Heller said, “Mayor and Council members, I appreciate you allowing us to come before you here as Friends of David City. Having completed the fundraising for the equipment which we are putting into the park, we’ll want to move onto the next phase which would be a shelter that Clayton was describing. We’re proposing constructing a twelve by twenty-four-foot shelter on a concrete pad. The estimate that we have does include, basically frost footings. For the poles, it would be supported by steel columns. The shelter itself will have aluminum soffits on the roof and beam wraps. It’s going to be a well-constructed shelter. The Friends of David City are anticipating covering the entire cost of construction. We would be looking to the City for very little, if anything. If you want to kick in, we would appreciate it. The concrete that we’re pouring would also have conduit so that we can have electrical run to it at a later date. We’re looking at approval of our proposal and if we can gain approval, we will start fundraising for that almost immediately. We’re looking at probably the fall of 2022 for beginning of construction of the structure. Are there any questions?”

Council member Jessica Miller said, “Will you have a sidewalk in place from the street so that people in wheelchairs can access it?”

Russ Heller said, "That was not specified in the estimate for us, but that is something that we can make sure that it is handicapped accessible."

Council member Jessica Miller said, "I'm not against this. I know that we like utilizing that park, but I also think that as we do these things, we need to think about those people with disabilities and make sure that they are accessible."

Russ Heller said, "Being new construction, I'm guessing that is something that we will need to have Tony consider. It will be Novak Construction doing the building for us. That is one of the aspects that we'll have him look into."

Mayor Zavodny said, "That being said, I trust Tony implicitly, however, even to protect him, while under my watch the shelter blew over in the park, the deck on the Par IV collapsed, and the design here was based on a pivot and when the wind blew it just collapsed. I think, to protect the City and everybody else, we probably need to factor in some engineering here. At least have it signed off on by an engineer. I believe that Tony will build something that would not blow over but stuff has happened already and it would be negligent on our part not to have some engineer sign off on it. I hate it that we live in that kind of world but, we do."

Council member Bruce Meysenburg made a motion to approve the request of the Friends of David City to erect a shelter at the Jaycee Park in north David City. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to approve the SVI Agreement with Black Hills Energy and authorizing the City Administrator to sign all necessary documents. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

City Council Proceedings
October 13, 2021
Page #27

Clayton Keller

From: Zaruba, Scott <Scott.Zaruba@blackhillscorp.com>
Sent: Monday, September 27, 2021 4:02 PM
To: ckeller@davidcityne.com
Subject: City of David City Power Plant
Attachments: SVI Agreement City of David City 2021.pdf; David City Interruptible Affidavit 2021.pdf

Clayton, Good Afternoon, you received letters in August from Mary Martin, Black Hills Energy, regarding a review of rate and level of your natural gas service to determine if current gas consumption meets the requirements established by the State Natural Gas Regulation Act for customers in your rate class. It was determined that the City of David City's Power Plant does not meet the criteria to be a High-Volume User. This account will now be a Small Volume Interruptible customer.

I have attached the new Small Volume Interruptible contract along with the Interruptible Affidavit. Please sign and return the SVI agreement on page 2 and the affidavit with notary on page 4 at your earliest convenience. I will then return a fully executed agreement. Let us know if you have any questions, and we look forward to continuing to serve your facility's natural gas needs.

Please note that you can type in the shaded areas on page 4 & 5 of the affidavit.

As we discussed, the current rate is \$0.32/MMBtu and a monthly Customer Charge of \$218.00. The new rate will be \$1.35/MMBtu and a Customer Charge of \$110.00.

Again, please let me know if you have any questions.

Regards

Scott Zaruba | Black Hills Energy | Senior Account Manager | Desk: (402) 257-6083 | Mobile: 402-750-0128 | www.blackhillsenergy.com

This electronic message transmission contains information from Black Hills Corporation, its affiliate or subsidiary, which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware the disclosure, copying, distribution or use of the contents of this information is prohibited. If you received this electronic transmission in error, please reply to sender immediately, then delete this message without copying it or further reading.

**SMALL VOLUME
INTERRUPTIBLE GAS TRANSPORTATION CONTRACT
FOR THE STATE OF NEBRASKA**

THIS INTERRUPTIBLE GAS TRANSPORTATION CONTRACT, made this 27th day of September, by and between BLACK HILLS NEBRASKA GAS, LLC D/B/A BLACK HILLS ENERGY, ("Company"), and City of David City located at 557 N. 4th Street, David City, Nebraska ("Customer") under Customer Account 5950458206.

IT IS HEREBY AGREED AS FOLLOWS:

1. **Term.** The primary term of this Contract shall commence on October 1, 2021, and shall continue in effect until September 30, 2024, and thereafter from month to month until terminated by either party upon thirty (30) days prior written notice to the other party.

2. **Terms of Sale.** During the term of this Contract, and unless otherwise agreed in writing by the parties, Company shall be Customer's exclusive natural gas distributor for Customer's facility located at 590 11th St. David City, Nebraska. All gas delivered hereunder shall be paid for in accordance with those charges set forth in Company's Rate Schedule NE71E or any effective superseding rate schedule as may be implemented by Company from time to time. In addition, Customer shall pay all other costs associated with the interruptible gas service under this agreement. Gas delivered hereunder by Company shall not be resold by Customer to a third party. Company shall notify Customer of any such effective superseding rate schedules.

3. **Interruptible Nature of Sale.** Delivery of gas hereunder is subject to curtailment or interruption for any reason or whenever required by Company or its supplier for the protection of deliveries of firm gas or deliveries of other gas carrying a higher priority than that delivered hereunder. Customer represents to Company that Customer understands and acknowledges such delivery of gas is subject to curtailment or interruption at any time as permitted under this interruptible service agreement with Customer.

4. **Service Interruption Procedures.** Customer agrees either (i) to shut down its operations or (ii) to maintain, in good working condition, complete standby facilities and alternate fuel supply to maintain operations during full or partial curtailment or interruption of service hereunder. Company may physically disconnect Customer's transportation and supply of gas, without liability to Company, in the event Customer fails to curtail or cease its use thereof when requested by Company to do so.

5. **No Irreparable Injury and Penalties for Non-performance.** If Customer is curtailed or otherwise interrupted by Company for any reason, then Customer shall immediately cease taking natural gas volumes until further permitted by Company. During any such interruption or curtailment, Customer shall either (1) shut down its operations or (2) use an alternative fuel source and fuel system required under paragraph 4 above that is maintained by Customer. Customer acknowledges that Company has no responsibility or liability to Customer for or during such interruption or curtailment of natural gas service under this Agreement.

In addition, Customer acknowledges that it does not rely on interruptible service hereunder to serve persons, property, or facilities that will suffer irreparable injury to life or property, including environmental emergencies if the natural gas provided under this service agreement is interrupted as permitted under the agreement between Company and Customer. Customer shall be responsible for and agrees to pay any and all scheduling, imbalance penalties or other penalties, charges, gas costs, and other related costs determined by Company as a result of unauthorized actions or inactions of Customer.

6. **Payment of Bills.** Customer shall pay all bills for service hereunder to Company in accordance with Section D. of the attached Appendix.

7. **Notices.** Notices to Company under this Contract shall be addressed to:

Black Hills Energy
Business Development
1731 Windhoek Drive

Lincoln, NE 68512

ATTN: Scott Zaruba
Phone: (402) 858-3547
Email: Scott.Zaruba@blackhillscorp.com

And notices to Customer shall be directed to:

CUSTOMER: City of David City
P.O. Box 191 David City, NE 68632
Attn: Clayton Keller
Phone: 402-367-3135
Email: ckeller@davidcityne.com

Either party may change its address under this section at any time upon written notice to the other party.

8. Succession and Assignment. This Contract and each of its terms shall bind and inure to the benefit of the parties hereto, their respective successors and assigns.

9. Regulatory Approval. This Contract is subject to the rules and regulations of any regulatory or legislative authorities having jurisdiction of the sale of natural gas contemplated hereunder and the construction and operation of the facilities required to deliver said natural gas. This Contract is specifically governed by section 66-1810 and other terms and conditions set forth in the State Natural Gas Regulation Act of Nebraska.

10. Contract Terms and Conditions. Attached as an Appendix are Contract Terms and Conditions which are hereby incorporated by reference into this Contract.

This Contract cancels and supersedes all previous gas sales or transportation contracts between the parties hereto.

The parties hereto have executed this Contract on the date first above written.

"COMPANY"
BLACK HILLS NEBRASKA GAS, LLC
D/B/A BLACK HILLS ENERGY

"CUSTOMER"
CITY OF DAVID CITY

Authorized Signature

Title

Title

E. Termination of Service.

(1) Statements for service become delinquent if not paid within ten (10) days of the Bill Issue Date. If the statement for service is delinquent, Company may discontinue service or take whatever actions are available to Company to recover the amount owed.

F. Liability of Parties. Company and Customer each assume full responsibility and liability for the maintenance and operation of their respective properties and shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims or actions, including injury to and death of persons, arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party. Company shall not be liable to Customer for its failure to deliver gas, and Customer shall not be liable to Company for its failure to receive gas, when such failure on the part of either shall be due to accident to or breakage of pipelines, machinery or equipment, fires, floods, storms or storm warnings, strikes, war or riots, legal interferences, acts of God or public enemy, shutdowns for emergency repairs and maintenance, failure or curtailment of gas supply or, without limitation by enumeration, any other cause beyond the reasonable control of the party failing to deliver or receive gas, as the case may be, provided such party shall promptly and diligently take such action as may be necessary and practicable under the then-existing circumstances to remove the cause of failure and resume the delivery or receipt of gas, as the case may be. However, if Customer fails to receive gas, Customer shall nonetheless be charged the minimum bill as provided for and defined in the approved rate schedule under which Customer is served. Neither Company or Customer shall be relieved of liability to the other for any damage or expense caused or contributed to by its own negligence when such negligence on its part shall be the proximate cause of its failure to deliver or receive gas, as the case may be. In the event of strike or labor trouble, the obligation to take such action as may be necessary and practicable shall not be interpreted to require the making of any concession or conceding any demands. Company shall not be liable for defects in Customer's piping or appliances.

G. Regulation. The provisions of this Agreement and the sale by Company to Customer are subject to all valid legislation with respect to the subject matter hereof, and to all valid present and future orders, rules and regulations of duly constituted authorities having jurisdiction. Company shall have the right to make and file with any and all regulatory bodies exercising jurisdiction in the subject matter hereof, now or in the future, changes in rates and new rates, and any agreed upon amendments to this Agreement.

H. Delivery. Gas delivered by Company shall be delivered to Customer at the point of connection between the distribution pipeline of Company and that of Customer on the outlet side of the measuring station of Company. All risk of loss, damage or injury shall pass to Customer upon delivery.

I. Information. Customer, upon written request, shall furnish Company such reasonable data as, in Company's judgment, is necessary for the proper analysis of the gas load requirements of Customer.

J. Taxes. When any town, city, county or state imposes a franchise, occupation, business, sales, license, excise, privilege or similar tax of any kind on Company, the amount thereof shall be surcharged on a proportionate basis to Customer and all other customers receiving gas service within such city, town, county or state. Such charges shall, in all cases, be in addition to the regular charges for service specified in Company's approved rate schedules.

K. Imbalance/Variance Resolution Procedure. The parties acknowledge and agree that nominated volumes and actual consumption must balance on a daily and/or monthly basis, as required by the interstate pipeline as those requirements may be changed from time to time. If there are any daily and/or monthly variances between the amount of gas Customer delivered to Company at the Receipt Point and the amount taken by Customer at the Delivery Point, the variances will be resolved in accordance with the applicable pipeline tariff as it may be amended from time to time. In the event the applicable interstate pipeline variance/imbalance resolution methodology and/or charges to its shippers are revised, modified, or superseded so that the methodology and/or charges to said interstate pipeline shippers or any tolerance level is changed, then the methodology and/or cash-out will be revised by Company accordingly.

L. Penalties. If Customer fails to perform any of its obligations or duties under this Agreement, Company will impose and Customer will pay Company the applicable pipeline tariffed penalties as they may change from time to time.

APPENDIX
INTERRUPTIBLE TRANSPORTATION AGREEMENT
Contract Terms and Conditions

A. Noncompliance with Company Curtailment Orders.

(1) Company, being bound by its pipeline suppliers' tariffs to discontinue taking gas in compliance with the pipelines' curtailment orders or pay a penalty for any takes in excess of such curtailment levels, and Company being also compelled to control its own deliveries to protect service to its high priority residential, small commercial and small industrial customers, must impose adequate damage and deterrent requirements against intentional or careless or extended excessive takes by Customer there-under (as well as by other customers similarly situated). Accordingly, Customer hereby specifically agrees that it will pay to Company, as liquidated damages for all volumes of gas taken while curtailment is in effect, pursuant to notice to Customer by Company, an amount equal to \$20.00 per Dth above the highest daily natural gas market price as determined by Company (i.e., in addition to any and all pipeline and/or Company charges, fees, penalties, and the market or company derived rate for natural gas) for all such unauthorized gas taken by Customer, plus any additional charge, including unauthorized overrun charges, imbalance, scheduling charges, storage, allocation, or other costs assigned to Customer by Company. Customer acknowledges the need for such charges and, therefore, waives any objections thereto based on a contention that they amount to an improper penalty rather than a proper level of deterrent charges and damage payments.

(2) The payment for unauthorized overrun volumes set forth above shall not, under any circumstances, be considered as giving Customer the right to take unauthorized overrun volumes, nor shall such payment be considered to exclude or limit any other remedies (including cancellation for breach of contract) available to Company against Customer for failure to comply with this Section.

B. Character of Service.

(1) Delivery Pressure. Delivery of gas by Company shall be at such varying pressures as may exist under operating conditions in the pipeline of Company at the point of delivery. Customer shall install, operate and maintain, at its own expense, such pressure regulating devices as may be necessary to regulate the pressure of gas after delivery to the Customer.

(2) Quality. Natural gas delivered to Customer will conform to the quality specifications of Company.

C. Computation of Volumes of Gas Transported or Sold.

(1) Gas delivered hereunder shall be measured in accordance with the standard operating practices of Company from time to time.

D. Billing and Payment.

(1) - "Billing Day" as used herein, means the period determined by Company for Interruptible Sales Service, as may be changed by Company from time to time.

(2) A statement shall be submitted by Company to Customer for natural gas delivered during the preceding billing month, and payment therefore shall be made by Customer to Company within ten (10) days of the current billing date (Bill Issue Date). If the unpaid balance is in excess of \$10.00, a late payment charge of 1.5% per month of the unpaid balance or \$1.00, whichever is greater (but not to exceed the maximum rate allowed by law), shall be added to the unpaid balance. In addition to its other rights and remedies set forth herein, Company shall have the right to discontinue service hereunder upon twelve (12) days prior written notice to Customer in the event any statement or portion thereof is not paid within thirty (30) days of the due date.

(3) Payments shall be made in U.S. dollars or, at Company's discretion, by the electronic transfer of funds to a specified bank account.

Mayor Zavodny stated that the next item on the agenda was consideration of joining SENDD (Southeast Nebraska Development District) for the 2021-2022 year.

Mayor Zavodny and Council member Miller questioned what we really got for our membership dues.

City Administrator Clayton Keller said, "The one thing that they have been able to deliver on is getting our Downtown Revitalization Plan that normally would cost us \$40,000 to \$50,000, and we got it for \$3,000 - \$8,000."

Mayor Zavodny said, "That was last year. What are we going to get with our continued membership? I'm not opposed to it. We've been very disappointed in the other thing that we tried to partner with them on."

City Administrator Clayton Keller said, "They offer infinite help with grants and applications, especially when it comes to housing. As we move forward and look for options, they are a good phone call to talk to if we need assistance."

Mayor Zavodny said, "Just because we were defeated the first time doesn't mean that I've given up. I just wanted to ask that. I think that we should try it for another year and if we don't get anything out of it, we should give it a hard look the next time that it comes up."

Council member Pat Meysenburg made a motion to approve joining SENDD (Southeast Nebr. Development District) for the 2021-2022 year. Council Member Kevin Woita seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

(This space left intentionally blank)

The Southeast Nebraska Development District (SEND) Board and staff work diligently to serve the 16 counties in this corner of the state. We do this by listening to community leaders, stakeholders, residents, and businesses, to learn about regional issues and find solutions to help. The past few years have been particularly challenging with natural disasters and a global pandemic, yet SEND continues to stay focused and deliver essential programs and services. We could not do this without your support and the SEND Board and staff would like to **thank you** for your continued membership.

SEND staff completed a variety of critical community and regional projects in the past year, as well as launching a **nationally-recognized** broadband mapping initiative for residents of southeast Nebraska. This award-winning effort provides local elected officials, businesses, and the public data, so they know exactly where their communities stand with broadband speeds. Information supports future broadband expansion grants and projects across the state. Additionally, SEND renewed our commitment to support the region by adding staff to support rural housing, public safety, disaster response, small business financing, and incorporating technology into our services.

Last year, SEND staff spent more time on the ground in the region, listening to community leaders and learning how we can better serve you. As a result, the agency successfully captured **\$21.5 million in state and federal funds**, resulting in **improved homes, revitalized downtown business districts, low-interest financing for workforce housing units, assisting businesses and creating new jobs.**

The only way these activities can continue is through your membership, which has remained steady for the **last 15 years**. Last year alone, membership dollars provide match for federal and state funded agency services, resulting in a **110:1 dollar return on investment**. In 2020-2021, your assessment dollars helped return nearly **\$13.1 million** of your federal tax dollars back into the region.

SEND pledges to remain by your side in these difficult times, and we look forward to making an impact across the region by growing our regional economy, identifying new opportunities, and building local wealth. Above all, we will continue to listen. For up-to-date information on grant programs, community and legislative updates, and news alerts, please go to our new website at www.sendd.org, sign up for our e-newsletter, or "Like" our Facebook page.

Once again, thank you for your support, and know that SEND is here to help. As always, I want to extend an open invitation to all members: please, visit the SEND offices or call and schedule a time for us to attend your city council or county supervisor meeting. So we can better serve you now and in the future, I encourage you to contact our staff with your ideas, suggestions, and thoughts.

We are here to serve you and look forward to your next visit.

Best regards,

Tom Bliss
Executive Director



MEMBERSHIP

FULL MUNICIPAL MEMBERSHIP

Includes any municipality paying the membership dues assessment established by the SENDD Board of Directors and located within a dues paying county. Services available to a Full Member include, but are not limited to:

- Monthly newsletter
- Special notices regarding programs of interest
- Unlimited visits to discuss requirements of specific programs
- Assistance with grant and loan applications, generally at no cost
- Special studies associated with grant and loan applications
- Census data and special reports maintained by SENDD
- Labor/Workforce data maintained by SENDD
- Staff consultation on specific employment generating projects

GENERAL MUNICIPAL MEMBERSHIP

Includes any municipality which is not a dues paying member itself but is located within a county that is paying membership dues. Services available to a General Member include, but are not limited to:

- Monthly newsletter
- Special notices regarding programs of interest
- Limited visits to discuss requirements of specific programs

VOLUNTARY HOUSING DUES

The Housing Dues assessment was established by SENDD in 2003 and payment of the assessment is voluntary. The voluntary assessment was established in lieu of increasing General Membership dues.

Dues cover costs specifically associated with housing, including:

- Training for staff members in housing grant application development
- Training on changing regulations related to Federal/State funding for housing programs
- State certifications involving lead-based paint and clearance testing
- Assistance to member communities with applications to partially underwrite the cost of housing needs studies; assistance to communities and private developers with packaging grant and loan applications
- Ongoing expenses related to housing projects after the project is closed and grant funds are depleted

TYPES OF HOUSING PROGRAMS

- Rehabilitation programs for income-qualified owner-occupied residential units
- Down-payment assistance programs to aid income-qualified first-time homebuyers
- Purchase/Rehab/Resale programs which may be coupled with down-payment assistance
- Construction of rent-to-own, single-family residential units
- Financial packaging assistance to developers of single and multi-family residential units for income-qualified occupants

RETURN ON INVESTMENT

Over the last 5 years, SENDD generated a return on investment of ~\$43 for every \$1 in membership dues



In the last five years, SENDD helped members invest nearly \$50 million in their communities

In the past decade, SENDD has been involved in local projects that have retained and create over 415 jobs

RESOURCES*

USDA-RURAL DEVELOPMENT

Business & Industry | Energy | Value Added Producer | Housing | Community Facilities

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT

Rehabilitation | Infrastructure | Tourism | Revitalization | Community Facilities | Planning

ECONOMIC DEVELOPMENT ADMINISTRATION

Infrastructure | Economic Adjustment | Build to Scale | Job Growth

NEBRASKA GAME AND PARKS

Land & Water | Recreational Trails

NEBRASKA ENTERPRISE FUND

Direct | GAP | Invoice | Loan Guarantees | Intermediary Lending

NEBRASKA DEPARTMENT OF ENVIRONMENT & ENERGY

Waste & Recycling | Brownfields | Water | Deconstruction | Weatherization

ENVIRONMENTAL PROTECTION AGENCY

Brownfields | Local Foods Local Places | Air Quality

RURAL ENTERPRISE ASSISTANCE PROJECT

Direct | GAP | Invoice | Loan Guarantees | Intermediary Lending



***This list indicates some of SENDD's most used resources, but is not a comprehensive list. We regularly research additional funding opportunities from a variety of resources.**

MEMBER SERVICES

SEND D members take advantage of our wide variety of services. We are continually looking for additional ways to better serve our member communities.



HOUSING & CONTRACTING

- Owner Occupied Rehabilitation
- Purchase Rehab Resale
- Nuisance Abatement Programs
- Down Payment Assistance Loans
- Housing Quality Standards Inspections
- New Construction Services
- Housing Condition Studies
- Lead-Based Paint Inspections
- USDA Loan Packaging
- General Contracting Services

ECONOMIC DEVELOPMENT

- Revolving Loan Funds
- GIS Mapping/Location Intelligence
- Support businesses and communities with analytical decision making
- Market reports/analysis
- Technical Assistance for Business Startups and Expansions
- Economic Development & Leadership Certified Community

EMERGENCY & DISASTER RELIEF

- Review Disaster Recovery Plans
- Assess infrastructure, vulnerabilities, and needs of communities impacted by disaster
- Regional Recovery Plan
 - Community and Business Resiliency and Recovery Resources
- Flood and Floodplain Management
- Assist communities to meet National Flood Insurance Program (NFIP) guidelines
 - Potential insurance premium discount for Community Rating System

COMMUNITY DEVELOPMENT

- Grant Writing and Administration
 - Community Development Block Grant (Downtown Revitalization, Economic Development, Planning, Public Works, Tourism, Youth Job Training)
 - Community & Civic Center Financing Fund
 - Land & Water Conservation Fund
- Household Income Studies
- Community Needs Assessment
- Workforce Availability Studies
- Project Specific Environmental Review
- Strategic Planning



City Clerk Tami Comte stated that she was asking for approval now so that Deputy Clerk Lori Matchett could apply for a scholarship to attend the conference.

Council member Jessica Miller made a motion to authorize City Clerk Comte and Deputy Clerk Matchett to attend the IIMC Annual Conference on May 22-25, 2022 in Little Rock, AR. Council Member Bruce Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Tom Kobus made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Bruce Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Council member Pat Meysenburg made a motion to pass and adopt Ordinance No. 1371 on third and final reading permitting the raising and maintaining of chickens/ducks within the City of David City. Council Member Tom Kobus seconded the motion.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

The motion carried and Ordinance No. 1371 was passed and adopted as follows:

ORDINANCE NO. 1371

**AN ORDINANCE OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA;
AMENDING CHAPTER 3 ARTICLE 3-302 AND 3-303 OF THE MUNICIPAL CODE;
PERMITTING THE RAISING AND MAINTAINING OF CHICKENS/DUCKS WITHIN THE CITY;
ESTABLISHING AND IMPOSING RULES FOR THE RAISING AND MAINTAINING OF
CHICKENS/DUCKS IN THE CITY; PROVIDING FOR A PERMIT AND PENALTIES;
REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND
PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

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

SECTION 1. Chapter 3 Article 3 Section 3-302 Chickens of the Municipal Code of the City of David City shall be amended as follows:

A. That the keeping and raising of chickens/ducks shall be allowed in the City of David City subject to the following:

1. Prior to maintaining and raising any chickens/ducks within the City an application shall be made to the City Clerk on form provided by him/her. If the application conforms to the

following regulations the Clerk shall be authorized to issue the permit. A permit fee of \$12.00 for up to six chickens/ducks shall be submitted with the application.

2. No more than 6 chickens and/or ducks will be permitted on any property within the City. The minimum number of chickens and/or ducks is two for their social wellbeing.
3. Roosters, Geese, Hawks, Turkeys and/or any other fowl, including crowing hen chickens over the age of four months, are prohibited within the City.
4. A predator proof coop with a minimum of 2 square feet per chicken shall be provided. In order to be "predator proof"; there has to be a secure covering over the top to prohibit racoons, or any other varmint from getting inside the coop. The coop shall not be larger than 100 square feet and shall be located in the backyard of the owners/renter's property. There shall also be a predator proof enclosed run with a minimum of 5 square feet per chicken/duck. Chickens/ducks shall not be allowed to roam free outside of the coop/enclosed run. Chickens/ducks are not to be kept in a residence, on a porch, or in an attached garage for any purpose.
5. All coops and runs shall be kept clean and free from objectionable odor. Waste (feed, manure, litter) must be disposed of promptly in an environmentally responsible manner piling of waste materials on the owners/renter's property is not permitted. All waste must be housed in an insect/vermin proof container.
6. All chicken/duck food must be kept in an animal- and rodent-proof container.
7. The keeping of residential chickens/ducks are for the benefit of the owner/renter and cannot be used for a business or monetary gain, including the sale of eggs. No slaughtering of chickens/ducks can take place within city limits at any time. Dead chickens/ducks must be removed and disposed of within 24 hours.
8. If a resident currently has more than the allowed 6 chickens/ducks, any grandfathered chickens/ducks terminate at death; they cannot be replaced.

SECTION 2: Chapter 3 Article 3 Section 3-303 Running at Large; Large Animals; Fowls of the Municipal Code of the City of David City shall be amended as follows:

- A. 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 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.
- B. It shall be unlawful for any person to allow chickens or ducks, to run at large within the corporate limits, except in enclosed places on private property. No turkeys, geese or any other fowls shall be allowed withing the corporate limits for any reason.

SECTION 3: If a complaint is made to the City about noise, odor, or other violation(s) of this Ordinance the Butler County Sheriff's Department shall promptly investigate the complaint and contact the owner/renter to give him/her the opportunity to correct such complaint. If the

complaint is not corrected within 24 hours of the sheriff's office contact the sheriff's office may issue a citation to be filed with the Butler County Court for violation of this Ordinance.

SECTION 4: The keeping of chickens/ducks within the City without a permit; the failure to promptly dispose of chicken/duck waste or maintain the chicken/duck coop or run in an odor free condition or to fail to promptly dispose of dead chickens/ducks, as set forth above, shall be a violation of this Ordinance and be punishable by a fine of not more than \$500.00. Each day's violation shall be a separate offense.

SECTION 5. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. This ordinance shall go into force and effect from and after its passage, approval and publication as required by law.

Dated this 13th day of October, 2021.

CITY OF DAVID CITY

Mayor Alan Zavodny

ATTEST:

City Clerk Tami Comte

Council member Kevin Woita made a motion to approve Amendment No. 2 to lease with Optimal Health Chiropractic, LLC. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

AMENDMENT NO. 2 TO LEASE

It is hereby mutually agreed this ____ day of October, 2021, between **City of David City**, as **Landlord**, and **Optimal Health Chiropractic LLC**, as **Tenant**, that all terms, covenants, conditions, and agreements of the Lease between Landlord and Tenant, dated **October 10, 2016** (the "Lease") covering premises located at **490 E Street, David City, Nebraska 68632** which space contains **1,275** square feet, designated as Suite **#100** (the "Leased Premises") and amended on November 21, 2018 by Amendment No. 1 to lease, and assumed by Landlord on May 27, 2021 is hereby amended (the "Amendment") as follows:

1. Renewal Term. The renewal term of the Lease with respect to the Leased Premises shall be for a period of **three (3) years** and shall commence **November 1, 2021**. The lease shall now expire on **October 31, 2024**.
2. Basic Rent. Effective **November 1, 2021**, Tenant covenants and agrees to pay to Landlord, without demand and without deduction or offset, basic rent at the following rates:

| <u>Term</u> | <u>Annual Rent</u> | <u>Monthly Rent</u> |
|--------------------------------------------|--------------------|---------------------|
| November 1, 2021 – October 31, 2022 | \$7,468.73 | \$622.39 |
| November 1, 2022 – October 31, 2023 | \$7,613.24 | \$634.44 |
| November 1, 2023 – October 31, 2024 | \$7,758.22 | \$646.52 |

3. Leasehold Improvements. Tenant acknowledges that Landlord shall not be obligated to make any improvements to the Leased Premises nor shall Tenant be entitled to any construction, build-out or other allowance with respect thereto because of the extension of the term as provided in this Amendment.
4. Acknowledgement. Tenant hereby acknowledges that Tenant has no extension, renewal, expansion, contraction or termination rights or rights of first offer or refusal with respect to the Leased Premises or any other space in the Building or this Lease (collectively, "Modification Rights"). Any provision in the Lease that might be interpreted to establish any such Modification Rights is hereby deleted.
5. Brokerage Commission. This section is removed in its entirety.
6. Counterparts. This Amendment may be executed in any number of counterparts, all of which shall be considered one and the same Amendment, even though all parties hereto have not signed the same counterpart. Signatures on this Amendment which are transmitted by facsimile or PDF scan shall be valid for all purposes. Any party shall, however, deliver an original signature for this Amendment to the other party upon request.
7. Reaffirmation of Lease. Except as expressly amended herein, all of the terms and conditions of the Lease remain in full force and effect.
8. Use of Name and/or Trademark. Tenant may not use Landlord's name or trademarks in connection with any advertisement, electronic or print publication, metatag, news release or release to any professional or trade publications without Landlord's prior written consent which may only be given by the Governing Body of Landlord.
9. USA PATRIOT Act. This section is removed in its entirety.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment No. 2 to Lease as of the day and year first above written.

CITY OF DAVID CITY

OPTIMAL HEALTH CHIROPRACTIC LLC

as **Landlord**

as **Tenant**

By: _____
Mayor

By: _____

Name: Alan Zavodny

Name: _____

Date: _____

Date: _____

Council member Bruce Meysenburg made a motion to approve an agreement with the State of Nebraska, Department of Health and Human Services (DHHS) to administer the new Low Income Household Water Assistance Program (LIHWAP). Council Member Kevin Woita seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

Tami Comte

From: DHHS LIHWAP Mailbox <dhhs.LIHWAPMailbox@nebraska.gov>
Sent: Wednesday, October 6, 2021 2:01 PM
Subject: Vendor Agreements - Low Income Household Water Assistance Program (LIHWAP)
Attachments: LIHWAP Vendor Agreement 9.1.21.pdf; Attachment A_LIHWAP Terms and Conditions_State Signature Block - Nebraska.pdf

The Department of Health and Human Services (DHHS) has received federal funds from both the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act in the amount of \$5,988,839 to administer the new Low Income Household Water Assistance Program (LIHWAP). The administration of LIHWAP is anticipated to begin early in 2022 and continue until funds are exhausted or September 30, 2023, whichever is sooner.

LIHWAP funds must be used as part of an overall emergency effort to prevent, prepare for, and respond to the COVID-19 pandemic, with the public health focus of ensuring that low-income households have access to drinking water and wastewater services. Payments will be issued for low-income households to water utility providers to alleviate past due balances or disconnections for drinking water and wastewater services.

The attached LIHWAP Vendor Agreement and Supplemental Terms and Conditions are being sent to you on behalf of the program to review and agree to before the program launch. All water utility providers planning to participate in LIHWAP need to fully complete and submit signed agreements to DHHS via email at DHHS.LIHWAPMailbox@nebraska.gov. Only completed, signed, and emailed agreements will be accepted for approval. If accepted by DHHS, a confirmation email will be sent to the provider. If a water utility provider does not have an approved Vendor Agreement, households served by that provider will be denied assistance. Please submit Vendor Agreements to DHHS by October 31, 2021, to assist DHHS in moving forward with program implementation.

Informational sessions will be scheduled later this month via Web-Ex.

Contact LIHWAP Staff with any questions or comments by reaching out to DHHS.LIHWAPMailbox@nebraska.gov or 402-389-0014.

Chelsea Luthy | *LIHWAP Coordinator*

CHILDREN & FAMILY SERVICES

Nebraska Department of Health and Human Services

DHHS.ne.gov | [Facebook](#) | [Twitter](#) | [LinkedIn](#)

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

Low Income Household Water Assistance Program Vendor Agreement

PURPOSE: This Agreement ("Agreement") between the State of Nebraska, Department of Health and Human Services, ("DHHS"), and the [City of David City] ("Vendor") shall govern the purchase of water services from the Vendor on behalf of households eligible for the Low Income Household Water Assistance Program (LIHWAP). The federal funds will be used to assist eligible households with arrearages, rates and fees associated with reconnection or prevention of disconnection of service, and rate reduction for such services.

The parties acknowledge that this Agreement and the services provided by the Vendor are governed by and subject to the federal and state laws and regulations per General Terms and Conditions for Mandatory: Formula, Block and Entitlement Grants and LIHWAP [supplemental terms and conditions](#). Expenditure of LIHWAP funds is governed by the Notice of Award, Nebraska's approved LIHWAP state plan, and the requirements of the Administration for Children and Families Office of Community Services.

1. DURATION

- 1.1 **Term.** This Agreement shall be in effect beginning on the date that DHHS notifies the Vendor that they have been approved for enrollment. The Agreement shall not bind, nor purport to bind, DHHS for any commitment over the original Agreement period.
- 1.2 **Modifications.** All modifications to this Agreement shall be in writing and agreed upon by both parties.
- 1.3 **Termination.** This Agreement will terminate effective immediately upon a determination by DHHS that the Vendor is not in compliance with the terms of this Agreement. The Vendor will be notified within 15 calendar days of the termination.
 - 1.3.1 Either DHHS or the Vendor may terminate this Agreement with or without cause and without cost by giving the other party at least 30 calendar days' written notice. Termination by either party shall not discharge any obligation owed by either party on behalf of the household that has been awarded the benefit.

2. RESPONSIBILITIES

2.1 DHHS. DHHS shall:

- 2.1.1 Equitably provide outreach activities to potentially eligible households.
- 2.1.2 Based on established criteria, determine household eligibility promptly for LIHWAP.
- 2.1.3 Provide the household notification of approved services.
- 2.1.4 Review utility account documentation. DHHS will request additional documentation or clarification of charges as needed. No payment will be made without all required documentation of charges.
- 2.1.5 Provide payment to the Vendor for eligible households after receipt of all required documentation for services rendered, according to this Agreement, and upon full compliance by the Vendor with the terms herein.
- 2.1.6 Issue payments to the Vendor by Electronic Funds Transfer (EFT). Payments will be issued in a lump sum. DHHS will identify to the Vendor each eligible customer on whose behalf DHHS will make payment for water services, and the payment amount each customer is eligible to receive. The Vendor will be notified of payment details via the email address provided by the Vendor.

The detailed payment information will arrive via e-mail two (2) to three (3) days after payment is issued or via mail five (5) to seven (7) days after payment is issued.

- 2.1.7 Comply with all relevant state and federal laws and regulations, the Notice of Award, terms and conditions set forth by the Administration for Children and Families, program policies, and Nebraska's approved LIHWAP state plan in the implementation of LIHWAP.
 - 2.1.8 Establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for federal funds paid to the state per all relevant state and federal laws and regulations, the Notice of Award, terms and conditions, program policies, and Nebraska's approved LIHWAP state plan, including procedures for monitoring the assistance provided under this title.
 - 2.1.9 Monitor a portion of the Vendors to ensure compliance with the Vendor Agreement and program policies. By signing the Vendor Agreement, Vendors agree to be periodically monitored and provide necessary monitoring information when requested.
 - 2.1.10 Provide the Vendors selected for compliance monitoring with a LIHWAP Monitoring Report to describe the information needed.
- 2.2 Vendor. The Vendor shall:
- 2.2.1 Provide DHHS a copy of the Employer Identification Number document or Social Security card which was issued to the Vendor and which displays the number used by the IRS as the Vendor's tax identification number. Notify DHHS immediately when the tax identification number is changed. A new W-9 form must be completed and returned to DHHS.
 - 2.2.2 Provide DHHS with at least one designated contact person who shall be available to respond by telephone and electronic mail to all reasonable inquiries regarding LIHWAP household accounts, including but not limited to: address; account holder name; account number; line item accounting of amount owed and service it is owed for, water burden, payment history; how the LIHWAP payment was applied; and the impact of the payment.
 - 2.2.3 Notify DHHS within ten (10) days when: the name of the company; ownership of the company; contact person; contact or billing information; services to be provided; or service coverage area changes.
 - 2.2.4 Notify DHHS within ten (10) days if a LIHWAP payment is made for a customer residing in the Vendor's service area but with incorrect account information.
 - 2.2.5 Notify DHHS if the business owner or another key employee is employed by DHHS, as well as if a member of his or her immediate family is employed by DHHS. Immediate family is a spouse or other person who resides in the same household as the owner and is a dependent of the owner.
 - 2.2.5.1 DHHS will evaluate the relationship to determine if there is a conflict of interest that will preclude the Vendor from providing LIHWAP services to a designated locality(s). Conflict of interest is defined as a situation that has the potential to undermine the impartiality of a person in an official position because of the possibility of a clash between the person's self-interest and professional interest or public interest.
 - 2.2.6 Not serve as the Vendor for a household in which he or she is a current recipient of assistance from LIHWAP. Current is defined as during the present federal fiscal year.
 - 2.2.7 Not serve as the Vendor for a dwelling or property that he or she owns.
 - 2.2.8 Apply LIHWAP payments to the approved services for the LIHWAP eligible households identified by DHHS. Provide the services to each eligible and approved residential household for which payment is provided under LIHWAP.
 - 2.2.9 Charge LIHWAP households using the Vendor's normal billing process the difference between the actual amount due and the amount of the payment made with LIHWAP funds.
 - 2.2.10 Charge LIHWAP eligible households the same price for services that are charged to non-eligible households, as determined by the Vendor approved rate-setting process.
 - 2.2.11 Not treat LIHWAP eligible households adversely because of such assistance under applicable provisions of state, territorial or tribal law, or public regulatory requirements.

- 2.2.12 Not apply LIHWAP payments to account balances that have previously been written off or paid with other funds.
- 2.2.13 Not apply LIHWAP payments to commercial accounts. LIHWAP payments must only be applied to residential accounts.
- 2.2.14 Accept payment guarantees from DHHS to restore services and eliminate arrearages. The Vendor must immediately apply payment guarantees to the customer accounts for the appropriate services.
- 2.2.15 Within 1 business day of receipt of the payment guarantee inform DHHS of the following: the payment guarantee was applied to the customer account; the new balance; and whether reconnection occurred or disconnection was alleviated.
- 2.2.16 Not terminate water service to an eligible customer covered by this Agreement except under the conditions set forth in the Nebraska Rev. Stat. §§ 70-1603 through 70-1614.
- 2.2.17 Identify LIHWAP payments made for eligible household accounts as payment received from the LIHWAP.
- 2.2.18 Provide a statement to LIHWAP households indicating the cost of home drinking water and/or wastewater services provided.
- 2.2.19 Maintain any credit amount, on the designated account, as a credit until used by the customer for water services or the customer ends service with the Vendor.
- 2.2.20 Transfer any credit balance to the new account, within thirty (30) days, if the customer moves and remains with the same Vendor.
- 2.2.21 Not exchange the household's credit authorization for cash or give any cash equivalent for excess credit.
- 2.2.22 Return to DHHS within thirty (30) days of service ending any credit balance of LIHWAP funds.
- 2.2.23 Return to DHHS within thirty (30) days any LIHWAP payment for a customer not residing in the Vendor service area.
- 2.2.24 Return to DHHS within thirty (30) days of Vendor closing or being sold any LIHWAP credit balance. Funds may not be transferred to another Vendor.
- 2.2.25 Returned funds must be remitted to DHHS – Accounting PO Box 94906 Lincoln, NE 68509-9947.
- 2.2.26 All funds returned to DHHS must include the following:
 - 2.2.26.1 Name of client the payment was issued for;
 - 2.2.26.2 Client ID number the payment was issued for;
 - 2.2.26.3 Address and city the payment was issued for;
 - 2.2.26.4 Account holder's name the payment was issued for;
 - 2.2.26.5 Account number the payment was issued for;
 - 2.2.26.6 Date the original payment was posted to the account;
 - 2.2.26.7 Reason funds are being returned; and,
 - 2.2.26.8 Amount of funds being returned for each account.
- 2.2.27 Maintain current records and comply with any state or local regulations required for service provision.
- 2.2.28 Cooperate with any federal, state, or local investigation, audit, or program review. The Vendor shall allow DHHS representatives access to all records relating to LIHWAP households for compliance verification with this Agreement.
- 2.2.29 Understand that failure to cooperate with any federal, state, or local investigation, audit, or program review may result in immediate disqualification from participation in LIHWAP.
- 2.2.30 Take corrective action in the time frame specified by DHHS if violations of this Agreement are discovered. Corrective action may include but is not limited to providing detailed documentation of the changes made and detailed plans for future changes that will bring the Vendor into compliance.

- 2.2.30.1 Understand that failure to implement corrective actions may result in immediate disqualification from participation in the LIHWAP.
- 2.2.31 Collect and provide data within the time frame specified by DHHS and in the format requested by DHHS. The data must be provided to DHHS (or an authorized agent of DHHS) for verification, research, evaluation, analysis, and reporting. The household's signed LIHWAP application will authorize the Vendor to release this information to DHHS.
- 2.2.32 Retain all books, records, and other documents relevant to this agreement for a minimum of five (5) years or until litigation, claim, negotiation, audit, or other action involving the records has been completed, if it was initiated prior to the expiration of this five (5) year period. These records may be used for a variety of program purposes including: program planning; program capacity building; assessing the impact of LIHWAP and other benefits on low-income households; and supporting funding decisions.
- 2.2.33 Provide at no cost to DHHS, in the format requested:
 - 2.2.33.1 Written account information, including: account number; address; account holder name; and other household-specific information.
 - 2.2.33.2 Written information regarding the household's home drinking water and/or wastewater usage, current balance and itemized charges, bill payment history, and arrearage.
 - 2.2.33.3 Immediate written confirmation that the payment guarantee was applied to the household account, inform of the new balance, and inform whether reconnection occurred or disconnection was alleviated.
 - 2.2.33.4 Other data as requested.
- 2.2.34 Complete the Vendor Monitoring Report and supply the report and supporting documentation to DHHS within five business days of the request when selected for compliance monitoring.
- 2.3 **JOINT DUTIES.** Both the Vendor and DHHS shall:
 - 2.3.1 Meet as needed to discuss any issues, recommendations, unmet needs, and lessons learned.

3. **CONDITIONS**

- 3.1 **Authorities.** Nothing herein shall be construed as authority for either party to make commitments that will bind the other party beyond the scope of services contained herein.
- 3.2 **Discrimination.** The Vendor shall not discriminate against any household because of race, religion, color, sex, national origin, age, disability, political beliefs, sexual orientation, gender identity, or any other basis prohibited by state law relating to discrimination. The Vendor shall not discriminate against a LIHWAP eligible household concerning terms, deferred payment plans, credit, conditions of sale, deposit, water rate, including service charges, reconnection charges payment plan arrangements, or discounts offered to other customers. The Vendor shall comply with all LIHWAP regulations, state and federal statutes and regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq.; the Rehabilitation Act of 1973, 29 U.S.C. §§ 794 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.; and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§ 48-1101 to 48-1125.
- 3.3 **Confidentiality.** The Vendor agrees that any information and data obtained related to households shall be collected and held confidential, during and following the term of this Agreement. Household information shall not be disclosed without the individual's and DHHS's written consent and only per federal or state law. Vendors who utilize, access, or store personally identifiable information as part of the performance of this Agreement are required to safeguard this information and immediately notify DHHS of any breach or suspected breach in the security of such information. The Vendor shall allow DHHS to both participate in the investigation of incidents and exercise control over decisions regarding external reporting.
- 3.4 **Subcontracts.** DHHS reserves the right to require the Vendor to obtain permission to subcontract any portion of the work. If requested by DHHS, the Vendor shall furnish DHHS with the names, qualifications, and experience of their proposed subcontractors. The Vendor shall, however, remain

liable for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Agreement.

- 3.5 Fraud. The Vendor will be permanently disqualified from participating in LIHWAP upon the first finding of LIHWAP fraud. Fraud includes, but is not limited to: intentionally providing false information to DHHS or knowingly allowing others to do so; intentional failure to notify DHHS of a change in circumstances that affects payments received by the Vendor; intentionally accepting payments that the Vendor knows or by reasonable diligence would know, the Vendor is not entitled to under an overpayment or otherwise; or intentionally making a claim for a payment to which the Vendor is not entitled under the terms of this Agreement and all applicable rules, regulations, laws, and statutes. Repayment must be made unless contrary to a court order.
- 3.6 Non-fraud overpayments. For overpayments received by the Vendor that are not the result of intent to defraud, the Vendor shall be required to repay the full amount to DHHS.
- 3.7 Reporting fraud. The Vendor agrees to report any known fraud activity by the household to DHHS. This may include but is not limited to the following:
 - 3.7.1 The LIHWAP participant not disclosing all income.
 - 3.7.2 The LIHWAP participant not using awards appropriately.
 - 3.7.3 The LIHWAP participant not giving truthful information.
- 3.8 Business practices. The Vendor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal department or agency. No Vendor may participate in LIHWAP in any capacity or be a recipient of federal funds designated for this program if the provider has been debarred or suspended or otherwise found to be ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension." (See 45 CFR 75.212.)
- 3.9 Binding on heirs and assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assign of each party but does not otherwise create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.
- 3.10 Due authorization. The persons executing this Agreement on behalf of a party represent and warrant to the other party that he or she has been duly authorized by such party executing this Agreement.
- 3.11 Severability. If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions of this Agreement, which shall be given effect without regard to the invalid provision or application.

The parties to this Agreement acknowledge the information, specified above, and will provide the accomplishment of this service in a mutually acceptable and efficient manner.

Vendor Name: _____

Signature of Authorized Representative for Vendor

Printed Name/Title of Representative for Vendor

Date

Mayor Zavodny stated that the next item on the agenda was consideration of Progress Estimate #2 for Kirkham Michael in the amount of \$6,951.73 for land acquisition.

City Administrator Clayton Keller said, "So, right now Kirkham Michael is going to get two appraisals on the land, which is required for FAA (Federal Aviation Administration) funding. Those appraisals are done and they've been submitted to the FAA. The FAA will not look at them to see if they are fair assessments of the value until they've had a certain environmental study done. They just emailed us today, after a month and a half, saying that the environmental work that they want done is called 'categorical exclusion' so now we know where to go. We've been waiting for them to tell us what direction to go and now we know what direction to go. Kirkham Michael will come to the next Council meeting and ask us to amend their agreement so that it includes them doing this 'categorical exclusion' for this project. So, we'll need to approve that."

Mayor Zavodny said, "So, what we basically have now is the footprint that they will accept and they will participate in and anything outside of that is all ours."

City Administrator Clayton Keller said, "That is correct."

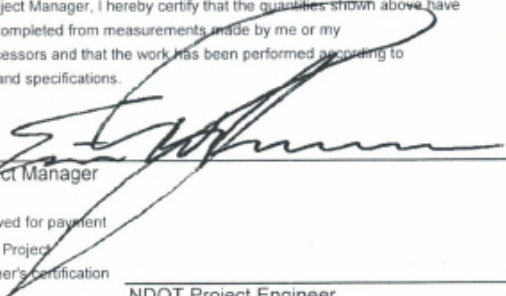
Council member Jessica Miller made a motion to approve Progress Estimate #2 for Kirkham Michael in the amount of \$6,951.73 for Land Acquisition. Council Member Pat Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

(This space left intentionally blank)

Sponsor: City of David City Estimate No. 2 Date: Oct. 8, 2021
P.O. Box 191 Invoice: 93360
David City, Nebraska 68632 KM Project No.: 2105245
 Contractor: Kirkham Michael AIP Project No.: _____
12700 W. Dodge Rd. Name of Project: Land Acquisition
Omaha, Nebraska 68154 Date of Contract: May 28, 2021

| CONTRACT QUANTITIES | ITEM NO. | DESCRIPTION | ESTIMATED QUANTITIES TO DATE | UNIT | AMOUNT |
|---------------------|----------|-------------------|------------------------------|------|-------------|
| \$ 1,000.00 | A | Preliminary Phase | 100% | % | \$ 740.03 |
| \$ 33,975.00 | B | Acquisition Phase | 25% | % | \$ 8,493.75 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

As Project Manager, I hereby certify that the quantities shown above have been completed from measurements made by me or my predecessors and that the work has been performed according to plans and specifications.

| | | | |
|-------------------------------------------------------------------------------------|---------|------------------------------|-------------|
|  | 10/8/21 | Grand Total | \$ 9,233.78 |
| Project Manager | Date | Less Retained | \$ - |
| | | Less Previous Estimates | \$ 2,282.05 |
| Approved for payment as per Project Engineer's Certification | | Due Contractor This Estimate | \$ 6,951.73 |
| NDOT Project Engineer | Date | | |

APPROVED: _____
 Airport Sponsor Date

Council member Pat Meysenburg made a motion to refer the Blight and Substandard Study for Area #5 to the Planning Commission for their approval. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

PURPOSE OF THE BLIGHT AND SUBSTANDARD STUDY

The purpose of completing this Blight and Substandard study is to examine existing conditions within Study Area 5 of the City of David City. This study has been commissioned by the City of David City to analyze the possibility of declaring the area as blighted and substandard within this specific study area.

The City of David City, when considering conditions of Blight and Substandard, will be looking at those issues and definitions provided for in the Nebraska Community Redevelopment Law as found in Chapter 18, Section 2104 of the Revised Nebraska State Statutes, as follows:

"The governing body of a city, to the greatest extent it deems to be feasible in carrying out the provisions of the Community Development Law, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprises. The governing body of a city shall give consideration to this objective in exercising its powers under the Community Development Law, including the formulation of a workable program, the approval of community redevelopment plans consistent with the general plan for the development of the city, the exercise of its zoning powers, the enforcement of other laws, codes, and regulations, relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the providing of necessary public improvements."

The Nebraska Revised Statutes §18-2105 continues by granting authority to the governing body for formulation of a workable program: disaster assistance: effect. The statute reads:

"The governing body of a city or an authority at its direction for the purposes of the Community Development Law may formulate for the entire municipality a workable program for utilizing appropriate private and public resources to eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof."

"Notwithstanding any other provisions of the Community Development Law, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the state has certified the need for disaster assistance under federal law, the local governing body may approve a redevelopment plan and a redevelopment project with respect to such area without regard to the provisions of the Community Development Law requiring a general plan for the municipality and notice and public hearing or findings other than herein set forth."

Based on the Nebraska Revised Statutes §18-2103 the following definitions shall apply:

"Blighted area means an area (a) which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements,

Blight and Substandard Study – Area 5

diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the platted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or (v) the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted. A redevelopment project involving a formerly used defense site as authorized under section 18-2123.01 shall not count towards the percentage limitations contained in this subdivision;"

"Extremely blighted area means a substandard and blighted area in which: (a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census is at least two hundred percent of the average rate of unemployment in the state during the same period; and (b) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area;"

"Substandard area means an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare; and"

"Workforce housing means:

- (a) Housing that meets the needs of today's working families;
- (b) Housing that is attractive to new residents considering relocation to a rural community;
- (c) Owner-occupied housing units that cost not more than two hundred seventy-five thousand dollars to construct or rental housing units that cost not more than two hundred thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the Department of Economic Development based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;
- (d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value; and
- (e) Upper-story housing."

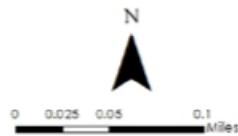
This Blight and Substandard Study is only for a portion of the corporate limits of the city which has not previously been so designated. The Study is intended to give the David City Planning Commission and David City City Council the basis for identifying and declaring Blighted and Substandard conditions existing within the City's jurisdiction and as allowed under Chapter 18.

Blight and Substandard Study – Area 5

Study Area
Figure 1
Study Area Map



Blight Study - Study Area
David City, Nebraska



Section 2123.01. Through this process, the City and property owners will be attempting to address economic and/or social liabilities which are harmful to the well-being of the entire community.

The study area can be seen in Figure 1 of this report. A Redevelopment Plan to be submitted in the future will contain, in accordance with the law, definite local objectives regarding appropriate land uses, improved traffic, public transportation, public utilities, and other public improvements, and the proposed land uses and building requirements in the redevelopment area and shall include:

- The boundaries defining the blighted and substandard areas in question (including existing uses and conditions of the property within the area), and
- A list of the conditions present, which qualify the area as blighted and substandard.

BLIGHT AND SUBSTANDARD ELIGIBILITY STUDY

This study targets the entire corporate limits of the community for evaluation. The area is indicated in Figure 1 of this report. The existing use is residential.

Through the redevelopment process, the City of David City can guide future development and redevelopment throughout the area. The use of the Community Redevelopment Act by the City is intended to redevelop and improve areas of the community. Using the Community Redevelopment Act, the City of David City can assist in the elimination of negative conditions and implement different programs/projects identified for the City.

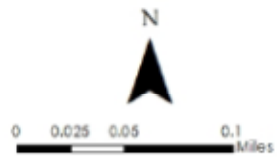
The following is the description of the designated area within the City of David City.

Point of beginning (POB) is the intersection of the centerlines of E N Street and N 7th Street thence going westerly along the centerline of E N St to the intersection of the centerlines of E N Street and N 6th Street; thence northerly along the centerline of N 6th St continuing to the intersection of N 6th Street and E O Street; thence easterly to the extended west property line of a tract referred to as Lot 2, STR 18-15-13; thence northerly along the west property line of said lot, continuing to the southern property line of a tract referred to as Part of Lot 6 and 7, STR 18-15-03; thence westerly along the southern property line of said lot to the northwest corner of a tract referred to as Lot 1, STR 18-15-3; thence southerly along the west property line of said lot to the northeast corner of a tract referred to as Part of Lot 7 in S 1/2 SE 1/4, STR 18-15-3; thence westerly along the northern property line of said lot to the northwest corner of said lot; thence northerly along the east property line of a tract referred to as Lot 7, STR 18-15-3 continuing to the northeast corner of said lot; thence westerly along the northern property line of said lot continuing to the northwest corner of said lot; thence northerly along the west property line of a tract referred to as Part of Lots 6 and 7, STR 18-15-3, continuing to the northwest corner of said lot; thence easterly along the northern property line of said lot continuing to the northeast corner of said lot; thence southerly along the east property line of said lot continuing to the southeast corner of said lot; thence easterly along the northern property line of a tract referred to as Lot 2, STR 18-15-3, continuing to the northeast corner of said lot; thence southerly along the east property line of said lot continuing to the centerline of E O Street; thence easterly along the centerline of E O St continuing to the intersection of E O Street and N 7th Street; thence southerly along the centerline of N 7th Street continuing to the POB, +/- 17.3 acres.

Figure 2
Existing Land Use Map



Blight Study - Land Use
David City, Nebraska

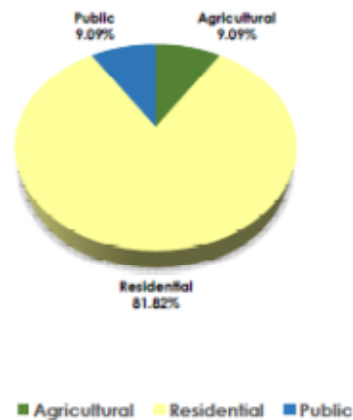


Blight and Substandard Study – Area 5

EXISTING LAND USES

The term "Land Use" refers to the developed uses in place within a building or on a specific parcel of land. The number and type of uses are constantly changing within a community and produce a number of impacts either benefitting or detracting from the community. Because of this, the short and long-term success and sustainability of the community is directly contingent upon available resources utilized in the best manner given the constraints the City faces during the course of the planning period. Existing patterns of land use are often fixed in older communities and neighborhoods, while development in newer areas is often reflective of current development practices.

FIGURE 3: EXISTING LAND USE, Study Area 5 – 2021



Source: Marvin Planning Consultants 2021

Existing Land Use Analysis within Study Area

As part of the planning process, a survey was conducted through both in-field observations, as well as data collection online using the Butler County Assessors website. This survey noted the use of each parcel of land within the study area. These data from the survey are analyzed in the following paragraphs. Figure 3 shows the different uses present within the corporate limits of David City. The different uses also have the overall percent of the total area.

FINDINGS OF BLIGHT AND SUBSTANDARD CONDITIONS ELIGIBILITY STUDY

This section of the study examines the conditions found in the study area. The Findings Section will review the conditions based upon the statutory definitions.

Contributing Factors

There were a number of conditions examined and evaluated in the field and online. These conditions will be reviewed in detail, on the following pages, while some of the statutory conditions are not present.

Structural Conditions

Structural conditions were evaluated, structures were either rated as: Excellent, Very Good, Above Normal, Normal, Below Normal, Poor, or Very Poor. The data and rating system come from the Butler County Assessor's database and is the same database used to value properties in the area. According to the data there are 17 structures (9 primary and 8 secondary) in the study area.

Based upon the data provided to the planning team, the following is the breakdown for structures in the study area:

- **1 (3.45%) structure rated as Excellent**
- **0 (0.00%) structure rated as Very Good**
- **2 (11.80%) structures rated as Above Normal**
- **13 (81.30%) structures rated Normal**
- **0 (0.00%) structures rated Below Normal**
- **1 (3.45%) structure rated Poor**
- **0 (0.00%) structure rated as Very Poor**

Based upon these data, an assumption has been made that normal condition and less would constitute the possibility of some or considerable deterioration. It is common for older structures to need more maintenance and upkeep to maintain a good or higher condition. Even a structure rated as normal will show some signs of deteriorating which in turn can become a dilapidated structure in the future if it is not addressed over time. Overall, 82.35% of the structures in this study area are considered as a normal condition or worse, while 17.65% of the structures are already rated as above normal.

Due to the stated conditions found in the Butler County Assessor's data, the condition of the structures is a contributing factor.



Photo 1: Structure in Poor Condition

Deterioration of Site or Other Improvements

Sidewalk Conditions

Sidewalks, regardless of the area and uses within a community, should provide a safe means of movement for pedestrians. Sidewalks become increasingly more important along transportation routes considered to be arterials and highways. A sidewalk allows for pedestrian movement while keeping people off heavily traveled streets.

Blight and Substandard Study – Area 5

The sidewalk conditions were analyzed in the Study Area. The sidewalks were rated on five categories: Excellent, Good, Average, Fair, and Poor or Missing.

Within the study area there is approximately 1,602 lineal feet or 0.30 miles of area where sidewalk could or should be located. After reviewing the conditions in the field, the following is how the sidewalk conditions breakdown within the study area:

- **0 (0.00%) lineal feet of Excellent sidewalk**
- **0 (0.00%) lineal feet of Good sidewalk**
- **336 (21.0%) lineal feet of Average sidewalk**
- **0 (0.00%) lineal feet of Fair sidewalk**
- **1,266 (79.0%) lineal feet of Poor or Missing sidewalk**

The study area only contains sidewalks along the west edge of 6th street. There is no other sidewalk present in the study area. Sidewalk is critical to the overall pedestrian movement of an area long-term. Even sidewalk constructed, which at present goes nowhere, will eventually connect to several portions of the community. Because 79.0% of the area is missing sidewalk, sidewalks are considered a direct contributing factor.

Figure 4
Structural Conditions



Blight Study - Structural Conditions
David City, Nebraska



Blight and Substandard Study – Area 5

Figure 5
Sidewalk Conditions

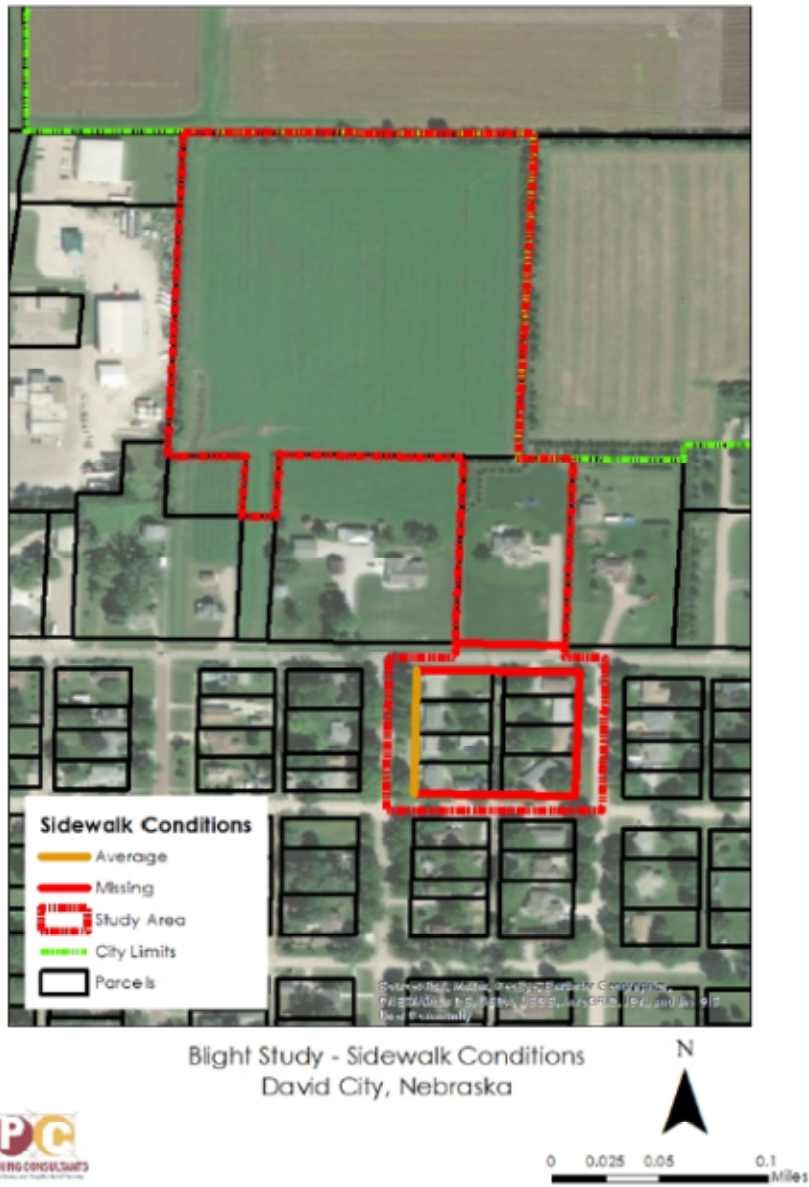
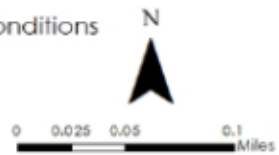


Figure 6
Curb and Gutter Conditions

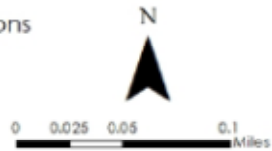


Blight and Substandard Study – Area 5

Figure 7
Street Conditions



Blight Study - Street Conditions
David City, Nebraska



Curb and Gutter

Curb and Gutters have a number of direct and indirect roles in communities. Their primary function is to be a barrier to collect and direct water to be drained away. On a secondary level, they can help define where the streets start and stop, and they act as a physical barrier between pedestrian and vehicular traffic.

Curb and gutter for the Study Area were examined similarly to sidewalks. The curb and gutter were graded as either Excellent, Good, Average, Fair, Poor, or Missing. The study area is partially considered rural section drainage.

Within the study area there is approximately 1,602 lineal feet of curb and gutter possible. After reviewing the conditions in the field, the following is how the curb and gutter conditions break down within the corporate limits:

- **0 (0.0%) lineal feet of Excellent curb and gutter**
- **0 (0.00%) lineal feet of Good curb and gutter**
- **1,040 (65.0%) lineal feet of Average curb and gutter**
- **0 (0.00%) lineal feet of Fair curb and gutter**
- **562 (35.0%) lineal feet of Poor or Missing curb and gutter**

The majority of the community's streets and drainage have been designed and constructed in a manner referred to as rural section. A rural section street/road is one where water drains directly from the driving surface into ditches paralleling the street. This approach is adequate; however, this design typically sees the ditches begin to silt in and/or have tall grass growing in them. These factors quickly deteriorate the ability of the ditch to adequately drain away water from the driving surface and this typically leads to localized flooding and ponding.



Photo 2: Poor drainage in gutter



Photo 3: Cracked gutter



Photo 4: No curb and gutter along O Street on north and south sides



Photo 5: Vegetation gathering due to poor drainage in gutter

Blight and Substandard Study – Area 5

Due to the large amount of deteriorating and missing curb and gutter, the curb and gutter conditions would be a direct contributing factor.

Streets

Streets within a community are essential to moving people and vehicles from place to place. Their condition and construction have an impact on the appearance of a community, which leads directly to how a community is perceived by the outside world.

Within the study area there is approximately 1,549 lineal feet or 0.3 miles of street possible. After reviewing the conditions in the field, the following is how the street conditions breakdown within the corporate limits:

- **0 (0.0%) lineal feet of Excellent street**
- **0 (0.0%) lineal feet of Good street**
- **395 (26.0%) lineal feet of Average street**
- **736 (48.0%) lineal feet of Fair street**
- **395 (26.0%) lineal feet of Poor street**

Within the study area, N Street, O Street, 6th Street, and 7th Street are all paved. Any streets currently dirt or gravel are considered to be of a poor condition. The streets in the study area appear to have been paved in some sort of asphaltic material or armor coated. The alley that runs north to south between N Street and O Street is a mixture of gravel, hand poured concrete, and grass. Being paved with an obsolete material like dirt or gravel is obsolete for an urban area.



Photo 6: Alleyway



Photo 7: Alleyway

Age of Structure

Age of structures can be a contributing factor to the blighted and substandard conditions in an area. Statutes allow for a predominance of structures 40 years of age or older to be a contributing factor regardless of their condition. The following paragraphs document the structural age of the structures within the Study Area. Note the age of structure was determined from the Appraisal data within the Butler County Assessor's website data.

TABLE 2: AVERAGE STRUCTURAL AGE, BY METHOD – 2021

| Number | Year | Age | Cumulative |
|----------|------|-----|--------------|
| 1 | 1956 | 65 | 65 |
| 1 | 1960 | 61 | 126 |
| 1 | 1961 | 60 | 186 |
| 1 | 1962 | 59 | 245 |
| 1 | 1964 | 57 | 302 |
| 1 | 1970 | 51 | 353 |
| 1 | 1972 | 49 | 402 |
| 1 | 1975 | 46 | 448 |
| 1 | 2003 | 18 | 466 |
| 9 | | | 466 |
| | | | 51.80 |

Source: Butler County Assessor's and Marvin Planning Consultants 2021

Age of Structure

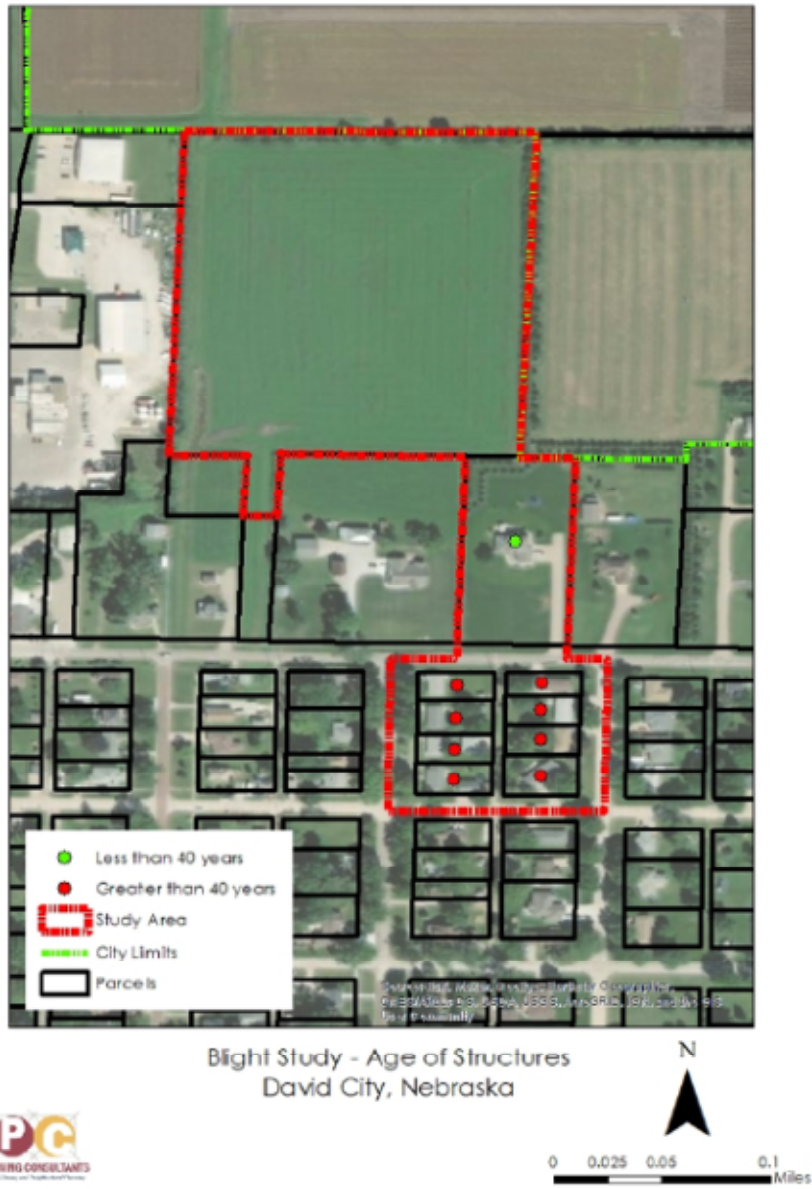
Within the study area there are 9 primary structures. After researching the structural age on the Butler County Assessor's website, the following breakdown was determined:

- 8 (89.9%) units were determined to be 40 years of age or older.
- 1 (11.1%) unit was determined to be less than 40 years of age

However, when examining the age based upon a cumulative approach, as in Table 1 the average age of the primary structures is equal to 51.80 years; thus, meeting the requirements of the statutes. The age of the structures would be a direct contributing factor.

Blight and Substandard Study – Area 5

Figure 8
Age of Structures



Blighting Summary

These conditions are contributing to the blighted conditions of the study area.

- **Substantial number of deteriorating structures**
 - Within the study area 75.0% of the primary structures were deemed to be in an average condition or worse.
- **Deterioration of site or other improvements**
 - Curb and gutter are missing throughout the study area.
 - The study area has what is considered rural section (ditches).
 - Streets through most of the study area were of an average or poorer condition.
 - Sidewalks are missing or within average condition within 76.5% of the entire study area.
- **Diversity of Ownership**
 - There are many different property owners within the study area including the City of David City CRA.
 - The diversity of ownership may be a barrier to future development.
- **Insanitary and Unsafe Conditions**
 - Standing water at the corner of North 6th Street and N Street is a breeding ground for communicable diseases.
 - Volunteer trees and weeds have overgrown fences on the agricultural property in the study area.



Photo 8: Volunteer trees and weeds



Photo 9: Volunteer trees and weeds



Photo 10: Volunteer trees and weeds

Criteria under Part B of the Blight Definition

- **The average age of the residential or commercial units in the area is at least forty years.**
 - 8 (89.9%) buildings or improvements were determined to be 40 years of age or older.
 - 1 (11.1%) buildings or improvements were determined to be less than 40 years of age.
 - The average age based upon a cumulative age calculation is 51.80 years.

Blight and Substandard Study – Area 5

These other criteria for Blight were not present in the area, these included:

- Factors Which Are Impairing And/or Arresting Sound Growth
 - Dangerous conditions to life or property due to fire or other causes.
 - Faulty lot layout.
 - Improper subdivision or obsolete platting.
 - Stable or decreasing population based on the last two decennial censuses.
 - Tax or special assessment delinquency exceeding fair value of the land.
 - Defective or unusual condition of title.
 - Unemployment in the designated area is at least 120% of the state or national average.
 - One-half of unimproved property is over 40 years old.
 - The per capita income of the area is lower than the average per capita income of the city or village in which the area is designated.

These issues were either not present or were limited enough as to have little impact on the overall condition of the study area.

Substandard Conditions

Average age of the residential units in the area is at least 40 years.

Age of structures can be a contributing factor to the blighted and substandard conditions in an area. Statutes allow for a predominance of units that are 40 years of age or older to be a contributing factor regardless of their condition. Note the age of structure was determined from the appraisal data within the Butler County Assessor’s website data.

Within the study area there are 9 primary structures. After researching the structural age on the Butler County Assessor’s website, the following breakdown was determined:

- 8 (89.9%) units were determined to be 40 years of age or older.
- 1 (11.1%) unit was determined to be less than 40 years of age

TABLE 2: AVERAGE STRUCTURAL AGE, BY METHOD – 2021

| Number | Year | Age | Cumulative |
|----------|------|-----|--------------|
| 1 | 1956 | 65 | 65 |
| 1 | 1960 | 61 | 126 |
| 1 | 1961 | 60 | 186 |
| 1 | 1962 | 59 | 245 |
| 1 | 1964 | 57 | 302 |
| 1 | 1970 | 51 | 353 |
| 1 | 1972 | 49 | 402 |
| 1 | 1975 | 46 | 448 |
| 1 | 2003 | 18 | 466 |
| 9 | | | 466 |
| | | | 51.80 |

Source: Butler County Assessor’s and Marvin Planning Consultants 2021

However, when examining the age based upon a cumulative approach, as in Table 1, the average age of the primary structures is equal to 51.80 years; thus, meeting the requirements of the statutes.

The age of the structures would be a direct contributing factor.

Substandard Summary

Nebraska State Statute requires that “...an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which

Blight and Substandard Study – Area 5

endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare;"

Study Area #5 meets the definition of Substandard as defined in the Revised Nebraska State Statutes.

FINDINGS FOR BLIGHT AND SUBSTANDARD STUDY AREA #5

Blight Study Area #5 has several items contributing to the Blight and Substandard Conditions. These conditions include:

Blighted Conditions

- Substantial number of deteriorated or deteriorating structures.
- Deterioration of site or other improvements
- Diversity of Ownership
- Average age of the residential or commercial units in the area is at least 40 years.
- Insanitary and Unsafe Conditions

Substandard Conditions

- Average age of the structures in the area is at least forty years.

City Administrator Clayton Keller said, "Thiele Geotech will do the geotechnical work for the water treatment plant upgrade. JEO brought them onboard to do this work so I recommend approval."

City Clerk Comte said, "This is something that is required in order to get the State funding."

Council member Tom Kobus made a motion to approve an agreement with Thiele Geotech to do necessary soil borings around the water plant. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1



13478 Chandler Road
Omaha, Nebraska 68138-3716
402.556.2171 Fax 402.556.7831
www.thielegeotech.com

October 6, 2021

Mayor Alan Zavodny
557 4th Street
P.O. Box 191
David City, NE, 68632-0191

**RE: PROPOSAL FOR GEOTECHNICAL EXPLORATION
WATER TREATMENT PLANT IMPROVEMENTS, DAVID CITY, NEBRASKA**


Dear Mayor Zavodny:

Enclosed is our proposal for geotechnical exploration related to the proposed water treatment plant improvements to be located at 1220 East Street in David City, Nebraska. The accompanying proposal describes our approach and proposed scope of services, the estimated cost of the study, and the contract terms.

Thiele Geotech is a service-oriented firm offering geotechnical, material, and environmental engineering. Our focus is on providing quality engineering solutions based on each individual client's needs. Our professional staff has extensive experience with similar projects, and we have the equipment and resources available to complete this study.

We look forward to working with you and your design team on this project. If you have any questions, please call. If the accompanying proposal is acceptable, please return an executed copy to our office.

Respectfully,
Thiele Geotech, Inc.


Collin R. Steimer, E.I.

Enclosures

R:\PROPOSAL\GEOTECHNICAL DEPARTMENT\DAVID CITY WATER TREATMENT PLANT IMPROVEMENTS.DOCX

**Geotechnical Exploration Proposal
Water Treatment Plant Improvements
1220 East Street
David City, Nebraska
October 6, 2021**

Thiele Geotech, Inc. is pleased to submit our proposal for geotechnical exploration related to the referenced project. The following sections detail our understanding of the project, our proposed scope of services, and the cost of the study. The contract terms are attached in Exhibit A. This proposal will be held open for a period of 45 days from the above date.

PROJECT DESCRIPTION

Our understanding of the project is based upon information provided by JEO Consulting Group.

The project consists of constructing a new two-bank Reverse Osmosis (RO) treatment system and a 25,000-gallon concrete intermediate clearwell. One of the RO units will be installed in the existing garage bay located on the east end of the plant. The other will be installed on a new 600 SF slab-on-grade concrete block building expansion east of the existing garage. The 25,000-gallon intermediate clearwell will be approximately 15 feet wide by 15 feet long by 15 to 20 feet deep. The top of the clearwell wall will match the proposed grade. A 10 foot by 15 foot brick monitoring building will be constructed to sit on top of the clearwell. Miscellaneous water main site piping to connect the new clearwell and the new RO unit is also proposed. We assume this will be installed in the upper 10 feet below grade.

A grading plan was not provided at the time of this proposal. We assume minor cuts and fills of 2 feet or less with exception to the clearwell excavation.

Based on previous experience in the area, the soils on the site are expected to consist of Peoria loess deposits overlying older loess and till deposits. The loess is assumed to be of firm consistency.

SCOPE OF SERVICES

Our proposed geotechnical exploration will consist of test borings to obtain geologic information and samples of the site soils, laboratory tests to determine the relevant engineering properties of the various soil strata, and a report of geotechnical engineering recommendations.

Prior to mobilization, we will contact 811 Nebraska One Call to locate public utilities at the project site. Any private utilities not identified by One Call are the responsibility of the Owner or Owner's representative to locate.

In accordance with the proposal request, we propose to conduct a total of two test borings. The borings will be spaced across the site and at strategic locations, with one boring in the building expansion pad and one boring in the proposed footprint of the clearwell. Based on boring depths of 15 to 30 feet, a total drilling footage of up to 45 lineal feet is proposed. The borings will be sampled at intervals of 5 feet or less and a descriptive log of the test borings will be prepared.

Based on the results of the test borings, a laboratory testing program will be established to evaluate the engineering properties of the various soil strata. Laboratory testing may include moisture content and density determinations to characterize the state and uniformity of the deposits, unconfined compression

Geotechnical Exploration Proposal

October 6, 2021
Page 2 of 2

tests to determine shear strength parameters, one-dimensional consolidation tests to evaluate compressibility, and index property tests for classification.

Our report will discuss the general soil and ground water conditions underlying the site; present the relevant engineering properties of the existing soils; provide earthwork and site preparation recommendations; and recommend design criteria and parameters for foundations, utility installation, and other earth supported improvements.

The proposed scope of services does not include an evaluation of potential contamination on or near the site. If the environmental condition of the property is a concern, an environmental site assessment can be provided as an additional service.

ESTIMATED COST & SCHEDULE

Based on the indicated work scope, we propose a lump sum fee of \$3,900 for the geotechnical exploration. If additional work is authorized by the client due to unforeseen subsurface conditions or due to a change in scope, additional drilling, testing, and/or engineering will be provided at our normal fee schedule rates or for an agreed lump sum fee.

Approximately 5 to 7 weeks from your notice to proceed will be required to complete the study. The schedule is somewhat dependent on weather, site access conditions, and other factors including the actual subsurface conditions identified in the test borings. If this proposed schedule does not meet your project requirements, we would be happy to discuss alternate schedules.

ADDITIONAL SERVICES

Subsequent to completion of the geotechnical exploration report, additional services are often required that are not included in the above estimate. These include consultation with the design team and review of the final plans and specifications. In addition, construction phase quality control testing is an additional service not included in the above estimate. An environmental assessment, if required, can also be performed as an additional service. If we are requested to provide additional services including, but not limited to the above, you will be billed in accordance with our normal fee schedule. We would be happy to provide cost estimates for any additional services at your request.

EXHIBITS

Exhibit A - General Conditions (JEO Master Services Agreement)

THIELE GEOTECH, INC.

By: Raeanna C.D. Thiele

Raeanna C.D. Thiele, P.E.

13478 Chandler Road

Omaha, Nebraska 68138-3716

402/556-2171 Fax 402/556-7831

CLIENT: _____

By: _____ Date: _____

Name: _____

Address: _____

City, State: _____

Phone: _____ Fax: _____

GENERAL CONDITIONS

1. SCOPE OF WORK: Thiele Geotech, Inc. (including its officers, directors, employees and subconsultants, hereafter referred to as TG) shall perform the services described in the contract and shall invoice the client for those services at the Fee Schedule rates. Any cost estimates stated in this contract shall not be considered as firm figures unless specifically stated in this contract. If unexpected site conditions are discovered, the scope of services may change. TG will provide additional services at the contract Fee Schedule rates.

2. ACCESS TO SITES, PERMITS, AND APPROVALS: The client shall furnish TG with right-of-access to the site in order to conduct the planned exploration. Unless otherwise agreed, the client will also secure all necessary permits, approvals, licenses, and consents necessary to the performance of the services hereunder. While TG will take reasonable precautions to minimize damage to the property, it is understood by the client that, in the normal course of work, some damage may occur, the restoration of which is not part of this agreement.

3. UTILITIES: In the performance of its work, TG will take reasonable precautions to avoid damage or injury to subsurface utilities or structures. This includes requesting locates of utility owned lines and services. The client agrees to hold TG harmless and indemnify TG for any claims, payments, or other liability, including attorney fees, incurred by TG for damage to any privately owned subsurface utilities or structures which are not correctly identified to TG.

4. UNANTICIPATED HAZARDOUS MATERIALS: It shall be the duty of the client to advise TG of any known or suspected hazardous substances which are or may be related to the services provided; such hazardous substances including but not limited to products, materials, or wastes which may exist on or near any premises upon which work is to be performed by TG. If TG observes or suspects the existence of hazardous materials during the course of providing services, TG may, at its option, terminate further work on the project and notify client of the conditions. Services will be resumed only after a renegotiation of scope of services and fees. In the event that such renegotiation cannot occur to the satisfaction of TG, TG may, at its option, terminate this contract. It is understood and agreed that TG does not create, generate, or at any time take possession or ownership of hazardous materials as a result of its exploration services.

5. REPORTS AND INVOICES: TG will furnish up to 3 copies of reports to the client. Additional copies will be provided at the expense of the client. TG may submit invoices to the client monthly and upon completion of services. Client will bill TG invoices to their client within 20 days of receipt of invoice from TG unless client provides notice of questions/concerns with invoice. Client agrees to pay Thiele Geotech for services on submitted invoices within 10 days of receipt of payment from client.

6. OWNERSHIP OF DOCUMENTS: All reports, boring logs, data, notes, calculations, estimates, and other documents prepared by TG as instruments of service shall remain the property of TG.

7. SAMPLE DISPOSAL: Unless otherwise agreed, test specimens or samples will be disposed immediately upon completion of the test.

8. CONFIDENTIALITY: TG will hold confidential all business or technical information obtained from the client or generated in the performance of services hereunder and identified in writing by the client as confidential. TG will not disclose such information without the client's consent except to the extent required for: 1) performance of services under this contract; 2) compliance with professional standards of conduct for preservation of public safety, health, and welfare; 3) compliance with any court order or other governmental directive; and/or 4)

protection of TG against claims or liabilities arising from performance of services under this contract. TG's obligations hereunder shall not apply to information in the public domain or lawfully acquired on a non-confidential basis from others. TG's technical and pricing information are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of TG.

9. STANDARD OF CARE: Services performed by TG under this contract will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, express or implied, is made or intended by the proposal for services or by furnishing oral or written reports of the findings made. The client recognizes that TG does not owe any fiduciary responsibility to the client. The client further recognizes that subsurface conditions may vary from those encountered at the location where borings, surveys, tests, or explorations are made by TG, and that the data, interpretations, and recommendations of TG are based solely upon the data available to TG. TG will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.

10. LIMITATION OF LIABILITY: In recognition of the relative risks, rewards, and benefits to both the client and to TG, the risks have been allocated such that the client agrees to limit TG's liability to the client and all other parties claiming to have relied on TG's work provided through the client to the amount of the applicable insurance coverage. This limitation of liability is a business understanding between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action except for willful misconduct or gross negligence.

11. TERMINATION: This contract may be terminated by either party upon 7 days prior written notice. In the event of termination, TG shall be compensated by client for all services performed up to and including the termination date and for the completion of such services and records as are necessary to place TG's files in order and/or protect its professional reputation. If either party terminates this contract, these General Conditions shall survive termination and shall remain enforceable between the parties.

12. DISPUTE RESOLUTION: In an effort to resolve any conflicts that arise during or following this project, the client and TG agree that all disputes between them arising out of or related to this agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The client and TG also agree to include a similar mediation provision in all agreements with independent contractors and consultants thereby providing for mediation as the primary method for dispute resolution for all parties on the project.

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

14. ASSIGNMENT: Neither party under this contract may transfer or assign any rights under or interests in this contract without the prior written consent of the other party.

15. PROVISIONS SEVERABLE: In the event that any of the provisions of these General Conditions should be found to be unenforceable, it shall be stricken and the remaining provisions shall be enforceable.

T h i e l e G e o t e c h I n c

Mayor Zavodny stated that the next item on the agenda was discussion concerning updating the payscale.

Council member Jessica Miller said, "I want to go with Option B."

City Administrator Clayton Keller said, "That was the option that I was going to recommend."

Mayor Zavodny said, "I'm going to tell you this, we are not paying a living wage and this job isn't just setting up chairs. It's very involved and you don't know what kind of a problem you have until you have somebody who doesn't know how to mark the football field and we can't have a football game. Someone who doesn't know how to fix something at the swimming pool and those kinds of things. We are so far out of whack on what we're trying to pay someone that we're not going to get anyone to apply for that."

Council member Bruce Meysenburg said, "The biggest problem that we're running into now is all of these other places are increasing their wages to get people to come in and once they do that it's going to be harder to get people."

Mayor Zavodny said, "McDonald's is starting at \$15."

Council member Jessica Miller said, "I think we should start at \$15."

City Administrator Clayton Keller said, "I can do that. I'll tell you how I arrived at this. The wages before were just a comparison to other communities our size doing similar things. I decided to compare wages to the local economy and what they were paying. So, the ones who responded to my request for information are the ones that I included."

Mayor Zavodny said, "I don't think that you are real far off. I appreciate the work that you did on this, but I think that...."

Council member Jessica Miller said, "My recommendation is that starting wage is at \$15.00 an hour and adjust who we have on staff accordingly."

Mayor Zavodny said, "I'm on board with that."

| Department | 10 Steps, Probation is 95% of Pay When Hired | | | | | | | | | | Min Hourly Market | Max Hourly Market | Difference of | Annual Step |
|------------------------|----------------------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-------------------|-------------------|---------------|-------------|
| Position | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | | | |
| Parks | | | | | | | | | | | | | | |
| Park Laborer (current) | \$10.68 | \$11.21 | \$11.74 | \$12.28 | \$12.81 | \$13.34 | \$13.87 | \$14.41 | \$14.94 | \$15.47 | \$10.68 | \$15.47 | \$4.79 | \$0.53 |
| Park Laborer Option A | \$12.99 | \$13.31 | \$13.63 | \$13.95 | \$14.27 | \$14.59 | \$14.91 | \$15.23 | \$15.55 | \$15.87 | \$12.99 | \$15.87 | \$2.88 | \$0.32 |
| Park Laborer Option B | \$14.03 | \$14.35 | \$14.67 | \$14.99 | \$15.31 | \$15.63 | \$15.95 | \$16.27 | \$16.59 | \$16.91 | \$14.03 | \$16.91 | \$2.88 | \$0.32 |

Option A: Local Wages weighted evenly with Non-local wages
 Option B: Local Wages weighted higher than Non-local wages

Mayor Zavodny stated that the next item on the agenda was consideration/discussion of ward boundary lines as provided by Gworks.

City Administrator Clayton Keller said, "So, Gworks got back to us with the newly drawn voting ward boundaries based on the 2020 census numbers and they said that we get to make adjustments if we want to make adjustments. The first thing that I'm going to correct is where they have Pat Meysenburg living. I gave them his old address. I'll give them his new address and get that updated. The second thing that I'm going to ask them to do is to include the land that we just annexed this year, on the north side of town, so that will be in Ward #3. Are there any other adjustments of corrections that the Council would like to see made?"

Mayor Zavodny said, "If I understand this right, they just apply their program to where the population is distributed, and so how are we going to improve on that? Is there any compelling reason that we would alter it at all? I don't know what it would be."

City Administrator Clayton Keller said, "It will come back to the Council for approval probably in December."

Mayor Zavodny stated that the next agenda item was consideration of purchase agreement for 593 N. 5th Street.

City Administrator Clayton Keller said, "The City hired Kobza Ag & Home to run an online auction and no one hit the reserve bid in that auction. So we asked Kobza Ag & Home to go to the highest bidder and negotiate a purchase agreement or a purchase price. It came back that they are offering \$50,000. I'm going to recommend that the Council not accept this offer. I believe that we can get more. I believe that there are people who would be willing to pay us a more fair price for that building."

Mayor Zavodny said, "I think so, too. Without getting real specific, I'd invite Bob and/or Laura to come up and tell us about the process and what we have going. That's so far below what it appraised."

Bob Kobza of Kobza Ag & Home introduced himself and said, "What I would suggest to the Council is to go back and let's do it again and let's just not have a reserve."

Mayor Zavodny said, "We can still decide if we accept?"

Bob Kobza said, "Well, then put \$45,000 as a reserve. That's five thousand less than you've been offered right now and just put it back on the market. Just open it to the world with no reserve and the highest bid is going to get it this time."

Mayor Zavodny said, "We could come out worse."

Bob Kobza said, "We had two bidders for a while at fifty thousand or slightly over."

Mayor Zavodny said, "Here's the quandary that I find myself in, at least. We are so far below the appraised value that you almost need to sit on it for a while if you can't get it sold. I appreciate anybody working with us to at least offer a bid, but I don't think it's fair to just give it away at such a bargain basement amount. It has value. It has an appraised value. We know that we probably won't get the appraised value, we're clear on that."

Council member Tom Kobus said, "I think we need to wait until summer and try it again. Isn't winter a bad time to sell?"

Mayor Zavodny said, "It's getting into a tough time of year. My experience has been that November and December for hiring people...and then you'll tell me that the best house that you've ever sold, you sold on Christmas Day. I agree with Tom, I'm not sure the timing is great."

Laura Kobza introduced herself and said, "Timing used to be a big issue. Right now, our board of sales is full. It was not full all summer. We will have more closings in November and December than we had in the first part of the year."

Mayor Zavodny said, "Is that more residential or is that also commercial?"

Laura Kobza said, "It's across the board. That does not stand true anymore. How will it sell? I don't know what the appraiser did for comps, were they justifiable comps? I can't answer that."

Mayor Zavodny said, "What is the comp to that? Who has sold anything like that?"

Bob Kobza said, "I find it very hard to believe that that property did appraise for that level."

Laura Kobza said, "I agree."

Bob Kobza said, "On a market analysis of us looking into other properties, I can see it somewhere between fifty-seven thousand and sixty-eight thousand. That's just the numbers that we come up with in other communities that have tried to sell a commercial property such as that. That's a wide range, I know."

Laura Kobza said, "I don't know if any of you have been in it. It's very small and uses for it are extremely limited. Quite honestly, open auction is probably the best way to determine true value."

Bob Kobza said, "At the lower number, I think that we'll have other people come back into the market because they know that it will sell."

Mayor Zavodny said, "I agree with you. It will sell at a lower number. Part of our hope and commitment is that we help apply some of that revenue to the cost of the main building that is going to be the City Office for the next fifty to one hundred years."

Bob Kobza said, "So, are you thinking somewhere between that fifty-seven thousand and sixty-eight thousand would be satisfactory?"

Mayor Zavodny said, "I going to give you my opinion. I was thinking if we could get somewhere around seventy to seventy-five percent of the appraised value, so that's not very far away, that I could live with that. Seventy, somewhere in there."

Bob Kobza said, "I think that's a bit optimistic."

Council member Pat Meysenburg said, "I agree with Bob and Laura. Appraised value of that was way high."

Mayor Zavodny said, "Ok. Let's say that we agree on that. It's really up to you to determine what the value is because you're the ones that are selling it. What number are you willing to live with. What scares me is going again with no reserve is that they see it didn't sell and now they say their bid is thirty-five thousand and now you have to take it."

Bob Kobza said, "Here's another thing that I can throw out there. Let's start at fifty thousand. We have a written offer at fifty."

Mayor Zavodny said, "Are you willing to sell it at that?"

Council member Kevin Woita said, "I'd say sixty."

Council member Bruce Meysenburg said, "I agree. I think it was way over appraised."

Council member Kevin Woita said, "I think so, too."

Laura Kobza said, "The longer is stays off the market, the longer it is not on the tax rolls, the less interest you're probably going to have, in all reality."

Council member Pat Meysenburg said, "It really doesn't have very many options for use."

Council member Jessica Miller said, "Since it's consideration of the purchase agreement, can we say that we're not going to consider this and we want this to move to the next meetings agenda to have a reserve of sixty and put it back on the market?"

Mayor Zavodny said, "That is the proper course of action. We can't make a negative motion so we agree to not accept the bid. Is that a positive motion? We'll put it on the next agenda and by then I won't be as mad about everything that I heard about the wastewater plant. I'll be friendlier. Between fifty and sixty is probably the price point that we might consider between now and then."

Council member Pat Meysenburg made a motion to approve not accepting the purchase agreement for 593 N. 5th Street. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea
Yea: 5, Nay: 0, Absent: 1

There being no further business to come before the Council, Council member Pat Meysenburg made a motion to adjourn. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Absent, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1 The motion carried and Mayor Zavodny declared the meeting adjourned at 8:25 p.m.

CERTIFICATION OF MINUTES

October 13, 2021

I, Tami Comte, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of October 13, 2021; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Tami Comte, City Clerk