

CITY COUNCIL PROCEEDINGS
March 27, 2024

The City Council of the City of David City, Nebraska, met in an open public session at 7:00 p.m. in the meeting room of the City Office at 490 "E" Street, David City, Nebraska. The Public had been advised of the meeting by posting in four public places (City Office, US Post Office, Butler County Courthouse and Hruska Public Library). 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.

Present for the meeting were: Mayor Jessica Miller, Council President Bruce Meysenburg, Council members Kevin Woita, Pat Meysenburg, Jim Angell, City Attorney David Levy, and Interim City Administrator/City Clerk Tami Comte. Council members Keith Marvin and Tom Kobus were absent.

Also present for the meeting were: Deputy Clerk Lori Matchett, Police Chief Marla Schnell, Kathy Robertson with The Working Cat Project, Dan & Janet Sypal, Marlene Hein, Bridget Reed, Lucia Watts, Jeff Dinkelman, Jeff Blum and David McPhillips.

The meeting opened with the Pledge of Allegiance.

Mayor Jessica Miller informed the public of the "Open Meetings Act" posted on the west wall of the meeting room and asked those present to please silence their cell phones. Mayor Miller read the speaking guidelines for the City Council meeting. She also reminded the public that if they speak tonight in front of the Council, they must state their name and address for the record.

Kathy Robertson, with the Working Cat Project, introduced herself and explained that the goal of their group is to limit the feral and stray cat population. They have a trap, neuter, and return program that they have implemented in a few communities, and she stated that it works. They are a non-profit organization. They get donations from the community. She has talked to Dr. Randy Schwang with Bar-S Veterinary Clinic, and he will do the neutering for them. She asked the Council for their support with the project, and she presented an Ordinance that the City of Lyons passed regarding the neutering of cats.

Mayor Jessica Miller thanked Ms. Robertson for her presentation.

Council member Jim Angell made a motion to approve the minutes of the March 13, 2024 meetings of the Mayor and City Council as presented. Council Member Kevin Woita seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Jim Angell made a motion to advance to agenda item #7 - Appointment of Lucia Watts as the Library Director in training. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Library Director Kay Schmid introduced herself and gave some remarks regarding her tenure with the City. Schmid then introduced Lucia Watts whom the Library Board has chosen to be the next Library Director. Watts will be appointed as the Library Director in training until Schmid's retirement on April 26, 2024.

Council member Jim Angell made a motion to approve the appointment of Lucia Watts as the Library Director in training. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Bruce Meysenburg made a motion to conditionally approve the work change directive for the AGP substation. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

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Tami Comte

From: Matt Kalin <mkalin@jeo.com>
Sent: Tuesday, March 19, 2024 1:36 PM
To: Bruce Meysenburg; Jessica Miller; Pat Hoeft (pat3197@windstream.net); Tami Comte
Subject: 2023 AGP Substation - Structural Steel Accelerated Schedule - Meeting Request

Et al.,

All the bids received for the '2023 AGP Substation' construction contract had a substantial completion date that exceeded the required date within the contract. IES Commercial, Inc. (IES) had indicated at the bid letting that they had other resources available that would allow them to meet the deadline, but it was going to take an accelerated schedule for the structural steel. Please see the following information received from IES:

In review of the cost difference for the accelerated steel lead time schedule. It appears that the difference is approximately \$400k. We are still waiting on a couple of the numbers from Paresources as mentioned in our meeting yesterday to finalize the final number formally. Jeff is working through the details discussed alongside the answers you are providing.

- \$400k increase (original steel was approximately \$610k of the contract)
- \$400k break down
 - Fabricator cost per lb increase - \$195k (Klute is cheaper based on volume alone, hence is the 52 week schedule)
 - Premium to meet schedule - \$60k
 - Increase to miscellaneous items - \$30k
 - The steel is now coming from Alabama freight - \$50k
 - Paresources (distributor) Markup – 10%
 - IES Markup – 10%

Per our conversation we do need to know if we should proceed with final numbers to be calculated. The dates for Klute will slide as well if we don't order the material soon.

I'm writing to see what your schedules look like for either an in person or Teams meeting to discuss further on Thursday March 21st or Friday morning March 22nd.

I look forward to hearing from you and will get an invite sent out that works for City staff.

Respectfully,

Matt Kalin | *Electrical Senior Project Manager*

o: 402.934.3680 | m: 402.360.0217 | e: mkalin@jeo.com
JEO Consulting Group | 11213 Davenport Street Ste. 200 | Omaha, NE 68154



City Council Proceedings

March 27, 2024

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Council member Kevin Woita made a motion to approve 2023 Northland Subdivision Electrical Extension Project Amendment No. 1. Council Member Jim Angell seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea

Yea: 4, Nay: 0, Absent: 2

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AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 1

The Effective Date of this Amendment is: March 22, 2024.

ARTICLE 1 – BACKGROUND DATA

Effective Date of Owner-Engineer Agreement: June 14, 2023
Owner: City of David City, Nebraska
Engineer: JEO Consulting Group, Inc.
Project: 2023 Northland Subdivision Electrical Extension, JEO Project No. 230326.00

ARTICLE 2 – NATURE OF AMENDMENT

- Additional Services to be performed by Engineer
- Modifications of payment to Engineer

ARTICLE 3 – DESCRIPTION OF MODIFICATIONS

Perform engineering services related to the design and construction services of an electrical utility infrastructure extension to support the Owner's Northland Subdivision. See Exhibit A, attached.

ARTICLE 4 – AGREEMENT SUMMARY

Original agreement amount:	\$ <u>18,000.00</u>
Net change for prior amendments:	\$ <u>0.00</u>
This amendment amount:	\$ <u>3,575.00</u>
Adjusted Agreement amount:	\$ <u>21,575.00</u>

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit B.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER: City of David City, Nebraska

ENGINEER: JEO Consulting Group, Inc.

By: _____
Print
name: Jessica Meyer

By: *Matt E. Kalin*
Print
name: Matt E. Kalin

Title: Mayor

Title: Electrical Senior Project Manager

Date Signed: _____

Date Signed: March 22, 2024

3/22/2024

2023 Northland Subdivision Electrical Extension – Amendment No. 1
David City, NE



SCOPE OF SERVICES:
Exhibit A

PROJECT DESCRIPTION:

Assist the City of David City, Nebraska (Owner) with Construction Phase, Basic Services to complete an electrical utility infrastructure extension to support the Owner's Northland Subdivision.

1 CONSTRUCTION PHASE, BASIC SERVICES:

- 1.1 Revise design plans and staking sheets following Owner's revision to the subdivision covenant(s) not allowing the removal of any trees on the northern edge of the property line(s).
- 1.2 Revised design plans and staking sheets following receipt of Owner's comments to eliminate a single-phase primary riser and install an additional single-phase primary sectionalizing cabinet.
- 1.3 Provide construction staking of the proposed improvements. The proposed staking will include primary/secondary alignment, meter pedestals, transformers, primary sectionalizing cabinets, light poles, and pull boxes. Staking of all proposed improvements will be completed during one trip.

2 OWNER RESPONSIBILITIES

- 2.1 The Owner must provide access to all properties where proposed improvements will be placed, etc.

3 FEE

- 3.1 JEO proposes to provide the services defined above for the lump sum fees defined below:

<u>Task:</u>	<u>Fee</u>
Construction Phase, Basic Services	<u>\$ 3,575.00</u>
Total	\$ 3,575.00

- 3.2 Reimbursable Expenses.

- 3.2.1 Typical reimbursable expenses are included in the lump-sum and cover: mileage for trips required to complete the work defined above, long-distance phone calls, meals, other travel expenses, software, copies/prints, and faxes.
- 3.2.2 Other reimbursable expenses shall be billed at 110% of their cost. None are anticipated on this project.

4 PROGRESS PAYMENTS

- 4.1 JEO will bill for services completed near the end of each month. All invoices are due payable upon receipt and are considered delinquent after 30 days.
- 4.2 Invoices not paid within 30 days may be charged interest at the annual rate of 12% (1.0%/month).

3/22/2024

5 EXCLUSIONS

- 5.1 Attendance at Owner's council meetings, other than those meetings identified previously in this Scope of Services.
- 5.2 Field observation for compliance with plans and specifications on a routine basis (daily/weekly/monthly).

Council member Kevin Woita made a motion to approve the adoption of a Code of Conduct for the Mayor and City Council. Council Member Jim Angell seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2



CODE OF CONDUCT STATEMENT

Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members (Council Members, as well as Board, Commission, and Committee Members) shall work for the common good of the people of David City and not for any private or personal interest and they shall assure fair and equal treatment of all persons, claims, and transactions coming before the David City City Council or a City of David City Board, Commission, or Committee.

Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, use of inappropriate language or profanity, personal charges or verbal attacks upon other members of the Council, Boards, Commissions, Committees, staff, or members of the public. Members shall exhibit respect for all people and shall be sensitive to different cultures, ethnicities, and backgrounds.

Members acknowledge that they act collectively as a governing body during public meetings. Members acknowledge that they do not have authority to make decisions or take individual actions on behalf of the City, unless expressly directed to do so by the City Council, Board, Commission, or Committee.

Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council governing deliberation of public policy issues. Members shall encourage meaningful involvement of the public and implementation of policy decisions of the City Council by City staff.

Members shall respect the confidentiality of information concerning property, City personnel, and affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

When members or staff engage in conversation with residents, applicants, developers, and officials of other governmental agencies, they shall be cautious not to make representations or promises about future actions of the Council, Boards, Commissions, and Committees. Members acknowledge

future actions of the Council, Board, Commission, or Committee cannot be promised or predicted with certainty.

Conduct of Public Meetings

Members shall prepare themselves for public issues, listen courteously and attentively to all public discussions before the Council, Board, Commission, or Committee and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings. For the purpose of establishing the public record and informing members of the public, they shall articulate reasons for policy decisions.

Members acknowledge that within the public setting surprises are counterproductive and agree not to spring a surprise on each other or staff during a public meeting. If in doubt, members shall meet with staff beforehand and members shall not ask staff sensitive questions in a public meeting.

Members acknowledge the importance of their attendance at meetings of their respective body. Members shall make it a priority to be in attendance at all meetings, arrive on time, and stay for the duration of the meeting.

Conflict of Interest

In accordance with the *Nebraska Political Accountability and Disclosure Act*, and to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. They shall refrain from accepting any gifts, favors, or promises of future benefits, which might compromise their independence of judgment or action or give the appearance of being compromised.

Use of Public Resources

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies, or facilities, for private gain or personal purposes. Members, individually, shall not direct, order, or make demands on any City employee, other than inquiries that can be answered routinely and without research.

Representation of Private Interests

In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of third parties before the Council or any Board, Commission, or Committee, or proceeding of the City, nor shall members of the Board, Commission, or Committee appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

Advocacy

Members shall represent the official policies of the City Council, Board, Commission, or Committee to the best of their ability when designated as delegates for such purpose. When presenting their

individual opinions or positions, members shall explicitly state they do not represent their body or the City of David City nor shall they allow the inference that they do.

Members shall leave decisions made at the public meetings at the meeting and shall refrain from disputing such decisions at a later date or later public meeting.

Policy Role Matters

Members shall respect and adhere to the Mayor-Council-Administrator form of David City City government as outlined by the Municipal Code. In this structure, the City Council determines the policies of the City with the advice, information, and analysis provided by the public, Boards, Commissions, or Committees, and City staff.

Go through City Administration

Except as provided in the David City Municipal Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall members impair the ability of staff to implement Council, Board, Commission, or Committee decisions.

Independence of Boards and Commissions

Because of the value of the independent advice of Boards, Commissions, and Committees to the public decisionmaking process, members of the Council shall refrain from using their position to unduly influence the deliberations of outcomes of Board, Commission, and Committee proceedings.

Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to not create the perception of inappropriate direction to staff.

Implementation

As an expression of the standard of conduct for members expected by the City, the David City Code of Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, standards of conduct shall be included in the regular orientations for candidates for City Council, applicants to Boards, Commissions, and Committees, and newly elected and appointed officials. Members entering their office shall sign a statement affirming they read and understood the City of David City Code of Conduct.

Council member/Mayor signature

Date

Mayor Jessica Miller stated that the next item on the agenda was a discussion regarding a vacant property Ordinance.

Mayor Miller explained that we need to adopt this Ordinance to prevent the downtown area from falling into disrepair. The Council members agreed that this needs to be addressed and the Ordinance should be added to the next agenda for consideration.

Council member Bruce Meysenburg made a motion to accept the final plans and specifications for the trunk sewer project and set a bid date of April 24th to accept bids. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Bruce Meysenburg made a motion to recess the City Council meeting. Council Member Pat Meysenburg seconded the motion. The motion carried and Mayor Miller declared the Council meeting in recess at 7:55 p.m.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Jim Angell made a motion to reconvene in open session. Council Member Pat Meysenburg seconded the motion. The motion carried and Mayor Miller declared the Council meeting in open session at 8:08 p.m.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Bruce Meysenburg made a motion to enter into closed session to discuss contracts. Council Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Mayor Jessica Miller stated, "Now, at 8:08 p.m., we are going into closed session to discuss contracts. Mayor Jessica Miller, all of the Council members, City Attorney Michael Sands, Interim City Administrator Tami Comte and Deputy City Clerk Lori Machett went into closed session at 8:08 p.m.

Council member Jim Angell made a motion to reconvene in open session. Council Member Pat Meysenburg seconded the motion. The motion carried and Mayor Jessica Miller declared the City Council meeting in open session at 8:35 p.m.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2

Council member Jim Angell made a motion to adjourn. Council Member Bruce Meysenburg seconded the motion. The motion carried and Mayor Jessica Miller declared the meeting adjourned at 8:36 p.m.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Absent, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea
Yea: 4, Nay: 0, Absent: 2



CERTIFICATION OF MINUTES
March 27, 2024

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 March 27, 2024; 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