

CITY COUNCIL PROCEEDINGS

April 28, 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 April 22, 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, John Vandenberg, Pat Meysenburg and Jessica Miller, City Attorney James Egr, City Administrator Clayton Keller and City Clerk Tami Comte. A Council vacancy exists in Ward 2.

Also present for the meeting were: Interim Water Supervisor Aaron Gustin, Cody Wickham of DA Davidson, Park/Auditorium employee Nathan Styskal, Friends of David City members Deb Dinkelman and Jim Angell, Sheriff Tom Dion and Special Projects Coordinator Dana Trowbridge.

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.

Mayor Zavodny stated that he wanted to thank Council member Kevin Hotovy for his service as a Council member and as Council President. Mayor Zavodny also stated that he wanted to thank Planning Commission member Janis Cameron for her years of service on the Planning Commission and he wished them both well.

Council member Jessica Miller made a motion to approve the minutes of the April 14, 2021 meeting as presented. Council Member John Vandenberg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

Council member Pat Meysenburg made a motion to approve the reappointment of Pam Kabourek as a regular member of the Planning Commission for a three-year term (May, 2021 - April, 2024). Council Member Bruce Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

Council member Pat Meysenburg made a motion to approve appointing Nicole Gasper as a regular member of the Planning Commission to fill the unexpired term of Janis Cameron which expires March, 2023. Council Member Tom Kobus seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea Yea: 5, Nay: 0

There was one bid that was received for the 3rd & "G" Street lot. Mayor Zavodny opened the bid and stated that the bid was from Nathan & Christy Palensky who bid \$15,000 for the lot. They stated in the bid that they understand that the minimum bid is \$30,000 but there is a lot of work that needs to be done prior to construction.

Mayor Zavodny said, "First of all, I'm grateful to them for bidding. Given the fact that we set \$30,000 as a minimum bid, I think that the prudent thing to do tonight, and this is one person's opinion, you can do what you want, if you want to sell it for fifteen, you have that option. Now that the work is moving forward on the house, and we have no idea once it's completed who is going to be interested in that. Selling it for fifteen tonight would seem to be..., that's half of what we set as a minimum and the ninety thousand that we have in the house, with getting fifty-six thousand for the house puts us significantly lower. Do you wait and see if someone who buys the house would be interested in the lot? If they want a personal home and not have neighbors, that would give them the opportunity to buy both at that time. I don't know that there's a huge hurry to us. People may not bid again. That's the risk that you run, so you have to decide what you want to do."

Council member Bruce Meysenburg made a motion to accept the bid of Nathan Palensky in the amount of \$15,000 seconded the motion. The motion was not seconded and therefore died for lack of a second.

City Administrator Clayton Keller stated that the next agenda item is to approve the Agreement for Professional Services with Garver, LLC for the updated airport layout plan which will be one hundred percent funded by the federal government this year.

Council member Bruce Meysenburg made a motion to approve the Agreement for Professional Services with Garver, LLC for AIP 3-31-0025-014-2021 (airport layout plan update) contingent upon FAA Funding. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0



**Agreement
For
Professional Services
City of David City**

AIP 3-31-0025-014-2021

Garver Project No. 20A14400



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THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made as of the Effective Date by and between the City of David City hereinafter referred to as "Owner", and Garver, LLC (hereinafter referred to as "Garver"). Owner and Garver may individually be referred to herein after as a "Party" and/or "Parties" respectively.

RECITALS

WHEREAS, Owner intends to complete an Airport Layout Plan with Narrative Report (the "Project").

WHEREAS, Garver will provide professional Services related to the Project as further described herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS GARVER

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section

"Effective Date" means the date last set forth in the signature lines below.

"Damages" means any and all damages, liabilities, or costs (including reasonable attorneys' fees recoverable under applicable law).

"Hazardous Materials" means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

"Personnel" means affiliates, directors, officers, partners, members, employees, and agents.

2. SCOPE OF SERVICES

2.1. Services. Owner hereby engages Garver to perform the scope of service described in Exhibit A attached hereto ("Services"). Execution of this Agreement by Owner constitutes Owner's written authorization to proceed with the Services. In consideration for such Services, Owner agrees to pay Garver in accordance with Section 3 below.



3. PAYMENT

3.1. Fee.

For the Services described under Section 2.1, Owner will pay Garver in accordance with this Section 3 and Exhibit B. Owner represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms of this Agreement.

3.2. Invoicing Statements. Garver shall invoice Owner on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Owner to know with reasonable certainty the proportion of Services accomplished.

3.3. Payment.

3.3.1. Due Date. Owner shall pay Garver all undisputed amounts within thirty (30) days after receipt of an invoice. Owner shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Owner relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.

3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.

3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

4. AMENDMENTS

4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment to Owner with backup supporting the Amendment. All Amendments should include, to the extent known and available under the circumstances, documentation sufficient to enable Owner to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional services created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

5. OWNER'S RESPONSIBILITIES

5.1. In connection with the Project, Owner's responsibilities shall include the following:

5.1.1. Those responsibilities set forth in Exhibit A.

5.1.2. Owner shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Garver pursuant to this



Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Exhibit A.

5.1.3. Owner shall give prompt written notice to Garver whenever Owner observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Owner's performance of its responsibilities under this Agreement.

5.1.4. Owner shall include "Garver, LLC" as an indemnified party under the contractor's indemnity obligations included in the construction contract documents.

5.1.5. Owner will not directly or indirectly solicit any of Garver's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.

6. GENERAL REQUIREMENTS

6.1. Standards of Performance.

6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.

6.1.2. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

6.1.3. On-site Services. Garver and its representatives shall comply with Owner's and its separate contractor's Project-specific safety programs, which have been provided to Garver in writing in advance of any site visits.

6.1.4. Relied Upon Information: Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services. Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform



its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Consequently, Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services.

6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Owner under Exhibit A (the "Deliverables"), shall become the property of Owner subject to the terms and conditions stated herein.

6.2.2. Electronic Media. Owner hereby agrees that all electronic media, including CADD files ("Electronic Media"), are tools used solely for the preparation of the Deliverables. Upon Owner's written request, Garver will furnish to Owner copies of Electronic Media to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the Electronic Media, however, the Deliverables shall take precedence in all respects. Electronic Media is furnished without guarantee of compatibility with the Owner's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Owner's possession or released to others by Owner. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Owner.

6.2.3. Property Rights. All intellectual property rights of a Party, including copyright, patent, and reuse ("Intellectual Property"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so imbedded and may not be separated therefrom.

6.2.4. License. Upon Owner fulfilling its payment obligations under this Agreement, Garver hereby grants Owner a license to use the Intellectual Property, but only in the operation and maintenance of the Project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of this Project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to costs of defense arising out of Owner's use of the Intellectual Property contrary to the rights permitted herein.



6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of Project costs or construction costs provided pursuant to Exhibit A, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. Garver cannot and does not guarantee that proposals, bids, or actual Project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Owner understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Garver will not be required to re-design the Services without additional compensation. In the event Owner requires greater assurances as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

6.5. Design without Construction Phase Services.

6.5.1. If the Owner requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the services as an Amendment in accordance with Sections 4 and 10.2.

6.5.2. Garver shall be responsible only for those construction phase Services expressly set forth in Exhibit A, if any. With the exception of such expressly required Services, Garver shall have no responsibility or liability for any additional construction phase services, including review and approval of payment applications, design, shop drawing review, or other obligations during construction. Owner assumes all responsibility for interpretation of the construction contract documents and for construction observation and supervision and waives any claims against Garver that may be in any way connected thereto.

6.5.3. Owner agrees, to the fullest extent permitted by law, to indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such construction phase services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments, or changes made to the construction contract documents to reflect changed field or other conditions, except to the extent such claims arise from the negligence of Garver in performance of the Services.



6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Owner shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Owner and Garver shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Garver's performance of Services to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Garver from disclosing general information regarding the Project for future marketing purposes.

7. INSURANCE

7.1. Insurance.

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit C until completion of the Service. Upon request, Garver shall name Owner as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.2. Upon request, Garver shall furnish Owner a certificate of insurance evidencing the insurance coverages required in Exhibit C.

8. DOCUMENTS

8.1. Audit. Garver shall maintain all required records for the later of three (3) years after completion of the Services or Owner makes final payment and all other pending matters are closed. FAA, Owner, Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers and records of Garver which are directly pertinent to a specific grant program for the purpose of audit, examination, excerpts, and transcription. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).



8.2. Delivery. After completion of the Project, and prior to final payment, Garver shall deliver to the Owner all original documentation prepared under this Agreement, and one (1) set of the record drawing construction plans updated to reflect changes. One (1) set of the record drawing construction plans will also be delivered to the FAA airport region office, if applicable. In the event the Owner does not have proper storage facilities for the protection of the original drawings, the Owner may request Garver to retain the drawings with the provision that they will be made available upon written request.

9. INDEMNIFICATION / WAIVERS

9.1. Indemnification.

9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Owner, and Owner's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.

9.1.2. Owner Indemnity. Subject to the limitations of liability set forth in Section 9.2, Owner agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Owner or any other party for whom Owner is legally liable, in the performance of Owner's obligations under this Agreement.

9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Garver and the Owner, they shall be borne by each Party in proportion to its own negligence.

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

9.2.1. The Parties agree that any claim or suit for Damages made or filed against the other Party will be made or filed solely against Garver or Owner respectively, or their successors or assigns, and that no Personnel shall be personally liable for Damages under any circumstances.

9.2.2. Mutual Waiver. To the fullest extent permitted by law, neither Owner, Garver, nor their respective Personnel shall be liable for any consequential, special, incidental, indirect, punitive, or exemplary damages, or damages arising from or in connection with loss of use, loss of revenue or profit (actual or anticipated), loss by reason of shutdown or non-operation, increased cost of construction, cost of capital, cost of replacement power or customer claims, and Owner hereby releases Garver, and Garver releases Owner, from any such liability.

9.2.3. Limitation. In recognition of the relative risks and benefits of the Project to both the Owner and Garver, Owner hereby agrees that Garver's and its Personnel's total liability under the Agreement shall be limited to the lesser of one hundred percent (100%) of Garver's fee set forth in Exhibit B or an amount equal to the amount of compensation actually received by Garver from Owner.



9.2.4. No Other Warranties. No other warranties or causes of action of any kind, whether statutory, express or implied (including all warranties of merchantability and fitness for a particular purpose and all warranties arising from course of dealing or usage of trade) shall apply. Owner's exclusive remedies and Garver's only obligations arising out of or in connection with defective Services (patent, latent or otherwise), whether based in contract, in tort (including negligence and strict liability), or otherwise, shall be those stated in the Agreement.

9.2.5. The limitations set forth in Section 9.2 apply regardless of whether the claim is based in contract, tort, or negligence including gross negligence, strict liability, warranty, indemnity, error and omission, or any other cause whatsoever.

10. DISPUTE RESOLUTION

10.1. Any controversy or claim ("Dispute") arising out of or relating to this Agreement or the breach thereof shall be resolved in accordance with the following:

10.1.1. Any Dispute that cannot be resolved by the project managers of Owner and Garver may, at the request of either Party, be referred to the senior management of each Party. If the senior management of the Parties cannot resolve the Dispute within thirty (30) days after such request for referral, then either Party may request mediation. If both Parties agree to mediation, it shall be scheduled at a mutually agreeable time and place with a mediator agreed to by the Parties. Should mediation fail, should either Party refuse to participate in mediation, or should the scheduling of mediation be impractical, either Party may file for arbitration in lieu of litigation.

10.1.2. Arbitration of the Dispute shall be administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY AND ALL RIGHT TO TRIAL BY JURY. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.

10.1.3. The site of the arbitration shall be Lincoln, Nebraska. Each Party hereby consents to the jurisdiction of the federal and state courts within whose district the site of arbitration is located for purposes of enforcement of this arbitration provision, for provisional relief in aid of arbitration, and for enforcement of any award issued by the arbitrator.

10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30) days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.



10.1.5. The arbitrator shall have no authority to award punitive damages. Any award, order or judgment pursuant to the arbitration is final and may be entered and enforced in any court of competent jurisdiction.

10.1.6. The prevailing Party shall be entitled to recover its attorneys' fees, costs, and expenses, including arbitrator fees and costs and AAA fees and costs.

10.1.7. The foregoing arbitration provisions shall be final and binding, construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying the application of other law. Pending resolution of any Dispute, unless the Agreement is otherwise terminated, Garver shall continue to perform the Services under this Agreement that are not the subject of the Dispute, and Owner shall continue to make all payments required under this Agreement that are not the subject of the Dispute.

10.1.8. Owner and Garver further agree to use commercially reasonable efforts to include a similar dispute resolution provision in all agreements with independent contractors and subconsultants retained for the Project.

10.1. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Owner, unless litigation assistance has been expressly included as part of Services. In the event Owner requests such services of Garver, this Agreement shall be amended in writing by both Owner and Garver to account for the additional services and resulting cost in accordance with Section 4.

11. TERMINATION

11.1. Termination for Convenience. Owner shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Owner shall compensate Garver in accordance with Exhibit B for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, (ii) all costs reasonably incurred to bring such Services to an orderly cessation.

11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the Owner, Owner shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.

11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.



12. MISCELLANEOUS

- 12.1. Governing Law. This Agreement is governed by the laws of the State of Nebraska, without regard to its choice of law provisions.
- 12.2. Successors and Assigns. Owner and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Owner nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld or delayed.
- 12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- 12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Owner and Garver. This Agreement does not contemplate any third-party beneficiaries.
- 12.5. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Garver and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.
- 12.6. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.
- 12.7. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

13. APPENDICIES

- 13.1. The following Exhibits are attached to and made a part of this Agreement:

Appendix A – Scope of Services
Appendix B – Compensation Schedule
Appendix C – Insurance
Appendix D – Certification of Engineer
Appendix E – Mandatory Federal Contract Provisions for Professional Services Contracts

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.




Acceptance of this proposed Agreement is indicated by an authorized agent of the Owner signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.

IN WITNESS WHEREOF, Owner and Garver have executed this Agreement effective as of the date last written below.

City of David City

Garver, LLC

By: _____
Signature

By:  _____
Signature
Digitally signed by Mark E. Williams
Date: 2021.03.30
07:27:38-05'00'

Name: _____
Printed Name

Name: Mark E. Williams, PE
Printed Name

Title: _____

Title: Midwest Aviation Leader

Date: _____

Date: _____

Attest: _____

Attest:  _____
Digitally signed by Roger S. Knobloch
Date: 2021.03.30
13:39:17-05'00'



**APPENDIX A
SCOPE OF SERVICES
DAVID CITY MUNICIPAL AIRPORT
AIRPORT LAYOUT PLAN UPDATE WITH NARRATIVE**

GENERAL

In accordance with the requirements established by the Federal Aviation Administration (FAA) and the Nebraska Department of Transportation – Aeronautics Division (NDOT) and the unique needs and interests of the City of David City (Owner), the owner and operator of David City Municipal Airport, this Scope of Services outlines the tasks necessary to conduct an Airport Layout Plan (ALP) Update with Narrative for the David City Municipal Airport (93Y).

Garver will utilize applicable FAA guidance and resources including, but not limited to:

- FAA AC 150/5300-13A, Airport Design
- FAA AC 150/5325-4B, Runway Length Requirements for Airport Design
- FAA AC 150/5335-5C, Standardized Method of Reporting Airport Pavement Strength – PCN
- FAA AC 150/5200-38 - Protocol for the Conduct and Review of Wildlife Hazard Site Visits, Wildlife Hazard Assessments, and Wildlife Hazard Management Plans
- FAA SOP 2.0: Standard Procedures for FAA Review and Approval of Airport Layout Plans (ALPs)
- FAA SOP 3.0: for Review and Approval of Exhibit "A" Airport Property Inventory Maps
- FAA Terminal Area Forecast (current version)
- FAA National Plan of Integrated Airport Systems (current version)

The approach to undertake the Airport Layout Plan Update with Narrative Report for David City Municipal Airport is outlined in the following elements of this Scope of Services.

ELEMENT 1 - PROJECT INITIATION AND ADMINISTRATION

Task 1.1 – Establish Project Committee and Stakeholder Coordination

Upon initiation of the project, a Planning Advisory Committee (PAC) will be established to guide and direct the development of the project. The PAC will provide technical and community review of all project elements, input and guidance to the project, and act as a liaison to the community throughout the planning process. The PAC will be comprised of key individuals from the City and community stakeholders. Garver will work with the Owner and NDOT to identify the individuals that should be part of the PAC and will compose documentation describing the roles and responsibilities of the PAC that can be sent to the proposed PAC committee members. Additionally, Garver will work with the Owner and NDOT to identify other key stakeholders that should be involved in the planning process and the portions of the planning process each key stakeholder needs to be involved in.

Task 1.2 – Project Kick-Off Meeting

Garver will be on site for meetings with the Owner and PAC to review the project scope, identify key project goals, and complete a Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis regarding the airport and its current facilities and operation. These meetings will be held in-person and will be attended by two Garver representatives.



ELEMENT 2 – INVENTORY OF EXISTING CONDITIONS

Task 2.1 – Initial Site Visit

Garver will schedule and complete an initial site visit to the airport that will include the following subtasks:

- Tour the airfield (e.g. runways, taxiways,) and landside/terminal facilities (e.g. ramps, hangars, roadways, etc.) to document the layout and condition of facilities.
- Complete a walkthrough of a sampling of existing structures at the airport (e.g. hangars, buildings, etc.) to document condition.
- Complete a brief visit to the undeveloped airport property sites to ensure a proper understanding of each site's topography and development considerations.

This site visit will be completed in a single day and will include two Garver staff members. This task includes the preparation of meeting materials necessary for the site visit.

Task 2.2 – Wetland Delineation

The wetlands delineation process will include the following items:

- Conduct a detailed and comprehensive field delineation of the existing and ultimate airport property. The delineation will include detailed mapping of potentially jurisdictional waters of the US and completion of field data forms required for determining jurisdictional boundaries.
- Submit wetland delineation report for the project area to the USACE for review and to obtain Jurisdictional Determination.
- Assess the potential effects of construction and operation of the proposed project on jurisdictional waters and wetlands.
- Consult with the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service, state DNR, and state Department of Agriculture and propose mitigation measures as required.

This site visit will be completed by one Garver staff member and may be conducted simultaneous to Task 2.1 or separately. The site visit is expected to take two days to complete.

Task 2.3 – Wildlife Hazard Site Visit

The Wildlife Hazard Site Visit (WHSV) task will include the following items:

- Garver will conduct a wildlife hazards meeting with airport personnel. This meeting will include discussion on the airport's wildlife hazard history, documented and suspected wildlife hazards, habitat attractants, control activities, airport operations procedures, communications of hazards through pilots, aircraft operations and scheduling, concerns of airport personnel, permits held by the airport, WHSV and wildlife hazard assessment (WHA) methodology, safety and logistics protocols, and security authorization and airfield driving/familiarity training, if necessary.
- Garver will conduct a reconnaissance of airport. Garver will spend no more than three days investigating the Airport for potential hazardous wildlife and/or attractants. On-site reconnaissance includes documenting wildlife populations and patterns during morning, midday and evening surveys that will include point count and spotlight surveys. Garver will identify attractants and wildlife habitat within the Airport property as well as within a 5-mile radius around the approach/departure airspace.
- A report of findings will be prepared that will include documentation and statistics relative to the wildlife species and numbers observed during the WHSV. The report will also document



recommendations related to aviation safety in connection with any identified hazardous wildlife attractants. Garver will provide this report in electronic (pdf format) to the Owner, NDOT and FAA. One paper copy will also be provided to each of these parties upon request.

- **Extra Work:** If authorized by supplemental agreement by Owner, Garver will furnish or obtain from others additional services of the types listed hereinafter. These services are not included as part of the basic Scope of Services to be provided by the Garver. Compensation for additional services will be in addition to compensation for above described services and may include but are not limited to:
 - Completion of a Wildlife Hazard Assessment, Wildlife Hazard Mitigation or Management Plan or other specialized studies required by agencies beyond the WHSV.
 - Coordination for right of entry.
 - Coordination of and obtaining required agency permits.
 - Submittals or deliverables in addition to those listed herein.
 - Site visits in addition to those listed herein.

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and Garver.

Garver will complete this task within 45 days of the start date. Start date will be dictated by migratory bird season, which generally begins in October or November.

Task 2.4 – Initial Documentation Review

Garver will collect and review the following documents and information to establish baseline information to build the inventory of existing facilities and practices:

- Current and planned capital improvements at the airport.
- Current FAA documentation regarding the airport and its facilities (e.g. current 5010, historic 5010's as provided by NDOT, A/FD, instrument approach procedures, sectional/IFR charts, and Aeronautical Information Services data from the FAA National Flight Data Center).
- 93Y information/data from the current Nebraska Aviation System Plan, NPIAS, and FAA Asset Study. Information collected for the NASP update currently under way will be used if available and approved by NDOT.
- Current approved 93Y Airport Layout Plan (ALP).
- Current and planned 93Y tenant activities/operations/business plans.
- Airport activity reports showing historic aircraft operations.
- Local zoning ordinances/maps and any height hazard zoning processes/practices.
- Existing environmental data/information (e.g. previous EA, EIS, other environmental determinations, threatened and endangered plants, fish, and wildlife data, cultural/archaeological/historical resources data, floodplains, farmland, etc.).
- Any available topographic maps and available aerial photographs.

The information reviewed during this effort and obtained during the initial site visit (Task 2.1) will be used to develop the Inventory Chapter of Working Paper #1.



ELEMENT 3 – AVIATION ACTIVITY FORECASTS

Task 3.1 – Inventory of Historic and Current Air Traffic Activity and Socioeconomic Factors

Any available current and historic air traffic activity and based aircraft information for the Airport will be assembled and organized. If available, historic traffic/activity data or estimates will be obtained from the FAA, NDOT, and the Owner. If no estimates of current or historic activity levels exist, the current FAA Terminal Area Forecast (TAF) will be utilized to estimate current and historic activity levels. Historic air traffic activity will be broken down into annual total operations, operations by user category (e.g. GA, air taxi, military, etc.), local vs itinerant, and IFR vs. VFR based on information provided by the Owner or through operational ratios displaced in the TAF. Information concerning historic peak hourly, daily, monthly, and annual activity will be obtained and quantified, if available.

Garver will obtain statistical data on historic and forecast socioeconomic factors from publicly available sources. These factors will include employment, income, population, and business climate/characteristics of the region, with an emphasis placed on the identification of specific socioeconomic characteristics, as well as trends, that are likely to affect the economic growth and development of the area. Considerations will also be made for current and future area business aviation needs and plans.

Garver will also review published research and reports related to national and regional forecasts for air transportation demand in the United States to establish an understanding of how these trends may affect the airport.

Task 3.2 – Prepare Aviation Forecasts

Potential aeronautical activity and based aircraft forecasts will be developed for the Airport, taking into consideration national and regional aeronautical activity forecasts from the FAA, NDOT, and private agencies, and the socioeconomic information reviewed in Task 3.1. The methodologies to develop the potential aeronautical activity forecasts will involve a variety of statistical modeling techniques. The baseline year for the forecasts will be 2020 with the first forecast year being 2021. After 2021, forecasts will be prepared in five-year Planning Activity Levels (PALs) (2026, 2031, 2036, and 2041) for the 20-year planning horizon with projections for each of the following:

- Baseline Forecasts
 - Based Aircraft
 - Total Operations
- Derivative Forecasts
 - Local vs Itinerant Operations
 - Fleet Mix Operations (by Aircraft Design Group and Approach Category)
 - Instrument Approaches
 - Airport Peaking Characteristics

The baseline forecasts will be compared to the FAA's current Terminal Area Forecast (TAF) for the Airport. Existing and anticipated operations data from aerial applicator businesses utilizing 93Y, including aircraft types in use, will also be reviewed and considered as part of this process. Data regarding the effects of the COVID-19 pandemic on airport operations in 2020 will be collected and reported in the inventory of aircraft operations and considered in the development of the forecasts. The Airport's current and future critical aircraft (aircraft type/category with at least 500 annual operations) will be identified.



Task 3.3 – Prepare Working Paper #1

A virtual meeting will be held with the PAC to review the findings of the inventory process and draft baseline forecast (e.g. annual operations and based aircraft) scenarios prepared by Garver and to select an initial preferred baseline forecast in each of these areas. This task includes the preparation of presentation materials needed for this meeting. These initial preferred baseline forecasts will then be used to complete draft derivative forecasts (e.g. local vs. itinerant, fleet mix, IFR vs VFR, etc.).

A follow-up virtual meeting will be held with the Owner, NDOT, and FAA to review the draft derivative forecasts and collect feedback. This task includes the preparation of presentation materials needed for this meeting.

A draft of Working Paper #1 will be prepared based on the data and information obtained during the site visit (Task 2.1), wetland delineation (Task 2.2), documentation review (Task 2.3), and aviation forecast compilation (Task 3.2) and will incorporate any feedback received during the PAC meeting. The working paper will document:

- **Airfield:** Runway/taxiway/apron configuration and condition to include pavements, lighting, and signage; navigational aids; fueling facilities; and aircraft circulation, access and airfield security.
- **Pavement Classification Number (PCN) Determination:** Determination will be made utilizing "Using Aircraft Method to Determine PCN" methodology as discussed in Section 4.3 of FAA AC 150/5335-5C, *Standardized Method of Reporting Airport Pavement Strength – PCN*.
- **Environmental Overview:** Existing environmental features, potential environmental concerns, and anticipated future studies will be identified.
- **Building and Hangar Utilization:** Structural use and hangar utilization will be identified.
- **FBO/GA Services:** Understand current services available to aircraft at 93Y.
- **Auto Access and Parking:** Parking and access roads will be inventoried as to size, general conditions, and use.
- **Regional Airspace:** Classes of airspace, other area airports, and any other applicable airspace considerations
- **Local Airspace:** Zoning and any ordinances pertaining to the airport, and any known impediments to airport operations
- **Instrument Approaches:** Existing instrument approaches will be identified and procedures will be detailed.
- **Land Use and Controls:** Review existing airport land uses and adjacent land uses based on the existing airport's property boundaries.
- **Historic and Current Air Traffic Activity and Socioeconomic Factors** as identified in Task 3.1.
- **Prepared forecasts** as identified in Task 3.2.
- **Assumptions and methodologies** used in preparing the aviation demand forecast and serve as the basis for later tasks in the study.
 - This will include guidance developed to account for anticipated forecast impacts resulting from the COVID-19 pandemic.

Owner, NDOT and FAA will provide an official review and approval of the final draft of Working Paper #1 prior to proceeding with Element 4, Facility Requirements. Garver will incorporate any feedback into the final version of the document.



ELEMENT 4 – FACILITY REQUIREMENTS

Task 4.1 – Establishing Facility Requirements

Determination of the type and magnitude of existing and future airside facilities and landside/terminal facilities to meet forecasted aviation demand will be completed during this task. Airport facility requirements will be based on the FAA-approved aeronautical demand forecast and FAA guidance, current facilities, local requirements, the results of the SWOT analysis, and the business goals of the Airport. Facility requirements will be identified by Planning Activity Levels (PAL) that correspond to the approved demand forecast and will be presented in tabular form.

Airside Facility Requirements

Identify physical facility planning criteria for evaluating the adequacy of the airside facilities to meet forecasted demand. These criteria shall be based upon the latest state and federal standards (e.g. FAA Advisory Circulars) and best practices (e.g. Airport Cooperative Research Program reports) and Garver's professional experience as they apply to the level of activity identified in the forecast and the future role of the airport. Airside facilities to be examined will include:

- Runway Orientation (e.g. wind coverage)
- Runways Length and Width (in accordance with AC 150/5325-4B and 150/5300-13A)
- Taxiways (e.g. geometrical standards, prohibited configurations, layout, spacing, etc.)
- Runway and Taxiway Safety Areas and Object Free Areas
- Runway and Taxiway Dimensional Criteria
- Runway Protection Zones (RPZ)
- Runway Obstacle Free Zones
- Airfield Pavement Strength
- Airfield Marking and Lighting
- Airport NAVAIDS

Landside/Terminal Facility Requirements

Identify physical facility planning criteria for evaluating the adequacy of various landside/terminal area facilities to meet forecasted demands. Apply City, state, and federal requirements, standards, and best practices to determine the capacity of the present landside/terminal facilities and compare to the demand projected by the aviation forecasts. Landside/terminal facility requirements to be examined will include (but not limited to):

- Aircraft parking apron (e.g. optimized pavement utilization)
- Terminal building
- FBO facilities
- Aircraft storage hangars (T-Hangars and Box Hangars)
- Fuel storage and dispensing
- Automobile access and parking facilities
- Area land-use zoning

The landside/terminal facility requirements will be developed in the form of gross areas and basic units and will be compared to those that presently exist to identify the future development items needed to maintain adequate service, function, and operation of the Airport.



ELEMENT 5 – AIRPORT ALTERNATIVES

Task 5.1 – Develop Airside Alternatives

Based on the facility requirements established in the preceding project element, up to three (3) airside development alternatives will be created. Airside alternatives will be based on schemes for development within existing or expanded airport boundaries and will show necessary runway and taxiway improvements during the 20-year planning period. This task will be conducted simultaneously with Task 5.2 and will result in a series of overall development alternatives for the Airport.

Airside alternatives will be evaluated based on their ability to satisfy the identified facility requirements, safety and risk management considerations, environmental considerations, engineering factors, cost (order of magnitude cost level), and ease of implementation (e.g. existing business and residential impacts, land purchase, etc.).

An evaluation matrix will be developed to compare the aforementioned factors associated with each airside alternative.

Task 5.2 – Develop Landside/Terminal Alternatives

Based on the facility requirements established in the preceding project element, up to three (3) landside/terminal development alternatives will be created. Landside/terminal alternatives will be based on schemes for development within existing or expanded airport boundaries and will show necessary apron, hangar, terminal, vehicle parking, and roadways improvements necessary during the 20-year planning period. The anticipated fuel farm project will be included in these alternatives. This task will be conducted simultaneously with Tasks 5.1 and will result in a series of overall development alternatives for the Airport.

Landside/terminal alternatives will be evaluated based on their ability to satisfy the identified facility requirements, environmental considerations, engineering factors, cost (order of magnitude cost level), ease of implementation (e.g. existing business and residential impacts, land purchase, etc.), revenue production potential and their compatibility with the airside alternatives.

An evaluation matrix will be developed to compare the aforementioned factors associated with each landside/terminal alternative.

Task 5.3 – Nebraska State Historic Preservation Office Determination

The alternatives exhibits developed as part of Tasks 5.1 and 5.2 will be submitted to the Nebraska State Historic Preservation Office (SHPO) for review and evaluation of potential resource impacts. Any identified impacts will be incorporated into the alternatives evaluation process.

Task 5.4 – Prepare Working Paper #2

A virtual meeting will be held with the PAC to review the findings of the facility requirements process, alternatives evaluation process, and draft alternatives. The result of the meeting will be the selection of the preferred airside and landside/terminal area alternatives for the airport.

A draft of Working Paper #2 will be prepared based on the data and information compiled during the facility requirements process (Element 4) and subsequent alternatives development process. The working paper will identify and further discuss the preferred airside and terminal/landside alternatives.

NDOT and FAA will provide an official review and approval of the final draft of Working Paper #2. Garver will incorporate any feedback into the final version of the document.



Task 5.5 – Public Comment

The preferred airside and landside/terminal alternative will be presented to the public in a web-based format that will allow for the submittal of comments. The website will be available for public review for a period of 30 days. Additionally, adjacent property owners will be provided with notification of the review and comment opportunity by U.S. Mail. Garver will create and print this material and provide to Owner. Owner will be responsible for mailing.

This task includes the preparation of the website and notification materials to be mailed. Feedback collected from the public will be considered in the process of finalizing the preferred alternative in each area.

ELEMENT 6 – AIRPORT LAYOUT PLAN DEVELOPMENT

Task 6.1 – Airport Layout Plan - Existing

Concurrent with the Inventory Chapter development, Garver will begin preparation of an Airport Layout Plan (ALP) update reflecting existing conditions in accordance with the most current FAA AC 150/5300-13A, *Airport Design* and FAA AC 5070-6B, Chapter 10 - *Airport Layout Plans* guidelines, FAA Airports Standard Operating Procedures (SOP) 2.0: Standard Procedures for FAA Review and Approval of Airport Layout Plans (ALPs) and FAA SOP 3.0 for Review and Approval of Exhibit "A" Airport Property Inventory Maps. Property information necessary to complete the Exhibit "A" Airport Property map will be provided by the Owner.

The ALP set will be developed using computer-aided drafting program AutoCAD to facilitate revisions and transfers to other systems. The ALP set will include the following drawings: Title Sheet, Airport Layout Drawing, Airport Airspace Drawing(s), Inner Portion of the Approach Surface Drawing(s) (IPASD), Departure Surface Drawings, Runway Centerline Profile Drawing, Terminal Area Drawing, Land Use Plan, and Exhibit A Property Map. This plan set will provide adequate detail to meet FAA ALP standards with the exception of instrument approach procedure determination. All available CADD data and property information for the ALP process will be provided by NDOT. Base map and ALP details will include, but are not limited to:

- Runway, taxiways, buildings, NAVAIDS, parking areas, roads, lighting, fueling facilities, tie-down areas, and other prominent airport features with dimensions.
- Trees, streams, known utility lines, towers, and other prominent natural features.
- Airport boundaries, runway protection zones, easements, and other areas that need to be controlled by the Owner.
- Adjacent non-airport property, with land use specified.
- Areas reserved for future aviation and non-aviation development (land-use).
- Topographic contours.
- Location and vicinity maps.
- Data tables showing all pertinent airfield data.
- Airspace and IPASD analysis based on compliant survey data for the following surfaces:
- FAR Part 77 imaginary airspace surfaces (primary, approach, transitional, horizontal and conical) (approximately the first 3,400 feet of the approach surface).
- Threshold Siting Surface (approximately the first 3,400 feet).
- Glidepath Qualification Surface (approximately the first 3,400 feet).
- Departure Surface (approximately the first 3,400 feet).



Task 6.2 – Airport Layout Plan - Future

After determining the preferred development concept, Garver will update the ALP set to reflect the selected development concept while maintaining NDOT/FAA guidelines. This plan will provide adequate detail to meet NDOT/FAA ALP standards with the exception of instrument approach procedure determination and development.

Airport Layout Plan Schedule

The ALP shall be completed according to the schedule below and include the specified deliverables in each Phase:

- **Phase 1:** Garver will submit existing conditions ALP in electronic (PDF) format to the Owner, NDOT and FAA 45 calendar days following Garver's receipt of compliant survey data from property data from NDOT and aeronautical survey. One 24x36 in. paper copy of this document submitted to NDOT.
- **Phase 2:** Owner, NDOT and FAA shall review and provide comments to Garver within 30 calendar days from submittal.
- **Phase 3:** Garver will submit existing and future conditions ALP in electronic (PDF) format to the Owner, NDOT and FAA 30 calendar days following approval of preferred development concept by the Owner, FAA and NDOT. One 24x36 in. paper copy of this document will be submitted to the NDOT. Completed FAA SOP 2.0 and 3.0 checklists for the Airport will be submitted to the Owner, NDOT and FAA electronically.
- **Phase 4:** Owner, NDOT and FAA shall review and provide comments to Garver within 30 calendar days from submittal.
- **Phase 5:** Garver will make revisions within 20 calendar days of receipt of comments and will resubmit for review the ALP in electronic (PDF) format to the Owner, NDOT and FAA. One 24x36 in. paper copy of this document will be submitted to the NDOT.
- **Phase 6:** Owner, NDOT and FAA shall review and provide comments to Garver within 20 calendar days from submittal.
- **Phase 7:** Garver will make revisions within 20 calendar days of receipt of comments and will submit the ALP for FAA Airspace Review on FAA's OE-AAA website.
- **Phase 8:** Garver will revise the ALP within 20 calendar days of receipt of FAA comments and will submit to Owner and NDOT for approval. Garver will provide FAA comments to Owner and NDOT.

ALP Deliverables

Within 20 calendar days of receipt of the approved airspace review and upon authorization from the Owner, NDOT and FAA, Garver will provide:

- An electronic (PDF) and one 24x36 in. paper copy of the final version of each ALP set on plain paper to the Owner, NDOT, and FAA for approval and signature.
- One electronic copy of the completed SOP 2.0 and 3.0 checklists.
- All AutoCAD drawing files of the final version of each ALP sheet to the Owner and NDOT.



Task 6.3 – Prepare Draft Report

An ALP chapter will be prepared for the Airport summarizing the elements of the ALP.

ELEMENT 7 – IMPLEMENTATION PLAN

Task 7.1 – Airport Development Program

Using the data collected and developed during previous project elements, Garver will create a comprehensive multi-year airport Capital Development/Improvement Program (CIP). This CIP will cover the 20-year planning period and will be divided into a three-phase development program: short-term (0-5 years), mid-term (6-10 years), and long-term (11-20 years).

The short-term schedule will be provided year for year, providing a clear prioritization of near-term projects and allowing the Owner and NDOT to migrate the CIP into the NDOT funding system. Project implementation triggers will be established for each project defined within the CIP to aid the Owner and NDOT in determining when various projects need to be executed in the future. This phasing assumes a runway development program, documenting the milestones needed to achieve a runway extension, if one is included in the selected preferred alternative.

Recommendations will be in accordance with future demand levels and include any necessary changes or additions to airport infrastructure (including compliance with airport design standards), NAVAIDS, and property interests.

Task 7.2 – Airport Development Probable Costs

Planning-level probable development costs will be prepared for each project in each phase of the CIP. Development costs will be estimated for each item and be based on the preferred development concept. These estimates of probable costs will include land acquisition, construction costs, design fees, and legal/administrative requirements. Cost estimates will be prepared with consideration for future inflation and be developed for planning purposes only.

ELEMENT 8 – AERONAUTICAL SURVEY

An aeronautical obstruction survey will be completed for 93Y by Quantum Spatial as a subconsultant to Garver.

The project will be done in compliance with ADIP policies and will include an airport airspace analysis for vertically guided operations for EXISTING and ULTIMATE Runway 14/32 and non-vertically guided operations for EXISTING Runway 01/19. The Advisory Circulars identified below detail the data collection requirements and accuracies for the project and the verification process by the Federal Aviation Administration (FAA) and the National Geodetic Survey (NGS).

- AC 150/5070-8B, Change 2 "Airport Master Plans"
- AC 150/5300-13A, Change 1 "Airport Design"
- AC 150/5300-18B "General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey"
- AC 150/5300-17C, Change 1 "Standards for Using Remote Sensing Technologies in Airport Surveys"
- AC 150/5300-18B, Change 1 "Survey and Data Standards for Submission of Aeronautical Data Using Airports GIS"



Summary of Work

We understand that the purpose of this project is to accomplish an FAA Airport Airspace Analysis Survey for all surfaces defined in FAA Advisory Circular 150/5300 - 18B: 2.7.1.1 Runways with Vertical Guidance and 2.7.1.3 Runways without Vertical Guidance.

For this project, we will acquire new vertical stereo digital imagery at a physical image scale of 1"=2,500' of the obstruction surface areas and 1"=1,250' of the mapping limits. The aerial imagery will cover all of the VG and NVG Airspace Analysis surfaces using a UltraCamXp (UCXp) camera, or comparable, during leaf-on conditions.

From the 1"=2,500' imagery, we will produce the following:

- Limited landmark feature planimetric mapping
- Color digital orthophotos with a 1.0' pixel resolution
- Identification and mapping of obstruction obstacles for all of the VG and NVG surfaces

From the 1"=1,250' imagery, we will produce the following:

- 100 scale mapping with 2' contours of the mapping limits (312 acres)
- Identification and mapping of obstruction obstacles for the VGRPS, VGPCS, VGPS & NVGPS surfaces

The online SOW will be prepared during project initiation with input from the airport, client and NV5 Geospatial. NV5 Geospatial will be responsible for preparation and submittal of the Survey and Quality Control Plan, Imagery Acquisition Plan, Imagery Acquisition Report, Final Project Report and all associated data files as required for submission to the FAA ADIP online database.

Quality Standards

The project has been designed to conform to the National Map Accuracy Standards for 1"=100' scale planimetric feature collection, two foot contours and six and twelve inch orthophoto production. In addition, we ensure that the photogrammetric mapping will meet all FAA and NGS standards. We will exercise reasonable care and will conform to the standards of practice ordinarily used by the photogrammetric profession.

Project Area

The project area encompasses all of David City Municipal Airport (93Y) inclusive of the obstruction surfaces as defined in AC 150/5300-18B.

Control Surveying

The aerial photography will be completed with ABGPS control which will be used for the base control for the geo-referencing of the aerial imagery. NV5 Geospatial will process the ABGPS data using COR stations and reference it to the project control datums:

Horizontal: North American Datum of 1983/2011 (NAD 83(2011)), in the NE State Plane Coordinate System, in U.S. survey feet.

Vertical: North American Vertical Datum of 1988 (NAVD 88)

NV5 Geospatial will complete all of the remaining on-site ground control surveys, including:

- Geodetic control validation of the existing airport PACS and SACS stations or establish temporary airport control according to the guidelines established in AC 150/5300-18B
- Establishing all necessary photo-identifiable ground control and FAA mandated check-points required to validate the ABGPS and IMU control. NV5 Geospatial will provide information on the specific locations of the required control and check points.



- Collection of all the airport runway end positions
- Collection of vertical profiles for all runways
- Collection of the position, elevation, and where required the appropriate navigational aid perpendicular point of all electronic and visual navigational aids (NAVAIDS) located on the airport and associated with any current instrument approach servicing the airport
- All other tasks, not specifically listed above, as outlined in FAA AC-18B, Table 2-1 "Survey Requirements Matrix" for Airport Layout Plan.
- Full field-collected attribution of all airport features
- Final Survey Report

Photogrammetric Mapping

We will collect the features normally shown on 1"=100' scale mapping within the mapping limits identified in the exhibit. We will build a digital terrain model (DTM) by collecting masspoints and breaklines. These DTM elements will be used to construct a triangulated irregular network (TIN) surface from which 2' contours will be interpolated. Contours will be dashed in areas where the ground is obscured by trees, dense brush, deep shadows or other obstructing features. Dashed contours indicate a lower level of accuracy. Additional field surveys should be performed in areas of dashed contours prior to design. All contours will be continuous polylines. The final data will be delivered in ESRI Shapefile format (FAA) and AutoCAD format (Garver).

Orthophoto Mapping

We will use the control solution and imagery to generate a Digital Elevation Model (DEM) of the VG and NVG surfaces. The imagery will be processed into color digital orthophotos using the aforementioned DEM to rectify the images. Orthophotos for the entire project area will be developed with a 1.0' pixel resolution and for the Mapping Limits, with a 0.5' pixel resolution. Orthos will be delivered in a GeoTIFF file format.

18B Obstruction Surveys

The Obstructions Surfaces to be uploaded to the ADIP database will satisfy the requirements of AC 150/5300-18B:

- 2.7.1.2 Analysis of EXISTING and ULTIMATE Runway 14/32 with Vertically Guided Operations (Surfaces include the VGRPS, VGPCS, VGAS, VGPS, VGATS, VGHS and VGCS)
- 2.7.1.3 Analysis of EXISTING Runway 01/19 with Non Vertically Guided Operations (Surfaces include the NVGPS, NVGAS, NVGTS and NVGHS)

The specific types and quantities of obstructions for each surface are outlined and clearly defined for the particular surface in each circular section. Any obstructions that meet the requirement of the circular, but are of a nature that elevations at the highest point of the obstruction are virtually impossible to read through photogrammetric methods (cell tower, electrical tower, etc.), will be identified and relayed to the surveyor to initiate field surveyed elevations for the obstruction.

The obstruction delivery will include the limited landmark planimetric feature collection.

The final data will be uploaded in ADIP in ESRI Shapefile format.

Production Schedule

We will work with you to finalize a mutually agreeable schedule for the project after FAA Control Plan approvals. We will make a reasonable effort to maintain the agreed-upon schedule. However, should the project be interrupted by technical problems beyond our control, including control deficiencies or map file re-deliveries rescheduling may become necessary.

Deliverables

NV5 Geospatial will submit all data collected and associated required deliverable in the formats specified



in the appropriate advisory circulars to the FAA Office of Airports, Airports Surveying-GIS Program. All data submissions to the FAA will be through the program's web site at <http://airports-gis.faa.gov>.

The AC 150/5300-17C project data deliveries that will not be submitted through the web site will be delivered on external hard drives or DVDs.

The 18B deliverables that will be uploaded to the ADIP website include:

- Imagery Plan and Survey and Quality Control Plan
- Image Delivery (sent to FAA)
- Color digital orthophotos (sent to FAA)
- Digital limited landmark detail outside the airport
- Obstruction survey data for EXISTING Runways 14/32 & 01/19
- Planimetric data and two foot contours to 18B specs (Shapefile format). Including the non-safety critical features selected in the Project Requirements Checklist.
- Photogrammetrically derived and surveyed attributes in defined format
- Surveyed ends and profile for each runway
- NAVAID data
- FGDC compliant metadata
- Final Report

We will deliver the following items to Garver:

- Planimetric data and two foot contours in Civil 3D format (mapping limits)
- Color digital orthophotos with a 1.0' pixel resolution in GeoTIFF (ortho limits)
- Color digital orthophotos with a 0.5' pixel resolution in GeoTIFF (mapping limits)
- 2 color enlargements (30"x40") covering the airport and surrounding area (mounted/laminated/framed)

All digital files will be delivered on external hard drive or CD/DVD.

ELEMENT 9 – CLOSEOUT

Task 9.1 – Final Draft Report

A final "draft" report will be assembled from the information developed in previous work tasks. The final draft will be submitted to the PAC in PDF for review and comment. Garver will review final comments provided by the PAC and will incorporate them into the final report, as appropriate.

Task 9.2 – Planning Advisory Committee Approval

Garver will provide support for acceptance/adoption of the Airport Layout Plan locally through attendance and presenting at one (1) PAC meeting to provide a project overview briefing and support the governing body's acceptance and adoption of the Airport Layout Plan Update with Narrative Report Project.

Task 9.3 – Final Report

One electronic (PDF) copy of the final report will be submitted to the Owner, NDOT and FAA. Each final report will contain reduced copies of the approved ALP set as well as any alternative/exhibit drawings. In addition, an electronic copy of the study and associated drawings will be provided to the Owner, NDOT and FAA. The final report will be in PDF format. The ALP will be in AutoCAD and PDF formats.



ELEMENT 10 – EXCLUSIONS

The following items are not included under this agreement but will be considered as additional services to be added under Amendment if requested by the Owner:

- Topographic, property, utility or other survey outside the scope of Element 8, Aeronautical Survey
- Instrument Approach Development
- Revisions to, or the development of language to revise, Airport leases, rules and regulations, minimums standards, or other airport policies
- Detailed facility assessments/reviews
- Property/title research
- Pavement or facility condition testing or the establishment of a pavement maintenance program
- Environmental review and analysis beyond the specifically identified in this scope of services
- Environmental coordination with agencies not specifically identified in this scope of services
- Environmental testing or investigation work not specifically identified in this scope of services
- Environmental studies not specifically identified in this scope of services, including but not limited to:
 - Noise Studies
 - Archaeological Studies
 - Wildlife Assessments
- Graphic conceptual renderings of existing or future facilities
- Preparation of documents, materials, and exhibits for leases, development contracts, or other documents/materials not specifically identified in this scope of services
- Detailed engineering cost estimates
- Conceptual, preliminary or final engineering design
- Detailed land development planning
- Geotechnical investigations

ELEMENT 11 – OWNER RESPONSIBILITIES

In addition to those obligations set forth in the Agreement, Owner shall:

- Give thorough consideration to all documents and other information presented by Garver and informing Garver of all decisions within a reasonable time so as not to delay the Services.
- Make provision for the Personnel of Garver to enter public and private lands as required for Garver to perform necessary preliminary surveys and other investigations required under the applicable Work Order.
- Furnish Garver such plans and records of construction and operation of existing facilities, available aerial photography, reports, surveys, or copies of the same, related to or bearing on the proposed work as may be in the possession of Owner. Such documents or data will be returned upon completion of the Services or at the request of Owner.
- Furnish Garver a current boundary survey with easements of record plotted for the project property.
- Pay all plan review and advertising costs in connection with the project.
- Provide legal, accounting, and insurance counseling services necessary for the project and such auditing services as Owner may require.
- Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the project and others as may be necessary for completion of the project.



**APPENDIX B
(COMPENSATION SCHEDULE)**

The table below presents a summary of the fee amounts and fee types for this Agreement.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Project Initiation and Administration	\$7,536.18	LUMP SUM
Inventory of Existing Conditions	\$52,047.81	LUMP SUM
Aviation Activity Forecasts	\$23,496.81	LUMP SUM
Facility Requirements	\$13,572.76	LUMP SUM
Airport Alternatives	\$39,469.11	LUMP SUM
Airport Layout Plan Development	\$51,237.11	LUMP SUM
Implementation Plan	\$8,105.63	LUMP SUM
Aeronautical Survey	\$90,909.00	LUMP SUM
Closeout	\$9,131.92	LUMP SUM
TOTAL FEE	\$295,506.13	

The lump sum amount to be paid under this Agreement is \$295,506.13. For informational purposes, a breakdown of Garver's estimated costs is included in this Appendix B with approximate current hourly rates for each employee classification.

As directed by the Owner, some billable Services may have been performed by Garver prior to execution of this Agreement. Payment for these Services will be made in accordance with the fee arrangement established herein, as approved by the Owner.

Additional Services (Extra Work). For services not described or included in Section 2, but requested by the Owner in writing or otherwise permitted under Section 4, the Owner will pay Garver as expressly set forth in the applicable Amendment, or in the event the Amendment is silent, for the additional time spent on the Project, at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel.



Appendix B
City of David City, NE
Airport Layout Plan with Narrative
Garver Hourly Rate Schedule: July 2021 - June 2022

Classification	Rates
Engineers / Architects	
E-1.....	\$ 38.19
E-2.....	\$ 44.35
E-3.....	\$ 47.50
E-4.....	\$ 62.70
E-5.....	\$ 76.49
E-6.....	\$ 94.02
Planners / Environmental Specialist	
P-1.....	\$ 40.55
P-2.....	\$ 45.99
P-2ENV.....	\$ 49.57
P-3.....	\$ 68.97
P-4.....	\$ 80.34
P-5.....	\$ 90.05
Designers	
D-1.....	\$ 35.65
D-2.....	\$ 41.64
D-3.....	\$ 49.70
Technicians	
T-1.....	\$ 27.85
T-2.....	\$ 35.28
T-3.....	\$ 43.02
Management/Administration	
X-1.....	\$ 21.86
X-2.....	\$ 29.70
X-3.....	\$ 41.37
X-4.....	\$ 52.78
X-5.....	\$ 64.71

Appendix B

City of David City, NE Airport Layout Plan with Narrative

FEE SUMMARY

Planning Services	Estimated Fees
Project Initiation And Administration	\$ 7,536.18
Inventory	\$ 52,047.61
Forecast	\$ 23,496.81
Facility Requirements	\$ 13,572.76
Alternatives	\$ 39,469.11
Airport Layout Plan Development	\$ 51,237.11
Implementation Plan	\$ 8,105.63
Aeronautical Survey	\$ 90,909.00
Closeout	\$ 9,131.92
Total for Planning Services	\$ 295,506.13

I

Appendix B

City of David City, NE
 Airport Layout Plan with Narrative

PROJECT INITIATION AND ADMINISTRATION

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
1.1 Project Initiation								
Prepare Scope, Budget and Schedule	2		6	5				
Scope Meetings			3	3				
Subconsultant Agreement			2	3				
Subtotal - Project Initiation	2	0	11	11	0	0	0	0
1.2 Establish P&C and Stakeholder Coordination			2	2				
Subtotal - Establish P&C and Stakeholder Coordination	0	0	2	2	0	0	0	0
1.3 Project Administration			12				12	
Subtotal - Project Administration	0	0	12	0	0	0	12	0
Hours	2	0	26	13	0	0	12	0
Salary Costs	\$137.96	\$0.00	\$1,187.50	\$597.87	\$0.00	\$0.00	\$356.52	\$0.00
SUBTOTAL - SALARIES:		\$2,279.86						
LABOR AND GENERAL ADMINISTRATIVE OVERHEAD (187.44%):		\$4,273.36						
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Courier	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:		\$0.00						
SUBTOTAL:		\$6,663.29						
SUBCONSULTANTS FEE:		\$0.00						
PROFESSIONAL FEE (16%)		\$882.98						
TOTAL FEE:		\$7,636.18						

City of David City, NE
Airport Layout Plan with Narrative

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
2.1 Project Kick-Off Meeting			8	12				
Subtotal - Project Kick-Off Meeting	0	0	8	12	0	0	0	0
2.2 Initial Site Visit								
Tour Airfield			4	4				
Structure Walkthrough			2	2				
Undeveloped Property Observation			2	2				
Subtotal - Initial Site Visit	0	0	24	32	0	0	0	0
2.3 Wetland Delineation								
Site Visit/Delineation					24			
Report Development (data forms, photos, exhibits)		8		30				
Submittal and Coordination with USACE, USFWS		4		2				
Coordination with Client, NDOT, and FAA		2	2					
Subtotal - Wetland Delineation	0	14	2	0	68	0	0	0
2.4 Wildlife Hazard Site Visit								
Survey Preparation and Coordination	2	2		16				
WHSV - On-site				50				
WHSV Data Entry, Exhibits, Report	3	4		70				
Coordination with Client, NDOT, and FAA	3	1		1				
Subtotal - Wildlife Hazard Site Visit	8	7	0	0	137	0	0	0
2.6 Initial Documentation Review								
Current and Planned Capital Improvements					4			
FAA Documentation					4			
State Documentation					2			
Current ALP			1	1	2			
Tenant Activities/Operations/Business Plans					4			
Airport Activity Reports					4			
Local Zoning			1	1	2			
Existing Environmental Data/Information		2	2	2	6			
Topographic Maps and Aerial Photographs			2	4	2			
Subtotal - Initial Documentation Review	0	2	6	8	30	0	0	0
Hours	8	28	40	62	228	0	0	0
Salary Costs	\$551.84	\$1,140.11	\$1,900.00	\$2,391.48	\$9,042.65	\$0.00	\$0.00	\$0.00
SUBTOTAL - SALARIES:			\$16,026.08					

LABOR AND GENERAL	
ADMINISTRATIVE OVERHEAD (187.44%):	\$28,184.88
<u>DIRECT NON-LABOR EXPENSES</u>	
Document Printing/Reproduction/Assembly	\$89.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Survey Supplies	\$0.00
GPS Equipment	\$60.00
Computer Modeling/Software Use	\$0.00
Travel Costs	\$ 2,229.00
SUBTOTAL - DIRECT NON-LABOR EXPENSES:	\$2,378.00
SUBTOTAL:	\$46,688.88
SUBCONSULTANTS FEE:	\$0.00
PROFESSIONAL FEE (15%):	\$8,478.84
TOTAL FEE:	\$62,647.81

Travel Costs				
	E3 Travel	P2 Travel	P2 ENV Travel	
Mileage (ft)	100	500	1800	
Mileage Rate \$	0.56	\$ 0.56	\$ 0.56	
Mileage Cost \$	56.00	\$ 280.00	\$ 1,008.00	
Hotel Rate \$	100.00	\$ 100.00	\$ 100.00	
Nights	0	1	5	
Hotel cost \$	-	\$ 100.00	\$ 500.00	
Meals	3	4	12	
Cost \$	15.00	\$ 15.00	\$ 15.00	
Meal Cost \$	45.00	\$ 60.00	\$ 180.00	
Subtotal:	\$ 101.00	\$ 440.00	\$ 1,688.00	
			TOTAL:	\$ 2,229.00

City of David City, NE
Airport Layout Plan with Narrative

WORK TASK DESCRIPTION	P-3	P-2ENV	S-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
3.1 Inventory of Historic and Current Aviation Activity and Socioeconomic Factors								
Current Aviation Activity Data			1	1	4			
Collect and Review Historic Activity Data			1	1	8			
Review Existing Forecast Data				2	8			
Collect Socioeconomic Data				2	8			
Activity and Socioeconomic Factors	0	0	2	6	28	0	0	0
3.2 Prepare Aviation Forecasts								
Based Aircraft			1	2	8			
Operations			1	2	8			
Fleet Mix			1	2	8			
Instrument Approaches				3	4			
Airport Peaking Characteristics				2	4			
COVID Impact Determination			1	2	4			
Subtotal - Prepare Aviation Forecasts	0	0	4	13	36	0	0	0
3.3 Prepare Working Paper #1								
PAC Meeting (Virtual)			6	3	3			
Owner, NDOT & FAA Meeting (Virtual)			6	3	3			
Working Paper Development			4	6	30			
QC/Admin	5						8	
Subtotal - Prepare Working Paper #1	5	0	16	12	36	0	8	0
Hours	6	0	22	31	100	0	8	0
Salary Costs	\$344.90	\$0.00	\$1,045.00	\$1,425.69	\$4,055.00	\$0.00	\$237.68	\$0.00
SUBTOTAL - SALARIES:			\$7,108.27					
LABOR AND GENERAL ADMINISTRATIVE OVERHEAD (187.44%):			\$13,323.74					
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Courier	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:			\$0.00					
SUBTOTAL:			\$20,432.01					
SUBCONSULTANTS FEE:			\$0.00					
PROFESSIONAL FEE (16%)			\$3,064.80					
TOTAL FEE:			\$23,496.81					

Appendix B

**City of David City, NE
 Airport Layout Plan with Narrative**

FACILITY REQUIREMENTS

WORK TASK DESCRIPTION	P-3	P-3ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
4.1 Establish Facility Requirements								
Runways			4	4	8			
Taxiways			2	2	4			
Safety Areas, Object Free Areas, and Obstacle Free Zones			1	2	3			
Dimensional Criteria			1	1	2			
RPZs			1	2	4			
Airfield Pavement Strength			4	1	2			
Airfield Marking and Lighting			1	1	2			
Airport NAVAIDS			1	1	2			
Aircraft Parking Apron			1	2	4			
Terminal Building			1	1	2			
FBO Facilities			1	2	3			
Aircraft Storage Hangars			1	2	4			
Fuel Storage and Dispensing			1	1	3			
Auto Access and Parking			1	1	1			
Area Land-Use Zoning			1	3	2			
Subtotal - Establish Facility Requirements	0	0	22	28	48	0	0	0
Hours	0	0	22	28	48	0	0	0
Salary Costs	\$0.00	\$0.00	\$1,045.00	\$1,195.74	\$1,865.30	\$0.00	\$0.00	\$0.00
SUBTOTAL - SALARIES:		\$4,106.04						
LABOR AND GENERAL								
ADMINISTRATIVE OVERHEAD (187.44%):		\$7,696.36						
DIRECT NON-LABOR EXPENSES								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Courier	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:		\$0.00						
SUBTOTAL:		\$11,802.40						
SUBCONSULTANTS FEE:		\$0.00						
PROFESSIONAL FEE (16%):		\$1,770.36						
TOTAL FEE:		\$13,672.76						

City of David City, NE
Airport Layout Plan with Narrative

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$48.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
6.1 Develop Airstide Alternatives								
Alternative Development (3)			2	2	20			60
QA/QC	2		2	4				
Subtotal - Develop Airstide Alternatives	2	0	4	6	20	0	0	60
6.2 Develop Landside/Terminal Alternatives								
Alternative Development (3)			1	2	15			40
QA/QC	2		2	2				
Subtotal - Develop Landside/Terminal Alternatives	2	0	3	4	15	0	0	40
Nebraska State Historic Preservation Office								
6.3 Determination			8	2				
Subtotal - Nebraska State Historic Preservation Office Determination	0	0	8	2	0	0	0	0
6.4 Prepare Working Paper #2								
PAC Meeting (Virtual)			6	3	3			
Owner, NDOT & FAA Meeting (Virtual)			6	3	3			
Working Paper Development			2	4	30			15
QC/Admin	5		2	2			8	
Subtotal - Prepare Working Paper #2	6	0	16	12	36	0	8	15
6.5 Public Comment								
Website Development and Facilitation			6	20	8		4	
Property Owner Notification			4		6		8	
Subtotal - Public Comment	0	0	10	20	14	0	12	0
Hours	8	0	41	44	86	0	20	118
Salary Costs	\$620.82	\$0.00	\$1,947.50	\$2,023.56	\$3,446.75	\$0.00	\$594.20	\$3,231.76
SUBTOTAL - SALARIES:			\$11,884.59					
LABOR AND GENERAL								
ADMINISTRATIVE OVERHEAD (187.44%):			\$22,298.99					
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$200.00							
Postage/Freight/Courier	\$50.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:			\$260.00					
SUBTOTAL:			\$34,363.58					
SUBCONSULTANTS FEE:			\$0.00					
PROFESSIONAL FEE (16%)			\$5,116.54					
TOTAL FEE:			\$39,480.11					

Appendix B

Airport Layout Plan with Narrative

AIRPORT LAYOUT PLAN DEVELOPMENT

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
B.1 Airport Layout Plan - Existing								
Airport Layout Drawing			1	8				36
Airport Airspace Drawing			1	4				60
Approach Surface Drawings			1	4				60
Departure Surface Drawings			1	4				60
Runway Centerline Drawings			1	2				12
Terminal Area Drawing			1	2				10
Land Use Drawing			1	2				10
Exhibit A Property Map			1	8				60
QC Review			4	8				
Subtotal - Airport Layout Plan - Existing	0	0	12	42	0	0	0	306
B.2 Airport Layout Plan - Ultimate								
Incorporate Preferred Development Concept				4				20
Final Draft ALP			2	4				20
Address Owner, NDOT and Client Comments			4	6				24
Final ALP			2	4				12
QC Review	4		2	8				
Subtotal - Airport Layout Plan - Ultimate	4	0	10	26	0	0	0	76
B.3 Prepare Draft Report				4			2	
Subtotal - Prepare Draft Report	0	0	0	4	0	0	2	0
Subtotal - Acquisition Documents	0	0	0	0	0	0	0	0
Hours	4	0	22	72	0	0	2	384
Salary Costs	\$275.92	\$0.00	\$1,045.00	\$3,311.28	\$0.00	\$0.00	\$59.42	\$10,698.24
SUBTOTAL - SALARIES:				\$16,389.88				
LABOR AND GENERAL								
ADMINISTRATIVE OVERHEAD (187.44%):				\$28,846.76				
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$250.00							
Postage/Freight/Courier	\$100.00							
Office Supplies/Equipment	\$15.00							
Computer Modeling/Software Use	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:				\$366.00				
SUBTOTAL:				\$44,601.61				
SUBCONSULTANTS FEE:				\$0.00				
PROFESSIONAL FEE (16%)				\$8,656.49				
TOTAL FEE:				\$51,257.11				

Appendix B

City of David City, NE
 Airport Layout Plan with Narrative

IMPLEMENTATION PLAN

WORK TASK DESCRIPTION	P-3	P-2/ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.67	\$47.60	\$46.99	\$40.66	\$36.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
7.1 Airport Development Program								
20 Year CIP			4	12	16			4
Subtotal - Airport Development Program	0	0	4	12	16	0	0	4
7.2 Airport Development Probable Costs								
Planning-Level Probable Development Costs			20					
Subtotal - Airport Development Probable Costs	0	0	20	0	0	0	0	0
Hours	0	0	24	12	16	0	0	4
Salary Costs	\$0.00	\$0.00	\$1,140.00	\$551.88	\$648.96	\$0.00	\$0.00	\$111.44
SUBTOTAL - SALARIES:			\$2,462.12					
LABOR AND GENERAL								
ADMINISTRATIVE OVERHEAD (187.44%):			\$4,598.26					
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Courier	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:			\$0.00					
SUBTOTAL:			\$7,048.37					
SUBCONSULTANTS FEE:			\$0.00					
PROFESSIONAL FEE (16%)			\$1,057.26					
TOTAL FEE:			\$8,105.63					

City of David City, NE
Airport Layout Plan with Narrative

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.67	\$47.60	\$45.99	\$40.66	\$36.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
6.1 Aeronautical Survey								
Subconsultant management			4	4				
SOW review			1	4				
ADIP project setup support				4				
Data collection support				4				
Format and provide ultimate development to sub			1	4				4
QC Review				4				
Subtotal - Aeronautical Survey	0	0	6	24	0	0	0	4
Hours	0	0	6	24	0	0	0	4
Salary Costs	\$0.00	\$0.00	\$286.00	\$1,103.76	\$0.00	\$0.00	\$0.00	\$111.44
SUBTOTAL - SALARIES:			\$1,600.20					
LABOR AND GENERAL								
ADMINISTRATIVE OVERHEAD (187.44%):			\$2,811.87					
<u>DIRECT NON-LABOR EXPENSES</u>								
Document Printing/Reproduction/Assembly	\$0.00							
Postage/Freight/Counter	\$0.00							
Office Supplies/Equipment	\$0.00							
Communications	\$0.00							
Survey Supplies	\$0.00							
Aerial Photography	\$0.00							
GPS Equipment	\$0.00							
Computer Modeling/Software Use	\$0.00							
Traffic Counting Equipment	\$0.00							
Locator/Tracer/Thermal Imager Equipment	\$0.00							
Travel Costs	\$0.00							
SUBTOTAL - DIRECT NON-LABOR EXPENSES:			\$0.00					
SUBTOTAL:			\$4,512.17					
SUBCONSULTANTS FEE:			\$86,960.00					
PROFESSIONAL FEE (16%)			\$648.93					
TOTAL FEE:			\$90,909.00					

Appendix B

City of David City, NE
Airport Layout Plan with Narrative

CLOSEOUT

WORK TASK DESCRIPTION	P-3	P-2ENV	E-3	P-2	P-1	D-1	X-2	T-1
	\$68.98	\$49.57	\$47.50	\$45.99	\$40.55	\$35.66	\$29.71	\$27.86
	hr	hr	hr	hr	hr	hr	hr	hr
9.1 Final Draft Report								
Assemble and Submit Report			2	4	8		4	
Incorporate Comments			4	2	6		2	
Subtotal - Final Draft Report	0	0	6	6	14	0	6	0
9.2 PAC Approval								
PAC Meeting			10	8	6			
Subtotal - PAC Approval	0	0	10	8	6	0	0	0
9.3 Final Report								
Submit Final Report			2		2		1	
Subtotal - Final Report	0	0	2	0	2	0	1	0

Hours	0	0	18	14	22	0	7	0
Salary Costs	\$0.00	\$0.00	\$855.00	\$643.86	\$892.10	\$0.00	\$207.97	\$0.00

SUBTOTAL - SALARIES: \$2,688.93

LABOR AND GENERAL

ADMINISTRATIVE OVERHEAD (187.44%): \$4,871.43

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$0.00
Postage/Freight/Courier	\$0.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Travel Costs	\$ 541.00

SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$641.00

SUBTOTAL: \$8,011.36

SUBCONSULTANTS FEE: \$0.00

PROFESSIONAL FEE (16%) \$1,120.66

TOTAL FEE: \$9,131.82

Travel Costs		
	E3 Travel	P2 Travel
Mileage (rt)	100	500
Mileage Rate \$	0.56	0.56
Mileage Cost \$	56.00	280.00
Hotel Rate \$	100.00	100.00
Nights	0	1
Hotel cost \$	-	100.00
Meals	3	4
Cost \$	15.00	15.00
Meal Cost \$	45.00	60.00
Subtotal:	\$ 101.00	\$ 440.00
	TOTAL:	\$ 541.00



**APPENDIX C
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

Worker's Compensation	Statutory Limit
Automobile Liability	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000
General Liability	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Each Claim Made	\$1,000,000
Annual Aggregate	\$2,000,000
Excess of Umbrella Liability	
Per Occurrence	\$1,000,000
General Aggregate	\$1,000,000



APPENDIX D

AIRPORT IMPROVEMENT AID PROJECT: 3-31-0025-14-2021
STATE: NEBRASKA

CERTIFICATION OF ENGINEER

I hereby certify that I am Mark E. Williams and duly authorized representative of the firm of GARVER, LLC, whose address is 7301 West 129th Street, Overland Park, Kansas, 66213, and that neither I nor the above firm I here represent has:

(a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me of the above consultant) to solicit or secure this contract;

(b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; or

(c) Paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for, or in connection with, procuring or carrying out the contract; except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable State and Federal laws, both criminal and civil.

GARVER, LLC

By Mark E. Williams Digitally signed by Mark E. Williams
Date: 2021.03.30 07:26:58-05'00'

DATE:

APPENDIX E

FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO "CONTRACTOR", "PRIME CONTRACTOR", "BIDDER", "OFFEROR", AND "APPLICANT" SHALL PERTAIN TO THE ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO "SUBCONTRACTOR", "SUB-TIER CONTRACTOR" OR "LOWER TIER CONTRACTOR" SHALL PERTAIN TO ANY SUBCONSULTANT UNDER CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO "SPONSOR" AND "OWNER" SHALL PERTAIN TO THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING CONTRACTS WITH THE A/E.

ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

The contractor must maintain an acceptable cost accounting system. The contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

CIVIL RIGHTS – TITLE VI ASSURANCE

Reference: 49 USC § 47123 and FAA Order 1400.11

A) Title VI Solicitation Notice

The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

B) Title VI Clauses for Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2) **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4) **Information and Reports:** The contractor will provide all information and reports required by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6) **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

C) Title VI List of Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR part 26

Contract Assurance (§ 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

ENERGY CONSERVATION REQUIREMENTS

Reference: 2 CFR § 200, Appendix II (H)

Contractor and each subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS

Reference: 2 CFR § 200 Appendix II (F) and 37 CFR §401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

SEISMIC SAFETY

Reference: 49 CFR part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

TAX DELINQUENCY AND FELONY CONVICTION

Reference: Sections 415 and 416 of Title IV, Division I of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) and DOT Order 4200.6

Certification - The applicant represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Certification - The applicant represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104 and 49 CFR part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

- a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
- c) has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- a) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R., unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II (B)

Termination for Convenience

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination by Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating

the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
 - 1) Perform the services within the time specified in this contract or by Owner approved extension;
 - 2) Make adequate progress so as to endanger satisfactory performance of the Project;
 - 3) Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
 - 1) Defaults on its obligations under this Agreement;
 - 2) Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 - 3) Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, and DOT Order 4200.5

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

- 1) Checking the System for Award Management at website: <https://www.sam.gov>.
- 2) Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- 3) Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR § 200 Appendix II (E)

1) Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3) Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any

other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4) Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR part 200, Appendix II (J); and 49 CFR part 20, Appendix A

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

P

ROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

CLEAN AIR AND WATER POLLUTION CONTROL

Reference: 2 CFR § 200 Appendix II (G)

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

Council member John Vandenberg introduced Resolution No. 7-2021 calling Bond Anticipation Notes, Series 2020 in the amount of \$530,000 and moved for its passage and adoption. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea Yea: 5, Nay: 0

RESOLUTION NO. 7-2021

BE IT RESOLVED AND ENACTED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, as follows:

Section 1. That the following note, in accordance with their option provisions, are authorized to be called for payment on the date as set forth in the Designation of Call Date (as defined below), after which date interest on the notes will cease:

Bond Anticipation Note, Series 2020, dated April 1, 2020, in the total principal amount of \$530,000, numbered as shown on the books and records of the Paying Agent and Registrar and maturing in the principal amount(s) as follows:

<u>Principal</u>	<u>Maturity Date</u>	<u>CUSIP</u>
\$530,000	December 15, 2022	238554 DV8

Said note (the "Note") is subject to redemption at any time on or after April 1, 2021, at the principal amount thereof plus accrued interest to date fixed for redemption.

Section 2. The Note is to be paid at the office of the Treasurer of the City, David City, Nebraska, as paying agent and registrar for the Notes (the "Paying Agent").

Section 3. The Mayor or the City Treasurer (each, an "Authorized Officer") are each individually hereby authorized to determine the call date for said Note on behalf of the City and such determination, when made in writing (the "Designation of Call Date"), shall constitute the action of the City without further action of the Mayor and Council Members of the City. In the event the Designation of Call Date is not executed and delivered on or before December 31, 2021, the Authorized Officers shall have no authority to make any such determination hereunder without further action of the Mayor and Council Members of the City and this resolution shall be of no further force and effect.

Section 4. A true copy of this resolution together with an executed Designation of Call Date together, the "Call Documents") shall be filed with the Paying Agent, to effect the call of the Note. Upon receipt of the Call Documents, the Paying Agent is hereby instructed to mail notice to each registered owner of the Note not less than thirty days prior to the date fixed for redemption, all in accordance with the ordinance authorizing the issuance of the Note, and to take all other actions deemed necessary in connection with the redemption of the Note.

PASSED AND APPROVED this ____ day of _____, 2021.

ATTEST:

By _____
Mayor Alan Zavodny

City Clerk Tami Comte

(S E A L)

Mayor Zavodny asked Cody Wickham of DA Davidson if he wanted to speak regarding the next agenda item.

Cody Wickham of DA Davidson said, "When I was here a couple of weeks ago, we talked about this process and what we hoped to accomplish here. Because the project is done and we have the certificate of substantial completion we can redeem the bond anticipation notes early and convert to long term financing. The interest rate environment continues to be very favorable so it seems like a good idea to go ahead and lock in those rates while you can. A little update on where we're sitting on the market. We're looking to do fifteen-year bonds with the first maturity occurring on December 15, 2022 and the final maturity and principal payment being December 15, 2036. We were projecting a true interest cost at the last meeting of a 1.732 percent, which is very low, however the good news is that we've actually seen rates come down since the last meeting. I did an update with a fresh scale, because we're going to do that shortly when we go to market but we priced some bonds for Jefferson County today. They don't go out quite as far, they go to 2029, but comparatively, the rates are in 2029, the rates that we sold today that mature on May 1 of 2029, they are at one percent and the ones that we are projecting for you guys from a couple of weeks ago were at one point three percent. That's almost thirty basis points better from where we were and the market hasn't moved quite that much, yours are probably going to price a little bit higher because it's a smaller issue. There's was about two and a half million and this is five hundred and fifty thousand so there will be some term bonds that are lumped together for efficiencies, but it is better and that's the good news and we've got everything ready on our end. With the three-reading rule waived, we'll be able to hit the market here very shortly and lock this in. I do want to address one other thing. Clayton asked about the difference in the Resolution and the notes that we're redeeming are five hundred and thirty thousand, so he asked why we're doing five hundred and fifty thousand. Bond counsel builds in a cushion in case bonds are sold at premium or discount, in this case it would be a discount, depending on what the market might ask for. So, if bonds are sold at a discount, you need a higher not to exceed amount in order to get those marketed and done. We don't plan on selling any more than is absolutely required for this transaction, to cover the cost of issuance, between legal and our fee to do this, we don't expect to sell more than five hundred and forty thousand dollars worth of bonds, because we'd expect the bonds to be sold at par and as far as our fee goes, we police ourselves on those. It's not something that we've always talked about in this form, but just so you guys know, Phil's motto has always been, the best way to not have anybody look at your competition is don't give them a reason to switch, so depending on market conditions we adjust our fee up and down to help give you the best execution. On this particular issue, we think that we can get it down to about one percent. The demand for bonds is a little bit higher right now. There are changes in the tax law that is making that are making tax exempt bonds more attractive. When we sold bonds for you guys last July that was, quite possibly, the busiest time with the amount of supply in the bond market that there has ever been. It was a little challenging with the changes in tax code and the demand for bonds at that time, so we had a little bit higher spread on this one so we lowered our fee down to accommodate the City and pass those savings on to you guys. So, if you're wondering, that's where the cushion was between the Resolution and the Ordinance and we'll be ready to go here in just a couple of weeks."

Mayor Zavodny said, "Do we think that the time frame is the right one and there's no penalty for what we collect in sales tax and do things that we can do early? Will that just result in a savings of interest for us?"

Cody Wickham of DA Davidson said, "Yeah. I think so. Again, just where the bond rates are right now and the feds did come out and say that they are not going to raise them any

time soon. Your notes are going to mature at the end of this year. Clayton, does that sound right? I'd have to double check, but there are two trains of thought. You could leave the notes outstanding because you're paying very little interest on those, too, but then you run the risk of...."

Mayor Zavodny said, "But do you think it will change any because of the talks in Congress of infrastructure? Another couple of billion, will that affect us at all?"

Cody Wickham of DA Davidson said, "It's tough to say when just a few weeks ago with the talks of inflation coming in, that started to drive rates back up and then with the fed coming out earlier today, they've kind of leveled out and even started to go back down. It's become more headline news than anything. The infrastructure talk and the stimulus are things that have been kind of baked into the market already. It's just tough to see where they go. It's so low right now that I don't think that you can be criticized for going long term.:

Mayor Zavodny said, "I agree. That answered my question. If those are considered and indicative of what is driving the rates right now, because if they really do pass that much infrastructure, there's going to be a lot of projects and a lot of opportunities for communities to go out and do some infrastructure work."

Cody Wickham of DA Davidson said, "Part of some of those similar bills is a proposition to bring back tax exempt advance refunding, which would also be a huge driver, you'd see a big influx of supply of advance refunding bonds and that can drive up rates a little bit, too, because there would be more supply than demand."

Councilmember Jessica Miller introduced Ordinance No. 1364 authorizing the issuance of General Obligation Sewer Bonds in the amount of \$550,000 for the purpose of paying off the interim financing. Mayor Zavodny read Ordinance No. 1364 by title. Council member John Vandenberg made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

Council member John Vandenberg made a motion to pass and adopt Ordinance No. 1364 on 3rd and Final reading authorizing the issuance of General Obligation Sewer bonds in the amount of \$550,000 for the purpose of paying off the interim financing. Council Member Pat Meysenburg seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

ORDINANCE NO. 1364

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION SEWER BONDS, SERIES 2021, OF THE CITY OF DAVID CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000) FOR THE PURPOSE OF PAYING OFF INTERIM FINANCING FOR THE COSTS OF IMPROVEMENTS IN SANITARY SEWER DISTRICT NO. 2020-1 AND STORM WATER SEWER SYSTEM DISTRICT NO. 2020-2; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING

FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; AUTHORIZING OFFICERS OF THE CITY TO MAKE ARRANGEMENTS FOR THE SALE OF THE BONDS AND TO DESIGNATE THE FINAL TERMS, RATES AND MATURITY SCHEDULE FOR SAID BONDS WITHIN STATED PARAMETERS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and City Council of the City of David City, Nebraska (the "City"), hereby find and determine as follows:

(a) pursuant to ordinances heretofore duly passed and approved by the Mayor and City Council, Sanitary Sewer District No. 2020-1 and Storm Water Sewer System District No. 2020-2 in the City have been created and the prescribed improvements therein have been or will soon be completed and accepted by the City;

(b) the cost of said improvements, as reported by the City's Engineer, is not less than \$550,000;

(c) the City has previously issued, to provide interim financing for payment of the interim construction costs of improvements in Sanitary Sewer District No. 2020-1 and Storm Water Sewer System District No. 2020-2, its Bond Anticipation Note, Series 2020, dated April 1, 2020, in the principal amount of \$530,000 (the "Note"), which constitutes a contractual obligation of the City and such Note will be called for redemption on a redemption date as determined pursuant to a resolution approved on this date authorizing the call of the Note (the "Redemption Date"), and proceeds of the bonds authorized hereunder together with any remaining proceeds of the Note will be used to refund and redeem such Note on the Redemption Date;

(d) all conditions, acts and things required to exist or to be done precedent to the issuance of General Obligation Sewer Bonds, Series 2021, of the City, in the principal amount of not to exceed Five Hundred Fifty Thousand Dollars (\$550,000) pursuant to Sections 17-925, R.R.S. Neb. 2012, to pay the costs of the improvements described herein (including payment of the Note and related costs) hereof do exist and have been done as provided by law.

Section 2. To provide for the issuance of bonds as described in Section 1 hereof, there shall be and there are hereby ordered issued bonds of the City, to be known as General Obligation Sewer Bonds, Series 2021 (the "Bonds"), of the aggregate principal amount of not to exceed Five Hundred Fifty Thousand Dollars (\$550,000), provided, that the Bonds shall mature and bear interest at such rates per annum as shall be determined in a written designation (the "Designation") signed by the Mayor or the City Treasurer (each, an "Authorized Officer") on behalf of the City, which Designation may also determine or modify the principal amount, interest rate or maturity date of the Bonds, mandatory redemption provisions (if any) and pricing terms as set forth in Section 8 hereof, all within the following limitations:

(a) the aggregate principal amount of the Bonds shall not exceed the amount stated in this Section 2 above, provided, however, in the event the Bonds are sold with

a net original issue discount such aggregate principal amount may be increased in an amount necessary to compensate for any such net original issue discount;

- (b) the aggregate amount of original issue premium and original issue discount (if any) may result in an aggregate net original issue discount (if any) not in excess of two percent (2.00%) of the stated principal amount of the Bonds;
- (c) the longest maturity of the Bonds may not be later than December 15, 2036;
- (d) the true interest cost of the Bonds shall not exceed 3.50%;
- (e) two or more of the principal maturities may be combined and issued as "term bonds" and each of the Authorized Officers may determine the mandatory sinking fund payments and mandatory redemption amounts. Any Bonds issued as "term bonds" shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the date of redemption and may be selected for redemption by any random method of selection determined appropriate by the Registrar (as hereinafter designated).

Each of the Authorized Officers are hereby authorized to make such determinations on behalf of the City and to evidence the same by execution and delivery of the Designation and such determinations shall constitute the action of the Mayor and Council without further action of the Mayor and Council.

The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be the date of delivery thereof. Interest on the Bonds shall be payable semiannually on June 15 and December 15 of each year commencing December 15, 2021 (or such other date or dates as provided in the Designation, each of said dates an "Interest Payment Date"), and the Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date to which interest has been paid or provided for, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the fifteenth day immediately preceding the Interest Payment Date (or such other date as provided in the Designation, the "Record Date"), subject to the provisions of Section 4 hereof. The Bonds shall be numbered from 1 upwards in the order of their issuance. The initial numbering and principal amounts for each of the Bonds shall be designated by the initial purchaser thereof. Payments of interest due on the Bonds prior to maturity or early redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with any unpaid interest accrued thereon, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this ordinance shall be valid and

effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. Unless as otherwise provided in the Designation, the City Treasurer, David City, Nebraska, is hereby designated to serve as Paying Agent and Registrar for the Bonds, provided that an Authorized Officer is authorized to designate a bank or trust company to serve in such capacity and upon such agreed terms as shall be determined by an Authorized Officer. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Bonds at the City offices. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. Any Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Bond or Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Bonds by this ordinance, one Bond may be transferred for several such Bonds of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Bonds may be transferred for one or several such Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Bond, the surrendered Bond shall be canceled and destroyed. All Bonds issued upon transfer of the Bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in David City, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 6. In addition to any mandatory sinking fund redemption as may be determined in the Designation as permitted in Section 2 hereof, the Bonds shall be subject to redemption at the option of the City prior to the stated maturities thereof, in whole or in part, at any time on or after the fifth anniversary of the date of original issue thereof (or such other date as provided in the Designation) at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Bonds to be redeemed in its sole discretion, but Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part

only shall be surrendered to the Paying Agent and Registrar in exchange for new Bonds evidencing the unredeemed principal thereof. Notice of redemption of any Bond called for redemption shall be given at the direction of the City in the case of optional redemptions and without further direction in the case of mandatory redemptions, by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Bond at said owner's registered address. Such notice shall designate the Bond or Bonds to be redeemed by number, the date of original issue and the date fixed for redemption and shall state that such Bond or Bonds are to be presented for prepayment at the office of the Paying Agent and Registrar. In case of any Bond partially redeemed, such notice shall specify the portion of the principal amount of such Bond to be redeemed. No defect in the mailing of notice for any Bond shall affect the sufficiency of the proceedings of the City designating the Bonds called for redemption or the effectiveness of such call for Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Bond for which defective notice has been given. In the event term maturities and mandatory redemption amounts are determined in the Designation, the provisions of this Section 6 shall apply generally to mandatory redemptions. Any such mandatory redemptions shall be in amounts and on terms set forth in the Designation, at the principal amount redeemed plus accrued interest to the date set for redemption. The Paying Agent and Registrar shall select the term bonds to be redeemed in any maturity using any random method of selection deemed appropriate, subject to the provisions of Section 8 of this Ordinance.

Section 7. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA

GENERAL OBLIGATION SEWER BOND
OF THE CITY OF DAVID CITY, NEBRASKA
SERIES 2021

No.

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	_____, 20____	_____, 2021	

Registered Owner:

Principal Amount: _____ Dollars

KNOW ALL PERSONS BY THESE PRESENTS: That the City of David City, in the State of Nebraska (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the maturity date specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent interest payment date for which interest has been paid or provided for, whichever is later, at the rate per annum specified above, payable semiannually on _____ and _____ of each year commencing _____, 20____ (each of said dates an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal hereof together with any unpaid interest accrued thereon due at maturity or upon earlier redemption is payable upon presentation and surrender of this bond at the office of the City Treasurer, the Paying Agent and Registrar, in David City, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this Bond, as shown on the books of record maintained by the Paying Agent and Registrar, as of the close of business on the fifteenth day immediately preceding the Interest Payment Date, to such owner's address as shown on such books and records (the "Record Date"). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

All bonds of this issue are subject to redemption prior to maturity on the fifth anniversary of the date of original issue thereof, or at any time thereafter at par plus accrued interest on the principal amount redeemed to the date set for redemption. Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed, not less than thirty days prior to the date set for redemption, in the manner specified in the ordinance authorizing the issuance of said bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or any integral multiple thereof.

This bond is one of an issue of fully registered bonds of the total principal amount of \$_____, of even date and like tenor herewith, except as to denomination, which were issued by the City for the purpose of paying off interim financing for the costs improvements in Sanitary Sewer District No. 2020-1 and Storm Water Sewer System District No. 2020-2, and paying costs of issuance. The issuance of this bond and the other bonds of this issue has been

lawfully authorized by an ordinance duly passed, approved and published by the Mayor and Council of the City in strict compliance with Section 17-925, Reissue Revised Statutes of Nebraska, 2012, as amended.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law. The City agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to to fully pay the principal and interest of said bonds as the same become due.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this bond and thereupon a new bond or bonds of the same aggregate principal amount will be issued to the transferee as provided in the ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

This bond shall not be valid for any purpose until the Certificate of Authentication hereon shall have been signed by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and Council of the City of David City, Nebraska, have caused this bond to be executed on behalf of the City with the signatures of its Mayor and City Clerk, both of which signatures may be facsimile signatures, and by having affixed hereto or imprinted hereon the City's seal, all as of the date of issue shown above.

THE CITY OF DAVID CITY, NEBRASKA

(SEAL)

By: (Sample - Do not sign)
Mayor

ATTEST:

(Sample - Do not sign)
City Clerk

**CERTIFICATE OF AUTHENTICATION
AND REGISTRATION**

This bond is one of the series designated therein and has been registered to the owner named in said bond and the name of such owner has been recorded in the books of record maintained by the undersigned as Paying Agent and Registrar for said issue of bonds.

(Sample - Do not sign)
City Treasurer, Paying Agent and Registrar
for the City of David City, Nebraska

(FORM OF ASSIGNMENT)

For value received, _____ hereby sells,
assigns and transfers unto _____,
(Social Security or Taxpayer I.D. No. _____) the within Bond and hereby
irrevocably constitutes _____ and _____ appoints

_____, attorney, to transfer the same on the books of registration in the
office of the within-mentioned Paying Agent and Registrar with full power of substitution in the
premises.

Dated: _____

Registered Owner(s)

Signature Guaranteed

By _____

Authorized Officer

Note: The signature(s) of this assignment MUST CORRESPOND with the name(s) as written on the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Each of the Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to the D.A. Davidson & Co., as the initial purchaser thereof, upon receipt of a purchase price of not less than 98.00% (or such other amount as may be determined in the Designation) of the principal amount of the Bonds plus accrued interest thereon to date of payment for the Bonds. Said initial purchaser shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. Any of the Authorized Officers of the City are hereby authorized to approve, execute, and deliver the Designation for and on behalf of the City. Such purchaser and its agents, representatives and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Bonds, including, without limitation, authorizing the release of the Bonds at closing.

Section 9. The City Clerk is hereby directed to make and certify a transcript of the proceedings of the City precedent to the issuance of said Bonds which shall be delivered to the purchaser of said Bonds.

Section 10. For the prompt payment of the Bonds, both principal and interest as the same fall due, the City agrees that it shall cause to be levied and collected annually a special levy of taxes on all the taxable property in the City for the purpose of paying and sufficient to pay the interest and principal of the Bonds when and as such principal and interest become due. The City reserves the right to satisfy its payment obligations with respect to the Bonds from any available source of funds.

Section 11. The net proceeds of the Bonds shall be applied upon receipt for the purposes described in Section 1 hereof, and to pay issuance costs. Any accrued interest received from the sale of the Bonds shall be applied to pay interest falling due on said Bonds on the first Interest Payment Date. Expenses of issuance of the Bonds may be paid from the proceeds of the Bonds. The officers of the City (or any one or more of them) are hereby authorized to take all actions deemed necessary in connection with the issuance of the Bonds and the calling of the Note.

Section 12. The holders of the Bonds of this issue shall be subrogated to all rights of the holders of any claims which are paid from the proceeds of said Bonds.

Section 13. The City hereby covenants to the purchasers and holders of the Bonds hereby authorized that it will make no use of the proceeds of said Bond issue, including monies held in any sinking fund for the Bonds, which would cause the Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Bonds. As and to the extent not "deemed designated," the City hereby designates the Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue tax-exempt bonds or other tax-exempt obligations aggregating in principal amount more than \$10,000,000 during calendar year 2021, taking into consideration statutory exceptions for refunding issues. The City further covenants and warrants that it has not designated and will not designate bonds or other obligations as so qualified in an amount in excess of \$10,000,000 in calendar year 2021. The Mayor and/or City Treasurer are hereby authorized to make any and all

elections or allocations deemed necessary by them in connection with the tax-exempt status of interest on the Bonds or other tax related qualification thereof.

Section 14. The City's obligations under this Ordinance with respect to any or all of the Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Bonds and any such Bond shall no longer be deemed to be outstanding hereunder if such Bond has been purchased by the City and cancelled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made in accordance with the terms thereof or (b) shall have been provided for by depositing with a national or state bank having trust powers or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will insure the availability of sufficient money to make such payment; provided, however, that with respect to any Bond to be paid prior to maturity, the City shall have duly called such Bond for redemption and given notice thereof or made irrevocable provisions for the giving of such notice. Any money so deposited with such bank or trust company may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of the Paying Agent and Registrar or such bank or trust company in excess of the amount required to pay principal of and interest on the Bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 15. Each of the Authorized Officers is authorized to prepare, approve and deem final on behalf of the City a preliminary official statement or offering circular, as applicable, for use by the Underwriter in connection with the offering and sale of the Bonds, and to approve a final official statement or offering circular, as applicable, in accordance with any applicable governing laws, rules or regulations.

Section 16. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Mayor and the City Council hereby authorize and direct all of the officers, employees and agents of the City to carry out, or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any one of them, shall consider necessary, advisable, desirable, or appropriate in connection with this ordinance, and the issuance, sale and delivery of the Bonds, including, without limitation and whenever appropriate, the execution and delivery thereof and of all other related documents (including the Bond Purchase Agreement), instruments, certifications and opinions; and delegates, authorizes and directs the Mayor and the City Treasurer (or either one of them) the right, power and authority to exercise his or her own independent judgment and discretion in determining and finalizing the terms, provisions, form and contents of each of the foregoing. The execution and delivery by the Mayor or City Treasurer or by any such other officer, officers, agent or agents of the City of any such documents, instruments, certifications and opinions, or the doing by him or her of any act in connection with any of the matters which are the subject of this ordinance, shall constitute conclusive evidence of both the City's and his or her approval of all changes, modifications, amendments, revisions and alterations made therein, and shall conclusively establish his or her authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments and certifications so executed and the action so taken.

Section 17. In order to promote compliance with certain federal tax and securities laws relating to the Bonds herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures")

are hereby adopted and approved in all respects. To the extent that there is any inconsistency between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 18. This ordinance shall be published in pamphlet form and shall be in full force and effect from and after its passage as provided by law.

PASSED AND APPROVED this _____ day of _____, 2021.

Mayor

City Clerk

(SEAL)

EXHIBIT "A"
POLICY AND PROCEDURES

[SEE ATTACHED]

**Policy and Procedures
Federal Tax Law and Disclosure Requirements for
Tax-exempt Bonds and/or Tax Advantaged Bonds**

ISSUER NAME: The City of David City, in the State of Nebraska

COMPLIANCE OFFICER (BY TITLE): City Treasurer

POLICY

It is the policy of the Issuer identified above (the "Issuer") to comply with all Federal tax requirements and securities law continuing disclosure obligations for its obligations issued as tax-exempt bonds (or as tax credit, direct pay subsidy or other tax-advantaged bonds, as applicable) to ensure, as applicable (a) that interest on its tax-exempt bonds remains exempt from Federal income tax, (b) that the direct payments or tax credits associated with its bonds issued as tax advantaged bonds are received in a timely manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

PROCEDURES

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the "Compliance Officer"). To the extent more than one person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

Training. The Compliance Officer shall evaluate and review educational resources regarding post-issuance compliance with Federal tax and securities laws, including periodic review of resources published for issuers of tax-exempt obligations by the Internal Revenue Service (either on its website at <http://www.irs.gov/taxexemptbond>, or elsewhere) and the Municipal Securities Rulemaking Board (either on its Electronic Municipal Market Access website ["EMMA"] at <http://www.emma.msrb.org>, or elsewhere).

Compliance Review. A compliance review shall be conducted at least annually by or at the direction of the Compliance Officer. The review shall occur at the time the Issuer's annual audit takes place, unless the Compliance Officer otherwise specifically determines a different time period or frequency of review would be more appropriate.

Scope of Review.

Document Review. At the compliance review, the following documents (the "Bond Documents") shall be reviewed for general compliance with covenants and agreements and applicable regulations with respect to each outstanding bond issue:

- (a) the resolution(s) and/or ordinance(s), as applicable, adopted by the governing body of the Issuer authorizing the issuance of its outstanding bonds, together with any documents setting the final rates and terms of such bonds (the "Authorizing Proceedings"),

- (b) the tax documentation associated with each bond issue, which may include some or all of the following (the “Tax Documents”):
 - (i) covenants, certifications and expectations regarding Federal tax requirements which are described in the Authorizing Proceedings;
 - (ii) Form 8038 series filed with the Internal Revenue Service;
 - (iii) tax certificates, tax compliance agreements, tax regulatory agreement or similar documents;
 - (iv) covenants, agreements, instructions or memoranda with respect to rebate or private use;
 - (v) any reports from rebate analysts received as a result of prior compliance review or evaluation efforts; and
 - (vi) any and all other agreements, certificates and documents contained in the transcript associated with the Authorizing Proceedings relating to federal tax matters.
- (c) the Issuer’s continuing disclosure obligations, if any, contained in the Authorizing Proceedings or in a separate agreement (the “Continuing Disclosure Obligations”), and
- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer’s bonds or relating to the Issuer’s Continuing Disclosure Obligations.

Use and Timely Expenditure of Bond Proceeds. Expenditure of bond proceeds shall be reviewed by the Compliance Officer to ensure (a) such proceeds are spent for the purpose stated in the Authorizing Proceedings and as described in the Tax Documents and (b) that the proceeds, together with investment earnings on such proceeds, are spent within the timeframes described in the Tax Documents, and (c) that any mandatory redemptions from excess bond proceeds are timely made if required under the Authorizing Proceedings and Tax Documents.

Arbitrage Yield Restrictions and Rebate Matters. The Tax Documents shall be reviewed by the Compliance Officer to ensure compliance with any applicable yield restriction requirements under Section 148(a) of the Internal Revenue Code (the “Code”) and timely calculation and payment of any rebate and the filing of any associated returns pursuant to Section 148(f) of the Code. A qualified rebate analyst shall be engaged as appropriate or as may be required under the Tax Documents.

Use of Bond Financed Property. Expectations and covenants contained in the Bond Documents regarding private use shall be reviewed by the Compliance Officer to ensure compliance. Bond-financed properties shall be clearly identified (by mapping or other reasonable means). Prior to execution, the Compliance Officer (and bond counsel, if deemed appropriate by the Compliance Officer) shall review (a) all proposed leases, contracts related to operation or management of bond-financed property, sponsored research agreements, take-or-pay contracts or other agreements or arrangements or proposed uses which have the potential to give any entity any special legal entitlement to the bond-financed property, (b) all proposed agreements which would result in disposal of any bond-financed property, and (c) all proposed uses of bond-financed

property which were not anticipated at the time the bonds were issued. Such actions could be prohibited by the Authorizing Proceedings, the Tax Documents or Federal tax law.

Continuing Disclosure. Compliance with the Continuing Disclosure Obligations with respect to each bond issue shall be evaluated (a) to ensure timely compliance with any annual disclosure requirement, and (b) to ensure that any material events have been properly disclosed as required by the Continuing Disclosure Obligation.

Record Keeping. If not otherwise specified in the Bond Documents, all records related to each bond issue shall be kept for the life of the indebtedness associated with such bond issue (including all tax-exempt refundings) plus six (6) years.

Incorporation of Tax Documents. The requirements, agreements and procedures set forth in the Tax Documents, now or hereafter in existence, are hereby incorporated into these procedures by this reference and are adopted as procedures of the Issuer with respect to the series of bonds to which such Tax Documents relate.

Consultation Regarding Questions or Concerns. Any questions or concerns which arise as a result of any review by the Compliance Officer shall be raised by the Compliance Officer with the Issuer's counsel or with bond counsel to determine whether non-compliance exists and what measures should be taken with respect to any non-compliance.

VCAP and Remedial Actions. The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available to issuers of certain bonds under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the bonds were issued.

City Administrator Clayton Keller said, "Bill got these quotes that you have in front of you for to do handicap accessibility sidewalks for the Auditorium, here on Kansas Street and for the Schweser House on the road there. Any questions?"

Council member Pat Meysenburg said, "I went and looked at all of this today and I think that we need to put a sidewalk from the Schweser House to the restrooms, too."

Mayor Zavodny said, "That's not a terrible idea."

Council member Pat Meysenburg said, "We've got one going from the restrooms to the shelter."

Mayor Zavodny said, "Especially since we're doing it now, once you're there you might as well do it. If you want to probably be totally ADA compliant, it would be a good idea to consider something like that. The other thing that I wanted to just briefly talk about, because it is somewhat related to this, as part of next year's budget I would like to consider some Auditorium upkeep as far as painting the outside and sprucing it up a little bit. I have noticed, and I don't know if it's salt or what, but we do have some concrete issues along the front. It's certainly something that I think we should do. We've done so many other good things to this auditorium and I think that it's going to be used for a long, long time. Did we just get the one bid? It's low enough that I don't think that it will cause us any problems. The only reason that I raise it is if we talk to one person and there

are other local people that do that kind of work and I don't want them to feel like they didn't get a consideration. This isn't a huge dollar amount."

Council member Tom Kobus made a motion to approve the handicap accessibility projects at the Schweser House and the David City Auditorium and get a quote to add a sidewalk from the Schweser House to the restrooms. Council Member Pat Meysenburg seconded the motion. The motion carried.

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

Yea: 5, Nay: 0

704513

Bill B

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE	
		April 2021	
NAME Schweser House			
ADDRESS			
CITY, STATE, ZIP			
SOLD BY	CASH	C.O.D.	
CHARGE	ON ACCT.	MOSE. RETD.	
PAID OUT			
QUANTITY	DESCRIPTION	PRICE	AMOUNT
1			
2			
3	Tear Out & Replace Concrete		
4	from road to front entrance		
5	of Schweser House - Handicap Accessible		
6			
7	Also Tear out & Replace		
8	sidewalk to the East		
9	to allow for a handicap		
10	Accessible picnic area.		
11			
12	Total -		\$3,250
13	Thanks Jason 367-9517		
14			
15	Butler County Concrete & Design		
16			
17			
18			
RECEIVED BY			

A-5855
T-4132048060

KEEP THIS SLIP FOR REFERENCE

01-41

704512

(Bill B)

CUSTOMER'S ORDER NO.		DEPARTMENT		DATE	
NAME DC Park / Auditorium					
ADDRESS					
CITY, STATE, ZIP					
BOLD BY		CASH	C.O.D.	CHARGE	ON ACCT.
		MOSE. RETD.		PAID OUT	
QUANTITY	DESCRIPTION			PRICE	AMOUNT
1	Tear Out & Replace				
2	13x6 concrete w curb			\$1700-	
3	Northwest Sidewalk				
4					
5	Tear out & Replace concrete				
6	Leading up to Handicap				
7	entrance & make Handicap				
8	accessible Approx 500 Sq Ft				
9					
10					\$4,500-
11	Tear Out & Replace concrete				
12	sidewalk on east side of				
13	Auditorium by steps				
14	Approx 125 Sq Ft			\$1,050-	
15					
16	Thanks <i>[Signature]</i>				
17					
18	Butler County Concrete & Design				
RECEIVED BY 367-9517					

A-800
7-4532N/4030

KEEP THIS SLIP FOR REFERENCE

05-15

Interim Water Supervisor Aaron Gustin said, "This is over by the State Yards. You could probably walk up and push the controller cabinet over. There is some ground sinking, in and around the actual concrete pad. For the top of that, we're just looking at moving the float control connections to the outside and redoing that electrical cabinet. Otherwise, that lift station is in great shape. The reason that this was brought up is that it failed because of the floats. It was obvious once we got in the lift station that it was time to do something with that electrical."

Mayor Zavodny said, "I will actually have no indigestion on this one."

Council member Pat Meysenburg made a motion to approve purchasing a new controller cabinet and repair of the electrical and float systems for the lift station at 3rd and Iowa Streets. Council Member Tom Kobus seconded the motion. The motion carried.

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

Yea: 5, Nay: 0



VANDENBERG ELECTRIC & COMMUNICATIONS LLC
 595 N 4th St
 David City, NE 68632
 (402)3672022
 vandenberg_electric@yahoo.com

ADDRESS
 David City Water Dept
 1220 E St
 David City, NE 68632

Estimate 1308

DATE 04/05/2021

JOB NAME
 lift station

DATE	ACTIVITY	QTY	RATE	AMOUNT
	Labor/Parts	1	3,640.00	3,640.00
	VEC proposes to repair lift station			
	Build new rack for controller cabinet (old one is falling over)			
	Put controls and controller into new cabinet			
	Install disconnect for new equipment			
	Install new conduit, wire, and j box for pit			
	Install new floats			
	Parts \$1850			
	Labor \$1790			

TOTAL \$3,640.00

Accepted By

Accepted Date

Mayor Zavodny said, "The lift station in the Kozi Addition has been trouble for us for many years. Diapers were ending up in it and breaking it. I know that Kevin had headaches with it. It seemed like every meeting we were having to consider something because there was just trouble with it. Is this going to be an upgrade as far as what it can take care of before it breaks it?"

Interim Water Supervisor Aaron Gustin said, "This is actually one of those remaining headaches. Since I started in 2017, that particular lift station has been down one pump. It is a two pump setup. One of those was inoperable and has remained so to this day. It has not worked since I started and was not working for a good amount of time before that. We did have one call-out on that. Since then, we've done some small electrical maintenance on there. Before, we used to have to play electrician and kill the power, switch the phases and run them in reverse when a diaper or something would get stuck in there. It's always at night and it's always cold and we're dealing with electricity. So, we have a reverse switch to where we can just turn it off and turn the reverse switch and it spits out whatever it tried to chew up and then we go again. So, we've done some safety improvements on it already and it's going to be a continuation. We're always going to have those diapers and things."

Mayor Zavodny said, "If it's not functioning, are you going to bring that to us in the next year for budgeting or why have we not addressed the fact that we have one pump that has been non-operational?"

Interim Water Supervisor Aaron Gustin said, "I'm going to be honest with you. Last budget season John and I didn't think of it. We went through the list and it escaped our minds and we completely overlooked it."

Mayor Zavodny said, "I can fully accept that answer. You'll put it in for next year?"

Interim Water Supervisor Aaron Gustin said, "Yes. If that's what you'd like us to do. The pump is relatively inexpensive. We do have room in the budget to buy a new pump."

Mayor Zavodny said, "When stuff doesn't work, this Council gets very frustrated. Being part of the City, you've got to keep the operations going. When you own property, stuff breaks and there's maintenance that needs to happen. We've bought some stuff knowing that it's going to break in an amount of time. Knowing things are working the way they are designed, I always feel like that is our best bet, so if you could submit that for the next budget, that would be great."

Council member Pat Meysenburg made a motion to approve purchasing a Myers Grinder Pump for the lift station in the Kozi Addition. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0



QUOTATION

4280 E 14th Street
 Des Moines IA 50313-2604 USA
 Telephone: (515) 265-2222 / FAX (515) 265-8079
 Toll Free 1-800-383-PUMP
 www.electricpump.com

QUOTE NUMBER: 0141864
 QUOTE DATE: 4/13/2021
 EXPIRE DATE: 5/13/2021

SALESPERSON: JIM D.GRAY
 CUSTOMER NO: 3673132
 QUOTED BY: MJU
 MARQUITA

QUOTED TO:
 CITY OF DAVID CITY
 1220 "E" STREET
 ATTN: toonte@davidcityne.com
 DAVID CITY, NE 68632

JOB LOCATION:
 CITY OF DAVID CITY
 1220 "E" STREET
 ATTN: toonte@davidcityne.com
 DAVID CITY, NE 68632

CONFIRM TO:
 AARON

*** QUOTE ORDER - DO NOT PAY ***

CUSTOMER P.O.	SHIP VIA		F.O.B.	TERMS		
AARON	BESTWAY		ORIGIN	Net 30 Days		
ITEM NUMBER	UNIT	ORDERED	SHIPPED	BACK ORDER	PRICE	AMOUNT
AARON, PLEASE FIND BELOW OUR OFFER ON THE MYERS PUMP YOU SPOKE WITH JIM ABOUT						
*WG20-23	EACH	1.00	0.00	0.00	3,500.00	3,500.00

MYERS GRINDER PUMP, 2 HP,
 230 VOLT, THREE PHASE, 30' POWER CABLE

FREIGHT IS NOT INCLUDED IN ABOVE PRICE.

mailto:matfor@electricpump.com
 THANK YOU, MARQUITA UTTER

All return goods must have written approval from Electric Pump, Inc.
 before returning. Credit will not be issued without written approval and
 if applicable there will be a Restock Fee.

Net Order:	3,500.00
Less Discount:	0.00
Freight:	0.00
Sales Tax:	0.00
Order Total:	3,500.00

ABOVE PRICING EFFECTIVE FOR 30 DAYS

Mayor Zavodny said, "I also want to take a moment to congratulate Council member Tom Kobus on his election to Council President and that one should come with condolences. Thank you for being willing to serve and congratulations."

City Administrator Clayton Keller said, "After months and months of negotiation, the City and the Union finally came to an agreement with the help of mediation. That is what you see before you. Any questions?"

Mayor Zavodny said, "I think I would just explain to the Council that this agreement is a very short-term agreement. It took so long for us to get to here and it was through mediation. It won't be very long and we'll be doing this again."

City Administrator Clayton Keller said, "The term of the agreement was Fall of 2019 to Fall of 2021."

Mayor Zavodny said, "I think it's September, as I recall."

Council member Bruce Meysenburg made a motion to approve a contract agreement with local union #1536 of the International Brotherhood of Electrical Workers. Council Member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

AGREEMENT

between

CITY OF DAVID CITY

and

**LOCAL UNION #1536
OF THE
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS**

AFL-CIO

PREAMBLE

This Agreement executed as of the ____ day of April, 2021, by and between the City of David City, its successor assigns hereinafter referred to as the "City" and Local Union No. 1536 of the International Brotherhood of Electrical Workers affiliated with the AFL-CIO hereinafter referred to as the "Union."

This Agreement, made and entered into, when signed by the proper officers of the City of David City and Local Union #1536 and approved by the President of the International Brotherhood of Electrical Workers, shall become operative.

ARTICLE 1

RECOGNITION

Sec. 1: The City recognizes the Union as the exclusive bargaining agent for all permanent full-time and regular part-time employees of The City of David City, Nebraska, occupying the following classifications:

Power Plant Operator I, Power Plant Operator II, Power Plant Operator III, Power Plant Operator Supervisor, Apprentice Lineman, Line Worker II, Line Worker I, Line Foreman, Electric Supervisor, Water/Sewer Operator I, Water/Sewer Operator I w/Gr VI, Water/Sewer Operator II, Water/Sewer Operator II w/Gr VI, Waste Water Pit Operator, Water Supervisor w/Gr VI, Wastewater Supervisor w/Gr VI, Laborer I, Laborer II, Maintenance Worker I, Maintenance Worker II, Street Foreman, Street Supervisor, Park & Auditorium Supervisor, and, excluding clerical and temporary employees.

Sec. 2: The City recognizes and shall not interfere with the right of its employees to become members of the Union. There shall be no discrimination, interference, restraint or coercion by the City or any of its agents against any employee because of membership in the Union. The Union agrees not to intimidate or coerce employees into membership and also not to solicit union membership on employer's time. Neither the City nor the Union will willfully, orally or in writing, make untruthful statements concerning the other party or its representative.

ARTICLE 2

DEFINITIONS

Sec. 1: For the purpose of this Agreement, the following definitions shall apply:

- A. **Introductory Employees:** An Employee working during the orientation period which is six (6) months from the first day of work.
- B. **Full-Time Employee:** An employee who has completed his/her introductory period and is regularly scheduled to work forty (40) hours per week.

- C. **Part-Time Employee:** An employee who has completed his/her introductory period and is regularly scheduled to work less than forty (40) hours per week. Part-Time employees shall be eligible for all City benefits on a pro rata basis as follows:

Vacation time on a pro-rata basis.

Retirement benefits on a pro-rata basis.

Employees, who work an average of twenty (20) hours or more per week, are eligible for one-half (1/2) day of holiday pay.

Employees, who work an average of twenty (20) hours or more per week, are eligible for one-half (1/2) day of sick leave per month.

Part-time employees are not eligible for Personal Leave and Funeral Leave.

Pro-rata basis: Calculated by percentage. (The percentage used for calculations is: 2080 hrs. per year ÷ by the hours worked by the regular part-time employee in a year.

- D. **Temporary Employee:** An employee with the expectation that his/her employment will be for a short duration, (i.e., no more than one (1) year).

ARTICLE 3

CONDUCT OF UNION AFFAIRS

Sec. 1: All employees including Union officers and representatives shall not conduct any Union activity or Union business during working hours except as specifically authorized by the provisions of this Agreement.

Sec. 2: Stewards shall be selected by the Union and function on behalf of the employees in the bargaining unit.

Sec. 3: All stewards referred to in this Agreement shall be full-time employees of the City.

Sec. 4: Each steward shall report to his/her immediate supervisor or designated representative prior to the time of leaving his/her work to perform the duties of such steward as set forth herein. He/she shall also report on returning to his/her work assignment unless the prior consent of the steward's supervisor not to report has been secured.

Sec. 5: The City shall designate a bulletin board for the posting of official Union Notices.

Sec. 6: A Union member may be released from their duties when requested by the Union to attend Union activities.

ARTICLE 4

SAFETY COMMITTEE

Sec. 1: **Training and Safety.** The Safety Committee exists to oversee the safety goals and plans of the City by making recommendations addressing safety and health hazards at each worksite. The Safety Committee shall consist of an equal number of bargaining unit employees (that shall serve in an advisory only status) and management. The Union shall appoint the bargaining unit members to this committee.

ARTICLE 5

GRIEVANCE AND ARBITRATION PROCEDURE

Sec. 1: Should any employee or the union have a grievance arising from the interpretation of a specific provision of this Agreement, such matter shall be exclusively resolved in accordance with the provision provided herein. It is also agreed between the parties that the alleged violation of a specific provision of the Agreement, to be arbitrable, must have occurred during the term of this Agreement. It is also specifically agreed that this grievance procedure shall not be used to change any provision of this Agreement.

Sec. 2: In reducing a grievance to writing, the following information must be stated with reasonable clearness: the exact nature of the grievance, the act or acts of commission or omission, the date of the act or acts, the identity of the party or parties who claim to be aggrieved, the identity of the party or parties alleged to have caused the grievance, the specific provisions of this contract which are alleged to have been violated, and the remedy which is sought.

Sec. 3: Step 1: An employee believing he/she has a grievance shall submit a written grievance with his/her supervisor within fifteen (15) calendar days after the occurrence of the grievance. The supervisor shall, within fifteen (15) calendar days after receiving the written grievance, meet with the employee in an attempt to resolve the dispute. The employee may be accompanied by a union steward, if the employee desires. The supervisor shall then have fifteen (15) calendar days after meeting with the employee to give a written response to the grievance and this response shall be given to the employee and Union Steward.

Step 2: A grievance not settled in Step 1 which the employee or the Union wishes to pursue further shall be placed in writing and signed by the employee or the Union within fifteen (15) calendar days from the supervisor's answer and filed with the City Administrator. If such action is taken by the employee, he/she shall give notice to the Business Manager of the Union. The City Administrator shall, within fifteen (15) calendar days after receiving the grievance, meet with the Business Manager of the Local or his Designee in an attempt to resolve the dispute. The City Administrator shall supply both the employee and the Business Manager of the Union his written response within fifteen (15) calendar days of this meeting.

Step 3: If the Union and the employee decline to accept the City Administrator's decision, and if the grievance remains unresolved, the employee or the union may within fifteen

(15) calendar days after receipt of the City Administrator's response, file with the Mayor of the City a request for further review. The Mayor shall, within thirty (30) calendar days after receiving the grievance, meet with the Business Manager of the Local or his Designee in an attempt to resolve the dispute. The Mayor shall supply both the employee and the Business Manager of the Union his written response within thirty (30) calendar days of this meeting.

Step 4: If the Union and the employee decline to accept the Mayor's decision, and if the grievance remains unresolved, the employee or the Union may, within fifteen (15) calendar days after receipt of the Mayor's response, give notice to the City Administrator of intent to appeal the Mayor's decision to a grievance review panel.

(a) The grievance review panel shall be comprised of three persons. One panelist shall be chosen by the Union, one panelist shall be chosen by the City, and those two panelists shall mutually choose a third panelist mutually agreeable to both.

(b) The grievance review panel shall hold a hearing during which the parties may present evidence relevant to their positions regarding the grievance. In discipline cases, the City shall proceed first and bear the burdens of proof and persuasion. In all other cases, the grievant and/or Union shall proceed first and bear the burdens of proof and/or persuasion.

(c) At least five workdays prior to any hearing, the parties will exchange lists of witnesses and exhibits that may be presented at the hearing.

(d) The grievance review panel shall render a decision either on the day of the hearing or within one week after the hearing date.

(e) Any costs incurred by any of the parties during the hearing process shall be borne by the parties incurring such expenses. Either party may arrange for an authorized reporter to create a record of the hearing, and will bear the expense of such reporter. Any costs incurred by having the third panelist will be borne equally by the parties.

(f) Decisions of the grievance review panel will be final unless appealed to a court of competent jurisdiction.

Sec. 4: The time limits provided for in this Article shall be strictly followed. No grievance shall be valid unless filed or appealed within the time limits provided herein. Failure of the grieving party to meet the time limits provided for shall result in dismissal of the grievance. Failure of the other party to meet the time limits provided for shall result in settlement of the Agreement according to the remedy sought by the grieving party. The parties may, however, by mutual agreement extend the time limit at any step of the grievance procedure.

ARTICLE 6

DISCHARGE AND TERMINATION OF EMPLOYMENT

This agreement specifically incorporates the disciplinary language of Chapter 7 of the Employee Handbook.

The grievance procedure shall be as specified in Article 5 of this Collective Bargaining Agreement. Grievances shall be available for actions listed in Chapter 7 of the handbook.

ARTICLE 7

LAYOFF AND RECALL

Sec. 1: The criteria set forth below shall be considered in selecting the employee(s) who will be subject to any layoff. The criteria are not listed in any order of priority.

- A. Employment positions to be offered;
- B. Areas of certification that are of present or future value to the City.
- C. State and federal laws or regulations that may mandate certain employment practices;
- D. Special or advanced training that would be of present or future value to the City.
- E. Performance evaluations.

Sec. 2: If, after consideration of the criteria listed above and there is no significant difference between or among employees being considered for layoff, the employee(s) with the longest uninterrupted service to the City shall be retained.

Sec. 3: In the event of a restoration of the workforce, employees will be recalled in the reverse order in which they were laid off.

ARTICLE 8

JOB POSTING

Sec. 1: Job openings for bargaining unit positions other than entry-level positions shall be posted. Employees interested in the position must submit an application for the position by the end of the posting period.

ARTICLE 9

NO STRIKE AND LOCKOUT

Sec. 1: There shall be no lockouts, consumer boycotts, strikes, slow downs, picketing, work stoppages or interferences with production, including sympathy strikes, for any reason whatsoever during the period of this Agreement. No picket lines shall be observed during the life of this Agreement.

Sec. 2: The Union, its officers, agents and members agree that they will not authorize, ratify, permit, aid, assist, or participate in any consumer boycott, strike, slow down, picket, work stoppage or interference with operations, including sympathy strikes, for any reason whatsoever. If any unauthorized consumer boycott, strike, slow down, picket, work stoppage or interference with production, including a sympathy strike, occurs or is threatened, the Union agrees to use every means at its disposal to disavow, prevent and terminate such unauthorized action and to maintain full operations.

Sec. 3: Individual members of the bargaining unit violating this Article may be disciplined by the City with notice thereof to the Union. Such discipline may include discharge.

Sec. 4: The City and Union acknowledge that it is unlawful for any person:

- A. To hinder, delay, limit or suspend the continuity or efficiency of any governmental service or any governmental service in a proprietary capacity, or the service of any public entity, by lockout, strike, slowdown, or other work stoppage;
- B. To coerce, instigate, induce, conspire with, intimidate or encourage any person to participate in any lockout, strike, slowdown or other work stoppage, which would hinder, delay, limit or suspend the continuity or efficiency of any governmental service or governmental service in a proprietary capacity.
- C. To aid or assist any such lockout, strike, slowdown, or other work stoppage by giving direction or guidance in the conduct of any such lockout, strike, slowdown or other work stoppage or by providing funds for the conduct or direction thereof, or for the payment of strike, unemployment or other benefits to those participating therein.

ARTICLE 10

HOLIDAYS

Sec. 1: Employees receive twelve and a half (12.5) paid holidays per year, as follows:

New Year's Day	Veteran's Day
Martin Luther King Day	Thanksgiving Day
Arbor Day	The Day after Thanksgiving Day
Memorial Day	Christmas Eve Afternoon (Close at noon)
Independence Day	Christmas Day
Labor Day	Individual Selectable Day
Columbus Day	

- When a national holiday falls on a Saturday, the preceding Friday shall be recognized as a day off with pay. When the national holiday falls on a Sunday, the following Monday shall be recognized as a day off with pay.
- All City and Utility Departments shall close one (1) hour early on December 31st.
- Individual Selectable Days must be used during the year in which they are earned and cannot be carried over to succeeding years.

ARTICLE 11

VACATIONS

Sec. 1: Employees are eligible for paid vacation after six (6) months of employment. Available vacation is based on full-time work and is reduced proportionately for absences other than vacation time, paid sick leave, paid funeral leave, and holidays. Vacation is earned as follows:

Years of Employment Days/Hours Earned Per Year

After 1 year	5 days/40 hours
After 2-5 years	10 days/80 hours
After 10-15 years	15 days/120 hours
After 16 years	16 days/128 hours
After 17 years	17 days/136 hours
After 18 years	18 days/144 hours
After 19 years	19 days/152 hours
After 20 + years	20 days/160 hours

- Employees may carry a maximum of 320 hours of vacation time. Department Heads/City Administrator shall make every effort to accommodate employees when scheduling vacation.
- Employees that terminate employment with the City shall be paid for all unused accumulated vacation leave. Upon the death of an employee, his/her beneficiary shall be paid for unused accumulated vacation leave.
- Vacations shall be scheduled by the Department Head.
- Vacation shall be allowed in half-hour increments.
- Vacation time shall be applied to FMLA leave after the use of sick leave (if applicable).

ARTICLE 12

SICK LEAVE

Sec. 1: Each full-time employee is credited with one (1) working day of sick leave each month and is charged with sick leave actually taken. No employee may accrue more than one hundred twenty (120) days of sick leave.

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

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

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

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

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

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

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

ARTICLE 13

PERSONAL LEAVE

Sec. 1: Personal leave will be granted to regular full-time employees prorated by years of employment as follows:

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

Personal leave is not an earned benefit. Personal leave is deducted from accrued sick leave and may be used by the employee for any reason. If an employee does not have accrued sick leave then the employee shall not be granted personal leave. Personal leave shall be considered a privilege to reward employees for their attendance. At the time of separation from employment, an employee shall not be paid for his personal leave which has not been used.

ARTICLE 14

SPECIAL LEAVE PROVISIONS

Sec. 1: The City shall grant leave of absence with pay to Full-Time Employees for the following reasons and subject to the applied restrictions.

A. Funeral Leave.

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

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

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

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

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

The length of absence may be extended at the discretion of the City upon further application in writing by the employee prior to the expiration of the initial period. In no event will leaves be granted for a period in excess of sixty (60) days. If your leave of absence is in excess of thirty (30) days, your return is subject to job availability. If your position is not available at the end of your leave, the City will make a reasonable effort to return you to a substantially similar position.

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

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

- C. Military Leave. Military leave shall be governed by Neb. Rev. Stat. Sections 55-160 through 55-166 (Reissue 2004) or as amended by the Legislature, and by the Uniformed Services Employment and Reemployment Rights Act.
- D. Longevity Recognition. The City of David City may present gifts with a monetary value to employees in recognition of years of employment and other special occasions as approved by the City Council, as follows:

5 years	\$10.00
10 years	\$15.00
15 years	\$30.00
20 years	\$50.00
25 years	\$80.00
30 years	\$110.00

35 years	\$140.00
40 years	\$170.00
45 years	\$200.00

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

ARTICLE 15

ON THE JOB ACCIDENTS

Sec. 1: The City shall maintain insurance to comply with Nebraska Workers' Compensation law as amended.

Sec. 2: If there is an on-the-job injury and the employee receives workers' compensation payments for the lost wages, the employee shall be allowed to use his/her sick leave so that the employee receives base pay equal to what he/she earned prior to the accident.

ARTICLE 16

EMPLOYEE INSURANCE AND RETIREMENT PROGRAMS

Sec. 1: **Medical and Life Insurance.** Employees must work a minimum of forty (40) hours per week to be eligible for the medical and life insurance benefits.

- A. Medical insurance is with Blue Cross Blue Shield of Nebraska.

The City will contribute 75% of the deductible, which money will be deposited directly into the employee's HSA account.

- B. The employee pays 25% of the monthly premium regardless of which coverage plan they have chosen. The City pays the balance.

- C. The City reserves the right to choose the method of providing this benefit (i.e., self-funded plan or insurance) and the benefits provided, including the deductible and co-payment amounts.

Sec. 2: **Retirement Plan.** The City will match employee contributions in an amount equal to the greater of 6% of regular pay or \$50.00 per month to a regular employee's Deferred Compensation Plan. The City of David City currently has two (2) deferred compensation plans to choose from.

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

Sec. 3: **Life Insurance.** The City shall provide a term life insurance plan in the amount of \$15,000.00 for each employee. The City shall pay the total cost for this plan.

ARTICLE 17

HOURS OF WORK

Sec. 1: **Hours of Work.** All Departments shall work a forty (40) hour workweek as the standard workweek unless otherwise provided. The Supervisors shall set the hours of work.

Sec. 2: **Time Sheets.** Timesheets serve as the legal authority to pay an employee. They also serve as a verification of time off, and provide the legal basis to grant an employee benefits, including workers' compensation as appropriate. Employees are to provide an accurate accounting of all hours worked and leave used during a pay period on a timesheet.

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

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

Sec. 3: **Flextime.** Flextime is an alternate forty (40) hour workweek schedule by which an employee's workweek is determined by the needs of the job and is subject to Department Head or City Administrator approval.

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

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

ARTICLE 18

OVERTIME, CALL BACK AND ON CALL

Sec. 1: Overtime & Compensatory Time.

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

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

Definitions:

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

Sec. 2: Nonexempt Employees Overtime & Compensatory Time.

Overtime. According to the Fair Labor Standards Act (FLSA), time worked in excess of forty (40) hours in one (1) week will be paid at the rate of time and one-half the regular rate of pay.

Compensatory Time. Compensatory time may be accumulated in lieu of time and one-half pay for overtime worked at the discretion of the City Administrator. These hours shall be recorded in the payroll system at the time of accrual and use. Hours worked in excess of eight (8) hours in one (1) day may not necessarily be counted as overtime.

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

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

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

Sec. 3: **Work on Holidays.** If an employee is required to work on a holiday, he/she shall receive eight (8) hours of work credited to the total work week hours plus the number of hours actually worked on the holiday to be credited to the total week hours.

Sec. 4: **Call Out Time.** If after an employee has left his/her place of work and he/she is called back for duty, he/she shall be paid for at least two (2) hours of work, which shall be included in time worked in calculating overtime for that week. For purposes of calculating Call-Out Time, hours worked shall include two (2) hours plus actual time worked after two (2) hours.

Sec. 5: **On Call Time.** An employee, who carried a pager for a week and is scheduled for rounds, will be credited with two (2) hours of compensatory time. While an employee is On-Call Time, he/she shall be in a place and situation that allows for a response to any situation or need within thirty (30) minutes.

Sec. 6: **Standby Time.** City Power Plant employees, who are not On-Call, will be credited with two (2) hours of compensatory time during such times as Nebraska Public Power District mandates the David City Power Plant standby for possible electric energy production. An employee who is On-Call shall not receive any compensation for Standby Time. While an employee is on Standby Time, he/she shall be in a place and situation that allows for a response to any situation or need within thirty (30) minutes.

Sec. 7: **Breaks.** A fifteen (15) minute break shall be allowed for each four (4) hours of work. If work conditions are such that travel, cleanup, etc., plus the break require more than fifteen (15) minutes, the break shall be taken on the site.

ARTICLE 19

SPECIAL PROVISIONS

Sec. 1: **Employee Residence.** All Departments that may be called back to work for emergency purposes (Water Department, Sewer Department, Electric Department, Street Department, and Power Plant Department) are required to reside within a fifteen (15) mile radius of the established city limits of David City.

Sec. 2: **Full-Time Employee Discounts.**

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

Sec. 3: **License and Fees.** The City shall pay the fees for all licenses required for the employees.

Sec. 4: **Influenza and Hepatitis B Vaccination.** The City shall offer an annual influenza shot for all employees who elect to participate. Employees who are required to work with or at any Wastewater Treatment Facility Plant, Equipment and/or System will be provided at their option, vaccination shots for Hepatitis B at the expense of the City.

ARTICLE 20

RATE OF PAY

Sec. 1: Effective March 24, 2021, wages for employees covered by this Agreement shall be in accordance with the Pay Step Plan set forth in Schedule A attached hereto which identifies Steps 1 through 10 for each job classification. An employee shall be eligible for a one step merit pay increase after satisfactory completion of a one (1) year period beginning with the original date of employment in the job classification. Employees' placement on the Pay Step Plan is set forth in Schedule B attached hereto. An employee shall be paid at 95% of their pay rate for a six (6) month probation period. In making the decision as to whether or not an employee deserves and shall receive a merit step increase, the Department Head must find that the employee has performed in a satisfactory manner. When an employee moves to a higher classification, they shall be slotted into a step closest, but not less than their current wage.

ARTICLE 21

SCOPE OF AGREEMENT

Sec. 1: The parties mutually agree that this Agreement constitutes the entire Agreement and understanding concerning all proper subjects of collective bargaining for the duration of the contract between the parties and supersedes all previous agreements. This Agreement shall not be modified, altered, changed or amended in any respect unless in writing and signed by both parties. There are no oral agreements nor is this Agreement based upon any oral representation covering the subject matter of this Agreement.

Sec. 2: This Agreement has been executed in accordance with the statutes and the laws of the State of Nebraska and the United States of America, and any dispute, disagreement, or litigation arising under this Agreement shall be adjudged in accordance with the statutes and laws of the State of Nebraska and of the United States of America.

Sec. 3: The parties agree that the negotiations preceding the signing of this Agreement included negotiations on all proper subjects of bargaining and that all negotiations were conducted in accordance with all applicable federal and state requirements.

ARTICLE 22

MANAGEMENT RIGHTS

Sec. 1: All Management rights, functions, responsibilities and authority not specifically limited by the express terms of this Agreement are retained by the Employer and remain exclusively within the rights of the Employer and nothing contained herein shall be construed or interpreted to restrict, limit or impair the rights, powers and authority of the Employer heretofore possessed and hereinafter granted by virtue of law, regulations or resolutions.

Sec. 2: The Union acknowledges the concept of "inherent management rights" and agrees that this concept shall be made fully applicable to the terms of the Agreement with respect to the utilization of the grievance procedure of this Agreement and with respect to any exercise of this Article.

Sec. 3: In addition to all powers, duties, and rights of the Employer established by constitutional provision, statute, ordinance, charter, or special act, the Union recognizes the powers, duties, and rights which belong solely, exclusively, and without limitation to the Employer, and are not in conflict with this Agreement.

- A. The right to determine, effectuate and implement the objectives and goals of the City.
- B. The right to manage and supervise all operations and functions of the City.
- C. The right to determine services to be provided, including the right to establish, allocate, schedule, assign, modify, change, subcontract and discontinue City operations, work shifts and working hours.
- D. The right to establish, modify, change and discontinue work standards.
- E. The right to direct and arrange working forces including the right to hire, examine, classify, promote, train, transfer, assign, and retain employees; maintain discipline and control and use of City property; suspend, demote, discharge or take other disciplinary action against employees; and to relieve employees from duty due to lack of work, lack of funds, a decision to subcontract or discontinue City operations or other legitimate reasons and not in conflict with this Agreement.
- F. The right to increase, reduce, change, modify and alter the size and composition of the work force.
- G. The right to determine, establish, set and implement management organization policies of the City for the selection, training, transfer and reorganization of employees.
- H. The right to create, establish, change, modify, subcontract and discontinue any City function or operation.
- I. The right to establish, implement, modify and change financial policies, budget control policies, accounting procedures, prices of goods or services, and public relations procedures and policies.
- J. The right to adopt, modify, change, enforce or discontinue any existing work rules, regulations, procedures, policies and other terms and conditions of

employment of the City which are not in conflict with this Agreement or state statute.

- K. The right to determine and enforce employee work abilities and quality and quantity standards.
- L. The right to establish the location of offices, including the establishment of new offices and the relocation and closing of old offices.
- M. The right to maintain order and efficiency.

The listing of the foregoing rights, powers and authority are not in any way intended to be exclusive, but are merely intended to illustrate the rights retained by the Employer.

ARTICLE 23

WORK RULES

The Employer may adopt rules and regulations for the operation of the City and the conduct of its employees; provided any such rules and regulations shall not conflict with any provisions of this Agreement or the laws of the State of Nebraska or the United States of America. Any terms or conditions not covered in this Agreement will be adhered to as currently written in the City Employee Handbook as revised from time to time and been subject to negotiation if a mandatory subject of bargaining or waived by the union.

ARTICLE 24

SMOKING POLICY

Smoking is prohibited throughout Employer's facilities and vehicles.

ARTICLE 25

C.I.R. WAIVER

As a result of negotiations, and in consideration of this entire collective bargaining agreement, the Union, on behalf of all of its members, hereby knowingly, intelligently, and voluntarily waives its right to file any proceedings with the Nebraska Commission of Industrial Relations alleging lack of comparability with respect to any wages, fringe benefits or any other conditions of employment with respect to the time period between the effective date of this Agreement, and September 30, 2021.

ARTICLE 26

DURATION OF AGREEMENT

Sec. 1: This Agreement shall be in full force and effective upon execution of this Agreement to September 30, 2021, only.

Sec. 2: In the event either party to this Agreement provides sixty (60) days' written notice to the other prior to the expiration of this Agreement of a desire to meet for the purpose of negotiating a replacement contract, the party receiving such notice agrees to respond within (7) calendar days for the purpose of establishing mutually agreeable times and places for the commencement of bargaining on a replacement contract. In the event neither party provides notice to meet for the purpose of negotiating a replacement contract, the contract shall continue in full force.

ARTICLE 27

SIGNATURE

The parties hereto have caused the Agreement to be executed by their proper officers hereunto duly authorized and effective as of the ____ day of April, 2021.

CITY OF DAVID CITY

LOCAL 1536, I.B.E.W.

MAYOR

BUSINESS MANAGER

CITY ADMINISTRATOR

Department	10 Steps, Probation is 95% of Pay When Hired (10 Steps Total)									
Position	1	2	3	4	5	6	7	8	9	10
Power Plant										
Power Plant Op I	\$19.38	\$20.17	\$20.97	\$21.76	\$22.55	\$23.35	\$24.14	\$24.93	\$25.73	\$26.52
Power Plant Supervisor	\$27.53	\$28.42	\$29.30	\$30.19	\$31.07	\$31.96	\$32.84	\$33.73	\$34.61	\$35.50
Electric										
Apprentice Lineman	\$17.97	\$18.55	\$19.13	\$19.71	\$20.29	\$20.87	\$21.45	\$22.03	\$22.61	\$23.19
Lineman 2nd Class	\$19.99	\$20.48	\$20.97	\$21.46	\$21.95	\$22.45	\$22.94	\$23.43	\$23.92	\$24.41
Lineman 1st Class	\$23.63	\$24.24	\$24.84	\$25.45	\$26.05	\$26.66	\$27.26	\$27.87	\$28.47	\$29.08
Line Foreman	\$27.88	\$28.37	\$28.87	\$29.36	\$29.86	\$30.35	\$30.85	\$31.34	\$31.84	\$32.33
Electric Supervisor	\$31.14	\$31.87	\$32.59	\$33.32	\$34.05	\$34.77	\$35.50	\$36.23	\$36.95	\$37.68
Water/Wastewater										
Water/Wastewater Operator I	\$17.94	\$18.54	\$19.13	\$19.73	\$20.33	\$20.92	\$21.52	\$22.12	\$22.71	\$23.31
Water/Wastewater Operator II	\$21.07	\$21.61	\$22.16	\$22.70	\$23.24	\$23.79	\$24.33	\$24.87	\$25.42	\$25.96
Water Field Supervisor	\$21.14	\$21.67	\$22.20	\$22.74	\$23.27	\$23.80	\$24.33	\$24.87	\$25.40	\$25.93
Water Supervisor	\$25.86	\$26.72	\$27.58	\$28.44	\$29.30	\$30.15	\$31.01	\$31.87	\$32.73	\$33.59
Wastewater Supervisor	\$25.18	\$26.00	\$26.82	\$27.63	\$28.45	\$29.27	\$30.09	\$30.90	\$31.72	\$32.54
Street										
Maintenance Worker I	\$15.65	\$16.05	\$16.44	\$16.84	\$17.23	\$17.63	\$18.02	\$18.42	\$18.81	\$19.21
Maintenance Worker II	\$16.82	\$17.25	\$17.68	\$18.11	\$18.54	\$18.96	\$19.39	\$19.82	\$20.25	\$20.68
Street Foreman	\$19.74	\$20.16	\$20.58	\$21.01	\$21.43	\$21.85	\$22.27	\$22.70	\$23.12	\$23.54
Street Supervisor	\$22.86	\$23.48	\$24.10	\$24.72	\$25.34	\$25.96	\$26.58	\$27.20	\$27.82	\$28.44
Parks										
Park Laborer	\$10.68	\$11.21	\$11.74	\$12.28	\$12.81	\$13.34	\$13.87	\$14.41	\$14.94	\$15.47
Parks & Auditorium Supervisor	\$17.64	\$18.24	\$18.84	\$19.44	\$20.04	\$20.65	\$21.25	\$21.85	\$22.45	\$23.05

10 Steps With Probation at 95% of Pay (10 Steps Total), Affect on Wages							
Represented by IBEW #1536	Job Title	Step	Current Wages	Step	Proposed Wages	Hourly Wage Increase	Annual Wage Increase
Pat Hoeft	Electric Supervisor	6	\$34.32	7	\$35.50	\$1.18	x2080 \$2,454.40
Mick Shipley	Line Foreman	7	\$31.46	10	\$32.33	\$0.87	\$1,809.60
Nathan Blomberg	Lineman 1st Class	4	\$27.13	8	\$27.87	\$0.74	\$1,539.20
Brett Thiemann	Lineman 2nd Class	1	\$23.34	9	\$23.92	\$0.58	\$1,206.40
Patrick Ayers	Lineman 2nd Class	1	\$23.34	8	\$23.43	\$0.09	\$187.20
Christian Hana	Lineman 2nd Class	Probation	\$22.89	7	\$22.94	\$0.05	\$104.00
John Smaus	Power Plant Op I	4	\$24.80	8	\$24.93	\$0.13	\$276.40
Aaron Gustin	Water Supervisor	1	\$26.83	3	\$27.58	\$0.75	\$1,580.00
John Kolbus	Water Field Supervisor	10	\$25.93	10	\$25.93	\$0.00	\$0.00
Emmalyn Gaudio-Gustin	Water/WW Operator I	1	\$17.33	1	\$17.94	\$0.61	\$1,268.80
Broderick Hoeft	Water/WW Operator I	1	\$17.33	1	\$17.94	\$0.61	\$1,268.80
Daniel Sobota	Water/WW Operator I	Probation	\$16.90	1	\$17.94	\$1.04	\$2,163.20
Chris Kroesing	Street Supervisor	1	\$23.28	3	\$24.10	\$0.82	\$1,705.60
Mat Aache	Street Foreman	4	\$18.90	1	\$19.74	\$0.84	\$1,747.20
Nicholas Trust	Maintenance Worker II	3	\$17.45	4	\$18.11	\$0.66	\$1,373.60
Clint Brandenburg	Maintenance Worker II	1	\$16.69	2	\$17.25	\$0.56	\$1,164.80
William Bunting	Parks & Auditorium Supervisor	5	\$23.05	10	\$23.05	\$0.00	\$0.00
Nathan Stykal	Park Laborer	13	\$15.47	10	\$15.47	\$0.00	\$0.00
TOTAL			\$406.44		\$413.97	\$9.53	x2080 \$19,822.40

City Administrator Clayton Keller said, "As we negotiated an agreement, one of the things that we did was change the pay scale and how we did the pay steps. We shrunk it down from fourteen steps down to ten steps. We wanted that to affect all of the City employees, not

just one part of the City employees, that way we can all stay on the same pay scale. It's much less of a headache for the HR people. So, what you see before you is a pay scale where we have ten steps and I've taken out the probation step because, to me, that just didn't make sense the way that we were doing it. What happens is, when someone gets hired, they are on a probation period for six months. Now, with this new pay scale, during that probation period, they will be receiving ninety-five percent of what they've been hired on for and then upon successful completion of their probation period, then they receive one hundred percent of their pay. So, instead of having a probation step set up off to the side at its own dollar amount, we just integrated it into the rest of the pay steps. That way when we hire somebody on step three or four, we still have that probation pay for them, otherwise, we just pay them one hundred percent of that pay step."

Mayor Zavodny said, "Any questions? We also realize that our ability to hire, we're going to have to take some hard looks. This is probably a little bit of a stop gap. I certainly appreciate the work that goes into this, because it's a lot. In the past, we've paid below minimum wage for our lifeguards and stuff and, you know, in this market, you're just not going to get people to work for that and to operate the pool we're going to have to consider that. I still feel that our auditorium pay scale also needs some considerations because that's not really even a living wage for full-time to support yourself, let alone if you have any kind of family. I think we need to bolster those a little bit, but we'll look at that moving forward."

Council member Tom Kobus introduced Ordinance No. 1365 adopting a new pay scale. Mayor Zavodny read Ordinance No. 1365 by title. Council member Bruce Meysenburg made a motion to suspend the statutory rule requiring that an Ordinance be read on three separate days. Council Member Tom Kobus seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

Council member Bruce Meysenburg made a motion to pass and adopt Ordinance No. 1365 on 3rd and Final reading adopting a new pay scale. Council Member Pat Meysenburg seconded the motion. The motion carried.
Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0

Deb Dinkelman and Jim Angell were present representing the Friends of David City organization.

Deb Dinkelman, President of the Friends of David City said, "It came to our attention last Friday that the playground equipment that we are wanting to order is going to be increasing by six percent as of May 1st. Beings that we have the majority of the money at this point in time, or will have it, we wanted to go ahead and pursue ordering that. So, we're asking if the Council will assist us with that for a couple of reasons. First of all, if we order before May 1st, we would save six percent, which is about four thousand dollars in savings and if we run it through the City, which the equipment will be the property of the City eventually, that would save us about forty-nine hundred dollars in sales tax and so we would like the City to purchase the equipment from the Crouch Recreation Company and we will reimburse you upon receipt of the bill. My understanding, we just found out tonight, that the bill will probably be, if we order it now, it will be delivered in July and we won't pay for it that quick. On page three is the breakdown of the purchase price, you can see that we are right at \$66,013."

Mayor Zavodny said, "That's what you're asking us to forward to you?"

Deb Dinkelman, President of the Friends of David City said, "Right. We're asking that when the bill comes, will you pay it? That will save us city sales tax and we will, in turn, pay you back."

Mayor Zavodny said, "When we started down this path, and I'm not trying to be difficult at all, but I have to look out for the taxpayers, and the agreement was that the City wasn't going to pay any. It was a great project and we supported it wholly, but it probably wouldn't be something that we would have done at the time, but it was taken over by your group, so that was good. Then we had the discussion, we liked the mulch but that was much more expensive so we said, you know what, that's something that we prefer to see that and not have you scrimp that we would pay for that. Here's my concern, we're committing sixty-six thousand dollars of expenditure on good faith. We have no written agreement. We're sticking our necks out for an amount of money that, if you had the cash in hand and we were a pass-through, I probably wouldn't have as much indigestion. This is a big ask without....do you understand that?"

Deb Dinkelman, President of the Friends of David City said, "I can understand that. I can update you on where we're at right now. In the bank we have a little over thirty thousand."

Mayor Zavodny said, "How much of that is obligated?"

Deb Dinkelman, President of the Friends of David City said, "None."

Mayor Zavodny said, "Design fees? Everything that you've committed to up to now is flush. So, you have thirty thousand of undesignated money? No obligations?"

Deb Dinkelman, President of the Friends of David City said, "Exactly. We're at half. A little under half. We have grants that will come in that we know of. We're still waiting. A couple of the grants have a stipulation that we have to purchase the equipment and then we get the grant. So, by the time we figure up what we know is still coming in, at this point in time, we're going to be over fifty thousand. I know that's still short. We still have fundraisers that we're doing and, in addition, we have a gentleman that volunteered to donate whatever we need, when the time comes, and he will let us pay him back as soon as we can. So, we are confident, one hundred percent, that we will have the funds."

Mayor Zavodny said, "I feel like a total heel asking these questions, but does this make sense, Jim?"

City Attorney Jim Egr said, "The Friends of David City issued a letter. I was out of town today, but they read the letter to me and I felt comfortable with the letter from their committee to the City. It was like a memo of understanding. What else are we going to do?"

Mayor Zavodny said, "The best we can hope for if things go really bad is thirty thousand dollars. That still holds us to thirty-six thousand when we had an agreement that we weren't going to spend any. We have no written agreement to solidify this. There's no contract. There's no collateral. I'm looking at this from a business standpoint."

City Attorney Jim Egr said, "The collateral that we have is the equipment from this outfit. If nothing else, the park equipment, and I'm not associated with them. All I can say is number

one, any time those people and especially Deb has been associated with a project, she's come through with it. Number two, if push comes to shove, we've got thirty thousand dollars out of it and we've got that park taken care of. I feel, as City Attorney, I feel that we have to have trust for the people that are on the Friends of David City committee. The people there have shown a track record and I think that's what you've got to have along with trust."

Jim Angell, Friends of David City member, said, "We're not going to advertise the person who has come forward, but when we had the event last week with Eric Crouch, I talked to an individual that evening and he wanted to know how we were doing and we explained where we were at financially, etc. and the next morning that same individual approached me and said with the increase in price I think you need to act and act fast. I said that we didn't have the money. I know that this is coming at you really quick. I understand that. He said that his proposal was that whatever we're short, he'd cover us and we'd pay him back. This is a private individual."

Mayor Zavodny said, "This is a loan guarantee from a private individual for whatever cushion you need?"

Jim Angell, Friends of David City member, said, "Yes, for whatever we're short. The other thing that Deb didn't mention now is that a part of this, you mentioned the mulch, there is a refund of fifty percent on the cost of the mulch, too, provided that you buy it from the right people. It's recycled Nebraska rubber. If you look at the list the mulch is nineteen thousand five hundred dollars, so there's a bunch more money that we're short right now, so you're really not risking as much as what it appears."

Mayor Zavodny said, "I feel that my job is just to layout what the risk is. I will go on record as saying that I would probably be a lot less likely to consider this if it wasn't for people that I trust. We're doing business with people that do have a track record and I know that you'll continue to do fundraising until you get it. I also want to say that I don't like the way that we're doing this, but I'm not going to be voting."

Jim Angell, Friends of David City member, said, "This was not our plan. Due to the cost increases, and we don't want to wait and delay it another year to year and a half."

Mayor Zavodny said, "I understand. What you are asking makes perfect sense. The risk that the City is taking makes me nervous. "

Council member Bruce Meysenburg said, "Here's my gist of the thing, like you said they've got a good track record. I don't have a problem with it. They've got thirty thousand in the bank. I think they're going to come through and I think that if we can't trust some people in the community to do this, then what are we doing? I'm not going to have a problem with this. That's just my thoughts on the whole thing."

Council member Tom Kobus said, "Who's going to put all this together?"

Deb Dinkelman, President of the Friends of David City said, "A representative from the playground company is going to come out and we're going to hire him for a day for his guidance and we've visited with Clayton and he said we could utilize some help."

Jim Angell, Friends of David City member, said, "The supervisor of the company coming out to help is included in the price, also. It's not in addition to the price."

Mayor Zavodny said, "So, as far as time frame goes, because we didn't budget this, how do we go about this, are you using the park department budget? What are we doing?"

City Administrator Clayton Keller said, "Yes. The park department budget will be ok. It'll show up as being over budget in their department but we'll get the revenue from them to make it even."

Mayor Zavodny said, "Approximate time frame from the time that we expend this money, if it's approved, to the time that we can see it repaid?"

Deb Dinkelman, President of the Friends of David City said, "It should be funneled through immediately."

Mayor Zavodny said, "Define that for me. I'm not going to hold you to, you said this."

Deb Dinkelman, President of the Friends of David City said, "It should come to you right away."

Mayor Zavodny said, "It's going to take some time for the grants and, obviously, some of them must be matching. I know that will take a little time. So, that's why I'm asking that. So, you're going to get the loan from him even against the grants, too, or are you going to wait for the grants and then whatever you are short? I'm just trying to understand."

Deb Dinkelman, President of the Friends of David City said, "If we don't have the grants collected right away, then we'll have him pay us and then we will pay you. There's only one change on here, which would make the total a little bit less. There's one item on here that we're questioning that we might want to change out. We're waiting for the final price from him but, otherwise, we would like to purchase this equipment and sign a contract, hopefully, tomorrow."

Mayor Zavodny said, "So, what we will need to do is approve an amount up to \$66,013.41, if you choose to do this. I want you to be clear, I'm not questioning your intentions or anything at all. I have a responsibility that's on the other side of where you are at. I'm not going to stand in the way and I don't get to vote."

Council member Bruce Meysenburg made a motion to approve not to exceed \$66,013.14 with an understanding that the Friends of David City will repay the expenditure within one month. Council Member Tom Kobus seconded the motion. The motion carried. Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, John Vandenberg: Yea
Yea: 5, Nay: 0



Miracle

Miracle Recreation Equip. Co.
878 E. US Hwy 60
Monett, MO 65708
1-888-458-2752

QUOTE: R0011200006

Project: PP123_44039541122_02

Prepared For:

DEB DINKLEMAN
CITY OF DAVID CITY
557 N. 4TH STREET
DAVID CITY, NE 68632
402 270 1983 (phone)
DGDINK@WINDSTREAM.NET

Project Name & Location:

Attr: JAYCEE PARK (PURPLE
PARK)

Prepared by:

Crouch Recreation
2435 S. 156th Circle
Omaha, NE 68130
(402) 496-2669 (phone)
(402) 496-2018 (fax)
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Ship To Address:

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End User:

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402 270 1983 (phone)
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Quote Number: R0011200006
Quote Date: 4/28/2021
Valid For: 30 Days From Quote Date

Miracle

Product line: KidsChoice
Age group: 5-12

Global defaults

Accent	YELLOW
Accent - FS	YELLOW
Accent Climber	YELLOW
Accent Enclosure	YELLOW
Canopy Climber	BLUE
Cham -16' Drop	BLUE
Cham -Canopy	BLUE
Cham -Exit	LAVENDER
Cham -Right Low Bank	BLUE
Cham -Start of Slide	LAVENDER
Clamp	BLUE
Panel	BLUE-SAND-BLUE
Post	BLUE
PVC	BLUE
Rockite	LAVENDER
Rockite 01	BLUE
Rockite 02	LAVENDER
Rockite 03	YELLOW

4/28/2021
QUOTE: R0011200006

Rockite 04	BLUE
Rockite 05	RED
Slide Canopy	LAVENDER
Slide Rockite	LAVENDER
Ten Spin Base	BLUE
Ten Spin Wheel	LAVENDER
Touch Up Paint	BLUE

Components

Part Number	Description	Qty	Weight	Unit Price	Total
304	TEN SPIN	1	1,000.00	3,242.00	3,242.00
44012R	6' MIRACLE TIMBER 12" HIGH W/2 30" STAKES-RB	52	35.00	74.00	3,848.00
4406R	ACCESS RAMP W/2 MIRACLE TIMBERS-RECYCLED	1	260.00	858.00	858.00
7047706S2C	FLIPPOTAMUS CONVERSION-SLIDE TO CLIMBER	1	80.00	841.00	841.00
7145019	TRIANGLE DECK (ATTACHES TO 3 POSTS)	6	75.00	716.00	4,296.00
7145049	1/2 HEX OPEN DECK (ATTACHES TO 5 POSTS)	1	155.00	1,529.00	1,529.00
7145493	5" OD X 112" POST (3' DECK)	5	65.00	277.00	1,385.00
714552	5" OD X 136" POST (3' TO 5' DECKS)	9	75.00	317.00	2,853.00
714553	5" OD X 160" POST (5'6" TO 6'6" DECKS)	1	90.00	365.00	365.00
7146026B	STEEL PANEL CRAWL THROUGH (BELOW DECK)	1	100.00	974.00	974.00
7146701	CHAMELEON II ENTRY & EXIT (5' - 6'6" DECK)	1	145.00	2,164.00	2,164.00
7146705	CHAMELEON II RIGHT SECTION	1	60.00	512.00	512.00
7146705	CHAMELEON II RIGHT SECTION	1	60.00	512.00	512.00
	Cham - Right Low Bank: LAVENDER				
7146707	CHAMELEON II LONG STRAIGHT SECTION	1	60.00	538.00	538.00
71471520	INTERACTIVE PANEL FRAME	1	35.00	389.00	389.00
→ 714715206	MAGICAL MUSIC INSERT	1	20.00	1,748.00	1,748.00
7147234W9	WIDE 4' BURMA BRIDGE	1	210.00	1,762.00	1,762.00
714736	BUNNY HILL SLIDE W/CANOPY (3' DECK)	1	130.00	1,766.00	1,766.00
714787	TOT ROCK CLIMBER (3' DECK)	1	110.00	1,163.00	1,163.00
714812	12' RISER PLATE	1	20.00	173.00	173.00
714816	WALL ENCLOSURE	3	45.00	552.00	1,656.00
714851359	SQUARE TRANSFER POINT W/OPEN HR (3' DECK)	1	200.00	2,258.00	2,258.00
7148969	STEPS BETWEEN DECKS W/3'6" RISE	1	310.00	3,027.00	3,027.00
7149765	BUMPER LADDER (5' DECK)	1	90.00	1,460.00	1,460.00
	Rockite 05: YELLOW				
714999Z	CUSTOMER SERVICE KIT (NO PRICE)	1	7.00	0.00	0.00
925920Z	TOUCH UP PAINT KIT - FREESTANDING (NO PRICE)	1	2.00	0.00	0.00

RiskSign_Included

Product line: Freestanding
 Age group:

Global defaults

Post - FS BLUE

Components

Part Number	Description	Qty	Weight	Unit Price	Total
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4/28/2021

QUOTE: R0011200006

787Z	RISK MANAGEMENT SIGN - ENGLISH (NO PRICE)	1	0.00	0.00	0.00
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Additional Parts

Product line: Freestanding

Age group: 5-12

Components

Part Number	Description	Qty	Weight	Unit Price	Total
103543PLM	PLUG ROCKITE 4"	4	0.13	5.00	20.00
984134	TYPHOON SLIDE PARTS CARTON	1	5.00	34.00	34.00
987195BL	STAIR, 5' DK TYPHOON ADA BL	1	59.50	506.00	506.00

Additional Items

Part Number	Description	Qty	Weight	Unit Price	Total
925961	THUMB DRIVE 2GB - MREC	1	0.00	0.00	0.00
926021	MREC CARD F/THUMB DRIVE	1	0.00	0.00	0.00
INSTALL BOOK	INSTALL BOOK FOR PP ORDERS	1	0.00	0.00	0.00

Parts By Other

Part Number	Description	Qty	Weight	Unit Price	Total
1000113168	LT DRAGONFLY	1	0.00	2,936.00	2,936.00
	Dragon Fly \$2701.00 and Freight is \$235				
Rubberecycl e Rubber Mulch SV	5228 SF @ 6" DEPTH WITH COMPACTION INCLUDES FREIGHT	1	0.00	19,500.00	19,500.00
	Supervisor PER DAY SUPERVISOR COST	1	0.00	1,750.00	1,750.00

Totals:

Equipment Weight:	6,614.02 lbs
Equipment Price:	\$39,879.00
Freight:	\$1,948.41
Products by Other:	\$24,186.00
SubTotal:	\$66,013.41
Estimated Sales Tax*:	\$0.00
Grand Total:	\$66,013.41

Council member Bruce Meysenburg made a motion to authorize the City Attorney to obtain legal assistance from Tom Grennan of Gross & Welch, who have wastewater expertise. Council Member Tom Kobus seconded the motion. The motion carried.

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

Yea: 5, Nay: 0

Council member John Vandenberg made a motion to go into executive session to discuss land purchase negotiations. Council Member Pat Meysenburg seconded the motion. The motion carried.

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

Yea: 5, Nay: 0

Mayor Zavodny stated, "Now at 7:50 p.m. we are going into executive session to discuss land purchase negotiations. Mayor Zavodny, all of the Council members, City Administrator Keller, City Attorney Egr, Special Projects Coordinator Dana Trowbridge and City Clerk Tami Comte went into executive session at 7:50 p.m. Realtor Bob Kobza was invited to join executive session at approximately 8:45 p.m.

City Attorney Jim Egr stated that a motion and second was not needed to come out of executive session. Therefore, Mayor Zavodny declared the City Council out of executive session at 9:05 p.m.

Council member Jessica Miller made a motion to adjourn. Council Member Pat Meysenburg seconded the motion.

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

Yea: 5, Nay: 0

The motion carried and Mayor Zavodny declared the meeting adjourned at 9:06 p.m.

CERTIFICATION OF MINUTES

April 28, 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 April 28, 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