

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF MEETING
OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF DAVID CITY, NEBRASKA**

The undersigned members of the governing body of the City of David City, Nebraska, hereby acknowledge receipt of advance notice of a regular meeting of said body and the agenda for such meeting to be held at 7:00 o'clock p.m. on the **8th day of July, 2015**, in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska.

This agenda is available for public inspection in the office of the City Clerk and may be modified up to twenty-four hours prior to the opening of the meeting.

Dated this 8th day of July, 2015.

AGENDA AS FOLLOWS:

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| 1. Roll Call; | <hr/> Council President Gary L. Kroesing |
| 2. Pledge of Allegiance; | |
| 3. Inform the Public about the location of the Open Meetings Act and the Citizens Participation Rules; | <hr/> Council member Michael E. Rogers |
| 4. Minutes of the June 10 th , 2015, meeting of the Mayor and City Council; | |
| 5. Consideration of Claims; | |
| 6. Committee and Officer Reports; | <hr/> Council member Thomas J. Kobus |
| 7. Update by Dawn Danley, Senior Civil Project Engineer of Leo A. Daly concerning the Downtown Redevelopment Project; | <hr/> Council member Kevin N. Hotovy |
| 8. Update by Eric Johnson, Vice President of Kirkham Michael, concerning the T-Hangar Airport Project, and review of the bids received; | <hr/> Council member Gary D. Smith |
| 9. Consideration of accepting a bid for the T-Hangar, Ramps & Taxi lanes, Airport Project at the David City Municipal Airport; | |
| 10. Update by Matt Rief, Olsson Associates, concerning the bids received for the "Airport Water Main Extension; | <hr/> Council member John P. Vandenberg |
| 11. Consideration of accepting a bid for the Airport Water Main Extension; | |
| 12. Update by Matt Rief, PE, Olsson Associates, concerning the 11 th Street Bridge project; | <hr/> City Clerk Joan E. Kovar |
| 13. Consideration of advertising for bids for improvements to the 11 th Street Bridge; | |

Mayor Alan Zavodny

14. Consideration of the Larry Parmer property located at 1055 N 7th Street, which was declared a nuisance and given until May 29, 2015 to have the property in compliance or the City would abate the nuisance and file the costs as a lien against the property;
15. Consideration of the Rodger & Kathy Treat property located at 715 N 4th Street, which was declared a nuisance and given until May 29, 2015 to have the property in compliance or the City would abate the nuisance and file the costs as a lien against the property;
16. Consideration of the request by Seth Cada to hold a firework display at the football field for a wedding reception on August 15, 2015 at 10:00 p.m.;
17. Consideration of Ordinance No. 1226 approving an increase in the water rates;
18. Consideration of Ordinance No. 1227 approving an increase in the rates to be charged for water sold from fill stations;
19. Consideration of the request by Mark Dahmke to purchase a sundial as a memorial for his parents, Chris & Eulalia Dahmke, to be erected in the park, by the library, or downtown;
20. Public Hearing to consider amending the Future Land Use Map by changing the zoning classification from C – Commercial to I – Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City; Consideration of Ordinance No. 1228 amending the Future Land Use Map as described above;
21. Public Hearing to consider amending the Official Zoning Map by changing the zoning classification from C-1 Highway Commercial to I-2 Heavy Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City; Consideration of Ordinance No. 1229 amending the Official Zoning Map as described above;
22. Public Hearing to consider amending I-2 Heavy Industrial District, Section 5.14 by adding the following as a permitted use: 37 – Outdoor Storage Facilities; Consideration of Ordinance No. 1230 adding Outdoor Storage Facilities as a permitted use in the Heavy Industrial District;
23. Public Hearing to consider amending Section 8.06 Commercial/Utility Grade Wind Energy Systems to mirror the changes required by the Nebraska State Legislature; Consideration of Ordinance No. 1231 amending Zoning Ordinance No. 1060, by changing Section 8.06 as described above;
24. Consideration of hiring a firm to provide a Salary Survey;
25. Consideration of Ordinance No. 1232 approving the renewal of a Franchise Agreement between the City of David City and Time Warner Cable;
26. Consideration of the request by Rex Rehmer for a donation towards the Butler County Chamber's fireworks display;
27. Consideration of the proposed budgets for fiscal year October 1, 2015 –September 30, 2016;
28. Consideration of Resolution No. 13-2015 concerning a title for the tri-plex located on approximately Oak & "E" Street;
29. Adjourn.

CITY COUNCIL PROCEEDINGS

July 8, 2015

The City Council of the City of David City, Nebraska, met in open public session in the meeting room of the City Office, 557 N 4th Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on July 2nd, and an affidavit of the publisher is on file in the office of the City Clerk. The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection during regular office hours. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

Present for the meeting were: Mayor Alan Zavodny, Council President Gary Kroesing, Council members Kevin Hotovy, Thomas Kobus, Mike Rogers, Gary Smith, and John Vandenberg. Also present were City Attorney Jim Egr, and City Clerk / Interim City Administrator Joan Kovar.

Also present for the meeting were: Jason Lavicky, Jim Vandenberg, Janis Cameron, Rex Rehmer, Dawn Danley of Leo A. Daly, Matt Rief of Olsson Associates, Jeff Hilger, Jackie DeWispelare, Bryon Forney, David McPhillips, Jared Storm of Hershey Flying Service, Banner Press Editor Larry Peirce, Electric Plant Supervisor Eric Betzen & wife Darcie, Water Employee Kevin Betzen, and Park/Auditorium Supervisor Bill Buntgen.

The meeting opened with the Pledge of Allegiance.

Mayor Zavodny informed the public of the "Open Meetings Act" posted on the east wall of the meeting room and asked people to silence their cell phones.

The minutes of the June 10th, 2015 meeting of the Mayor and City Council were approved upon a motion by Council member Vandenberg and seconded by Council member Smith. (Before voting Council member Kroesing stated: "I am willing to accept the minutes but I still haven't gotten answers to my questions about the finances that were put off at the last meeting and is included in the minutes".) Voting AYE: Council members Hotovy, Kroesing, Rogers, Kobus, Vandenberg, and Smith. Voting NAY: None. The motion carried.

Mayor Zavodny asked for consideration of claims. Council member Smith made a motion to authorize the payment of claims and Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Kroesing, Smith, Hotovy, Vandenberg, and Kobus. The motion carried.

Mayor Zavodny stated that we had a few items under Committee and Officer Reports. Mayor Zavodny stated: "I guess we'll start with Park & Recreation. Jason (Lavicky) is here representing the ballfields and we've talked briefly. When we were talking about how we were going to proceed, and with the appraisal and those kinds of things, part of the Council's idea was "what is the Ball Association going to do to try to raise some money?" and talking to Jason they do have some ideas on that, so I'll let him talk about that."

Jason Lavicky stated: "Once again this year we did our annual burger bash which was successful and we raised a decent amount of money. I will tell you when I got involved in the ball association, and this is my 6th year already that I've been involved, and this is, in my opinion, I think, I haven't seen the revenue numbers yet and I don't know where the total costs

are, but it's been the best year that we've had. The reason I say that is because we had a good burger bash, we had over 20 new banners that have been sold and put up out there, now granted the banner sales aren't a big revenue booster for us this year from the standpoint that we need to pay for a new banner, but next year it could mean an additional \$3,000 of revenue for the Association. The tournament was good and the concessions have been good. We plan on, after the season is over, on writing to the alumni, the association, kids that have gone through the ball program, and appealing to them on an annual fund drive. See if there is any desire by them to contribute to the Association to help defer the costs and help us. You guys asked for a business plan and I can tell you our plan is we want to provide an activity for four hundred plus kids that is affordable and that we provide for everybody. Our average cost per kid for registration is \$55 a kid. The term debt payment on those fields out there is \$32.50 of that \$55. The insurance is \$10; T-shirts are \$12; so there's fifty cents left. So that means we are running the rest of the program on concession stands, fund raising, and tournaments. We still have umpires costs, utilities, and everything else that goes on out there. We have weather issues as well and this year we had a lot of rain, and we were able to play a good majority of those games; they did a nice job on those fields. We have been pretty consistent with our numbers; this year we were down about 20 – 25 kids."

Mayor Zavodny stated: "Is it fair to say that the philosophy has changed from now looking at the City buying it (the ball complex) to the Association would like to keep running it?"

Jason Lavicky stated: "I think the Association would love to continue to own it. I feel that that is probably the consensus. The problem is, if we can't service the debt and maintain what needs to be done with the program, we can't do either; we just can't do it, so that's kind of where we are at."

Mayor Zavodny stated: "So really we are waiting to see what the fund raising efforts will do. I think this Council's been pretty comfortable, when bills have been submitted to us, in using part of that sales tax to help defer costs of real things that we can pay for. We can't pay for umpires and those kinds of things."

Jason Lavicky stated: "Here's a suggestion I have, would the Council be interested, 1 or 2 representatives from the Council, and the Association sitting down with each other and going through our income statements, going through our balance sheets, so there's a better understanding of where our numbers are?"

Mayor Zavodny stated: "I'll open it up to the Council for questions of Jason and what about doing something like that. Is that something a couple of the council members would like to do?"

Council member Rogers stated: "Mr. Mayor, I have been talking to a few members of the Ball Association and we truly do need to help the Ball Association survive. I was going to bring it up when we got to budgets that we take so much money, and this is going to be really unpopular when I say it. We generally give the parks \$40,000 of sales tax revenues and I was going to suggest that we take \$20,000 there. We're going to cut the field maintenance in half this year from \$12,500 down to \$6,000 and help them like that."

Mayor Zavodny stated: "So make it a designated part of what we were going to put towards Parks?"

Council member Rogers stated: "Yes. I know that it's unpopular to take money from the Park but I think we have to put money towards the Ball Association to help them survive."

Mayor Zavodny stated: "Well, I'll say that as far as this community that's a good investment insofar as the sales tax it generates from when they have games and tournaments."

Council member Rogers stated: "You and I both know that we can't afford to buy it; we can't. That would be a way that we could help them survive."

Council member Hotovy said: "I agree."

Mayor Zavodny stated: "We will have to earmark that for actual demonstrable receipts to buy things, but at least if you don't have that money to pay for those things you can allocate elsewhere for the things that we can't fund. That is one option."

Council member Rogers stated: "I wanted to commend them on their banner sales and everything that they are trying to do. They really are trying and I think we should recognize that."

Council member Hotovy stated: "I agree and I will state that we can't buy the fields but there's absolutely no reason in my opinion that there should be any negative energy, negative feelings, from this Council towards the Ball Association as a program. They're working hard, you just have go out there and see it."

Mayor Zavodny stated: "Well it will be interesting to see, when you do your drive of anybody who has ever played ball there and you can reach out, foundations do it, and you can have people out of state contribute to this."

Jason Lavicky stated: "I'll wait for feedback to see if you do have any council members who want to sit down and go through the numbers with us, if someone would just let me know."

Mayor Zavodny stated: "We will do that. We will keep communicating with you on that. Thank you Jason. Moving further with our department heads, I noticed on yours (City Office) you need help."

City Clerk Kovar stated: "Yes, we do need help. 12 – 20 hours a week would be a good start. Even when Jean Hansen was the City Clerk, we had me and Tami Comte working full time and Verla Johnson who worked 20 hours a week and more when needed especially when people were out on sick leave or on vacation. Verla was on constant call and that was very nice. Unfortunately, Lori Matchett has been missing a lot of work due to health issues, so lately it's just been Tami and I and we are getting behind."

Mayor Zavodny stated: "I don't like to spend money, that's been clear, but is this the right approach given it's harder sometimes to hire a part-time as opposed to offering a full-time. The reason I say that, and there's no way to do this without probably offending somebody, that's not my intent. But, as far as a succession plan, we probably need to get somebody in the office.....you started when you were 12 or something? You know there's a learning curve there, it takes time."

City Clerk Kovar stated: "What he's trying to say in a nice way is I'm getting older every year."

Mayor Zavodny stated: "I'm wondering if we're not at a point when we need to start looking at a succession plan. You announce your retirement 20 years from now and then someone needs to walk in right away. This is something we probably need to think about."

It was noted that the Library needed someone to clean off the black streaks on the limestone caused by water running down them, someone to spray the weeds in the sidewalk and along the building periodically, and the area between the Thorpe and the Library needs to be cleaned out. City Clerk Kovar will notify the appropriate city departments to address these issues.

The City received notification from the Nebraska Department of Economic Development that the David City Municipal Auditorium was approved for Civic and Community Center Finance Fund Grant Assistance with a matching grant in the amount of \$60,000. The proposed project includes: making the restrooms wheelchair/handicapped accessible, painting the upper level ceiling and installing new upper level light fixtures, and installing a concrete handicapped parking area on the lower level. An estimated cash match of \$55,500 will be provided by the City and the City will provide in-kind labor (demolition, painting, and concrete pour) in the amount of \$4,500.

Kevin Betzen's report stated that they have been doing some routine flushing of the sewers and cleaning out lift stations to try to prevent problems. They continually have problems with the lift station in Kozisek's Addition being plugged even though they have visited with the residents in that area about being cautious of what they are flushing down the sewer. They are also in need of some computer updates so that will need to be considered in the budget.

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

Dawn Danley, Senior Civil Project Engineer of Leo A. Daly presented an update concerning the Downtown Redevelopment Project. Dawn stated: "The topographic survey that we had flown is done; I've had it for about 3-4 weeks. We will be getting Gilmore and Associates out here, I think they're starting next week to get me some door shots, the flight couldn't catch those, step elevations; obviously those are big issues with ADA. Next week they are going to get me the sanitary sewer depths hopefully and just some minor things that the other survey didn't pick up. Mid-States will be onsite in August, they'll be doing borings near most intersections and then I'll make sure they do borings at 6th & "E" and 6th & "D" because it is my understanding that is where the old fill was placed a long time ago. They'll provide us pavement recommendations, what your soils look like, and all of that. Then we'll talk to them specifically about a brick paver system and how to make sure we can support commercial traffic with that, so they'll give us recommendations. I need to talk to the County about 4th & "D", the corner of the parking lot. I'm going to call Mike Jones of the "Think Tank" and see if they have a name for me, different than what I called, but we want to talk about obviously improving that corner. If it's not grass, their parking lots are in dire need of help and I want to talk to them about that. Tinius Plumbing, they are from Lincoln, they will be televising the sewer line down 5th Street the first week of August. They will go from the Railroad track south to probably "C" Street and get me the condition of the pipe and where the building services are. We will get a DVD of that so we can watch it and then give a recommendation for that. Nebraska Department of Roads and 4th Street coordination. I talked with Tom Goodbarn, NDOR District One Engineer and talked to him about the highway. The Highway has 36' jurisdiction down 4th Street. They have plans to overlay but it's not until 2020-2021. He said we are more than welcome to do the whole thing, and I said "if we're going to do the whole thing can you pay for it?" Typically they come first, but I'm like "if we build it first, can you come back and help after the fact?" He said that is potentially possible, they are going to kick it around, they have a new guy in charge who wants to think outside the box, it would basically be a State assisted, kind of after the fact, contribution. When need to figure out, if we could get money from the State, and when it would

come. Typically state projects are an 80/20 split. Something to keep talking about. Dawn presented the following overhead and pictures:



Downtown Improvement Project

Dawn Hottovy Danley, P.E.
Project Engineer

Project Update

- Aerial Topographic Survey – done
- Gilmore & Associates will be onsite next 2 week
- Mid-States will be onsite in August
- Meet with County about 4th and D corner
- Tinius Plumbing will be televising Sewer down 5th Street first week of August.
- NDOR – 4th Street coordination with NDOR
- Tunnel investigation – Structural engineer recommendations
- Meeting with Property Owners
 - Letters to be sent to all business owners for open house Wednesday August 19th (7-7) and Thursday August 20th (7-2).
 - Will leave sign up sheet here in City office from the property owners to come and sign up for a slot. **NEED THEM TO BE PRESENT!** Recommendation for advertisement in Banner Press....

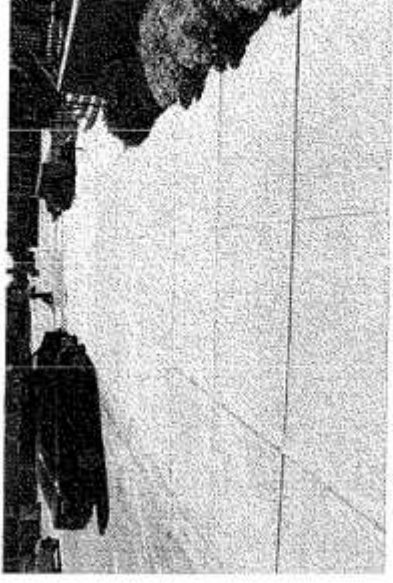
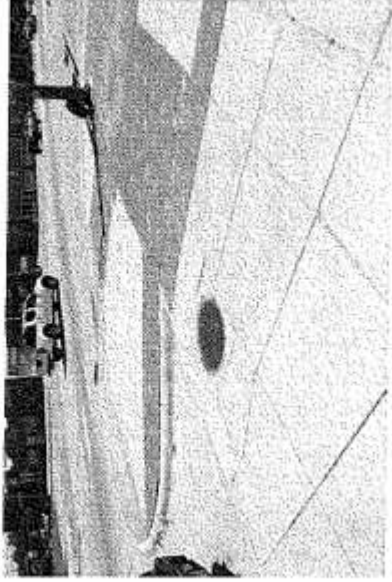
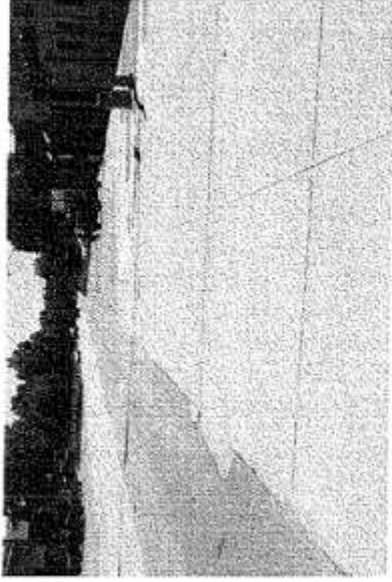
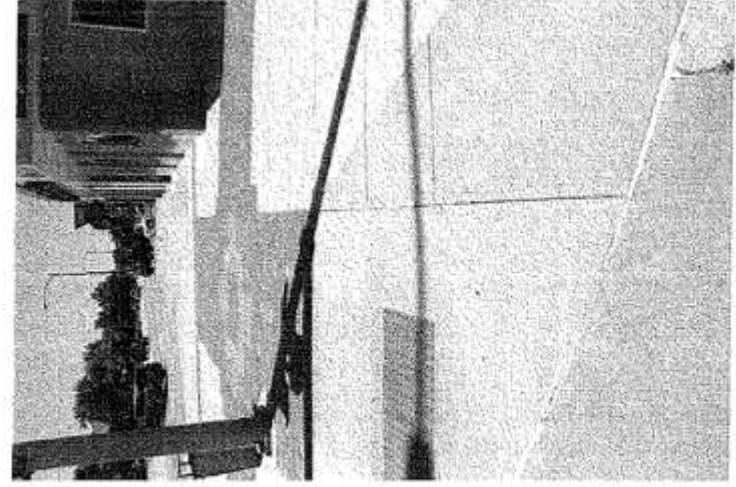
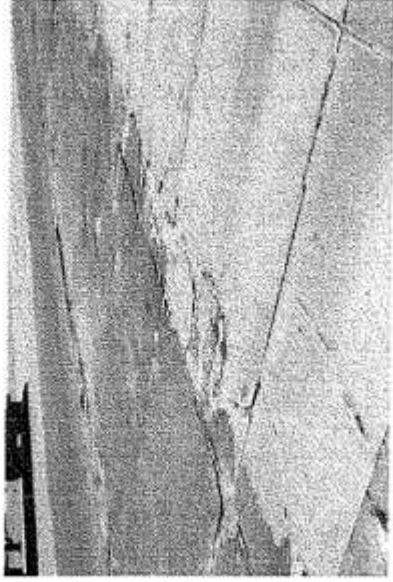
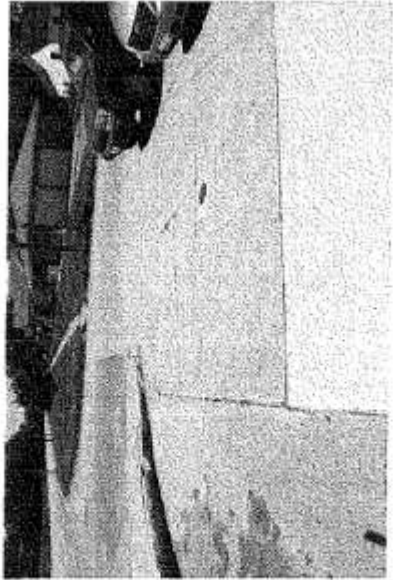
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Project Update

Questions/Clarifications:

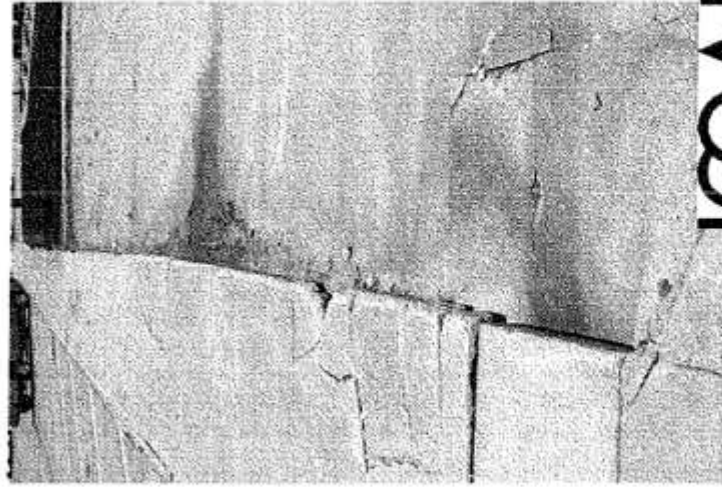
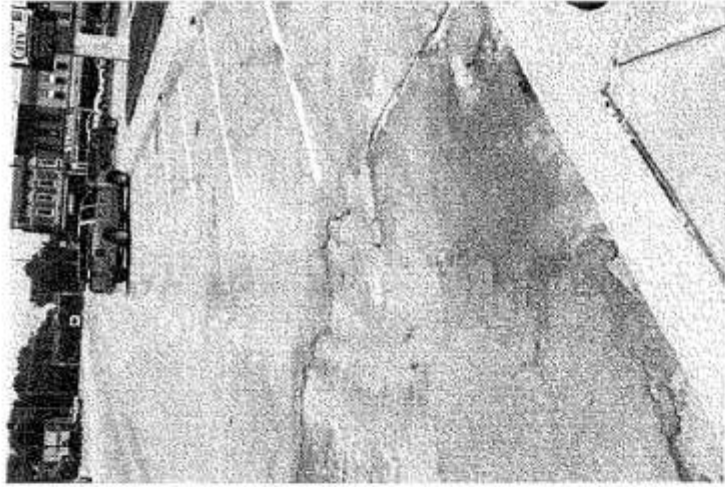
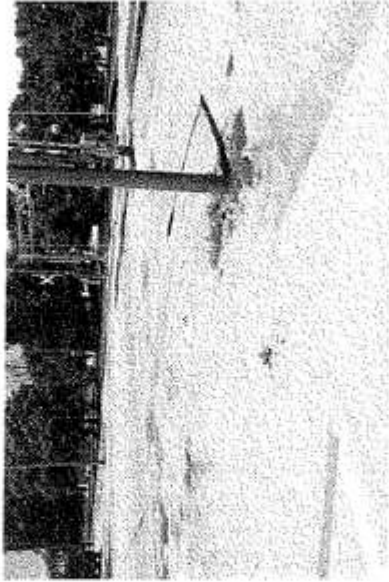
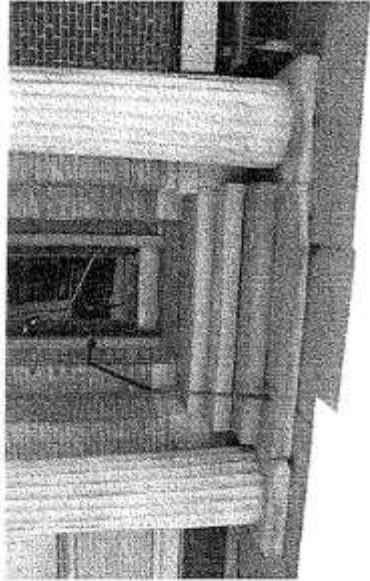
- Water line down C Street to 7th
- Size of water line
- Flagpoles anywhere specific
- Alley extents
- RR – talk to them about filling with rock
- Trash – benches – Trees in intersection islands
- Largest Commercial truck
- ADA entrances
- Design committee for questions
- All storefronts will have 6" curb unless a garage door is present.
- Parking needed on east side of Hwy 15 From D to E Street
- D Street will be left turn lane and then combined right and thru lane
- Alternate Bid options

Project Limits – 4th Street



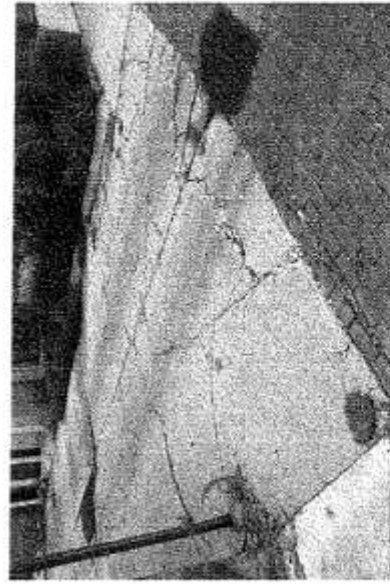
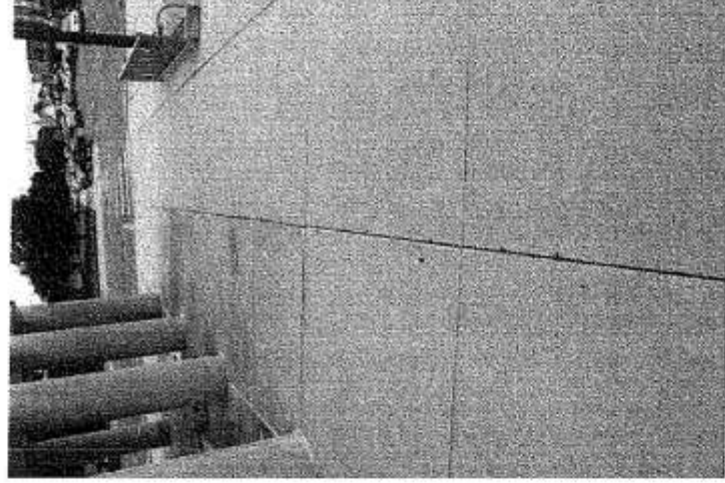
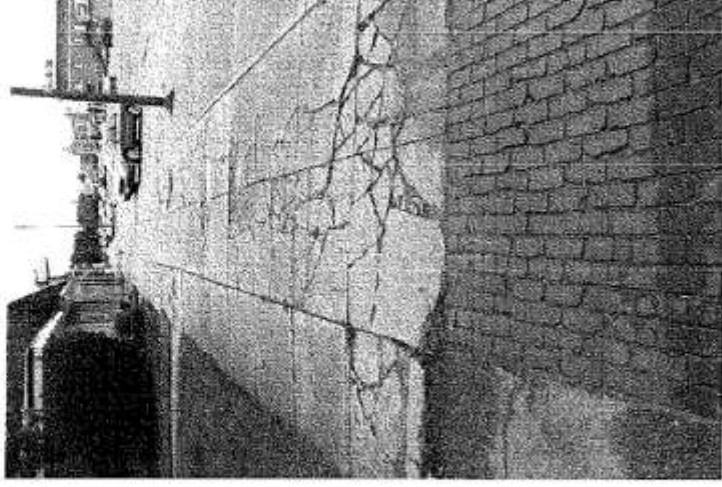
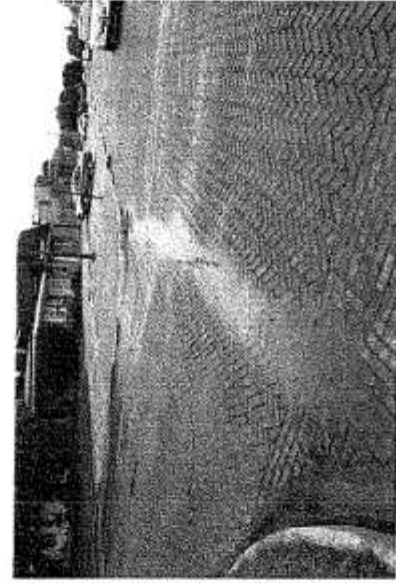
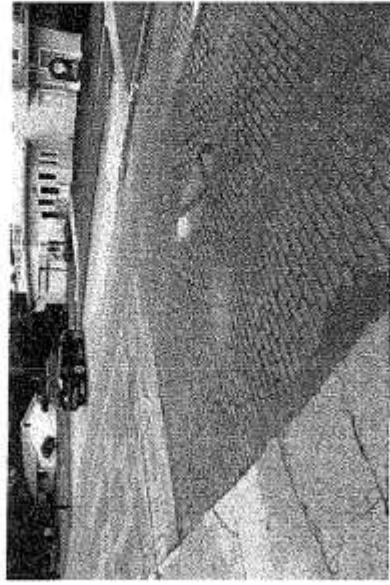
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Project Limits – 4th Street



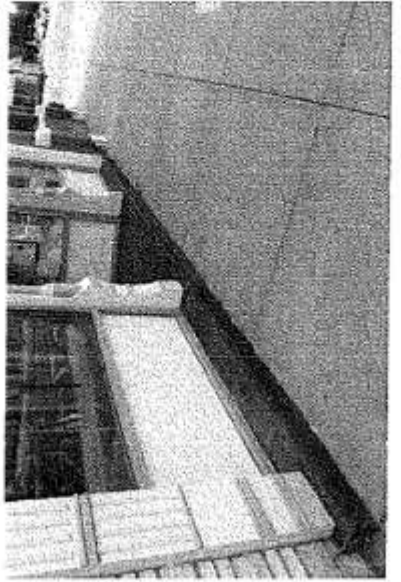
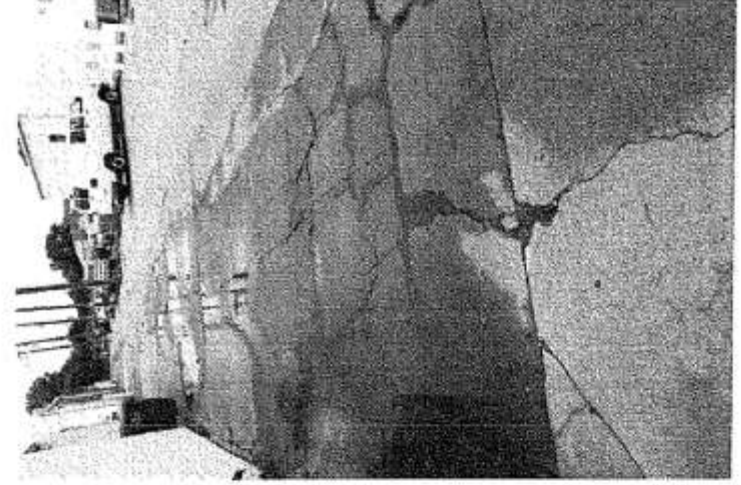
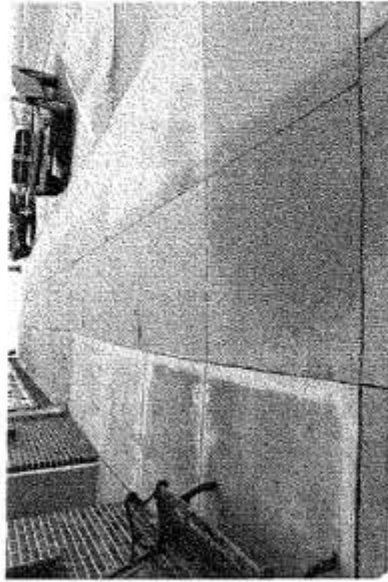
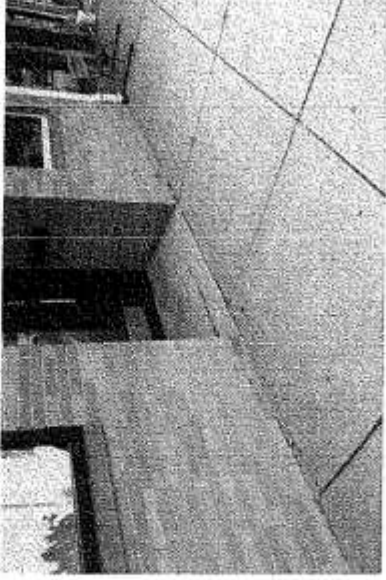
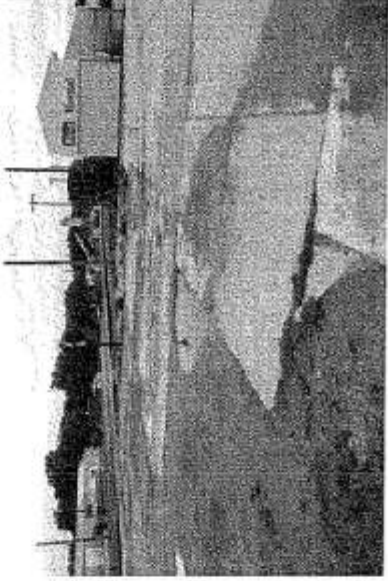
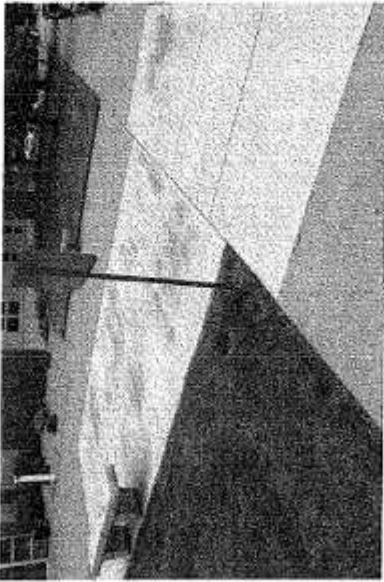
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Project Limits – 5th Street



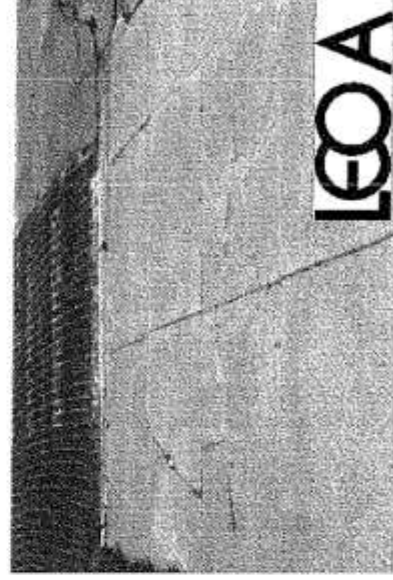
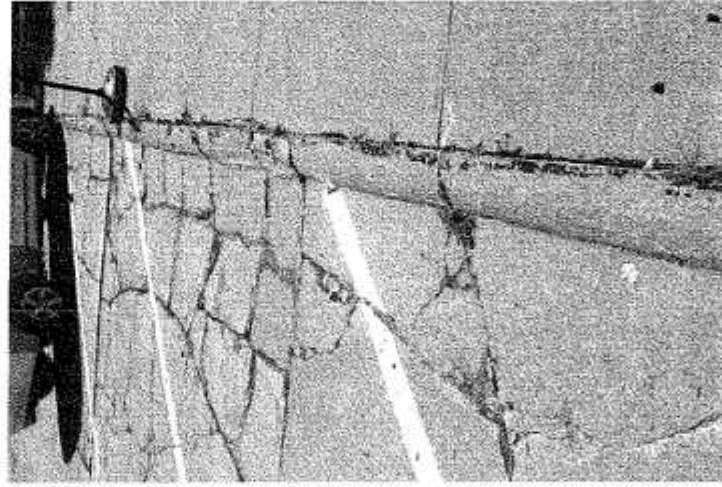
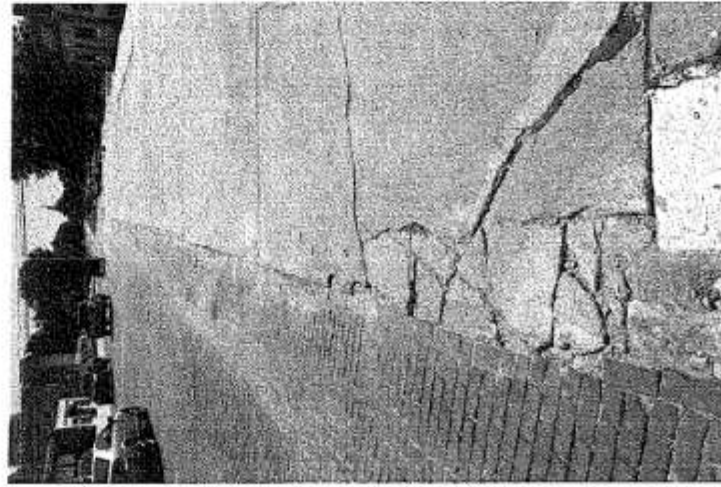
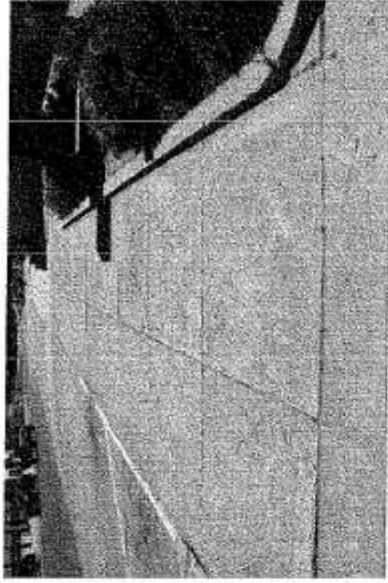
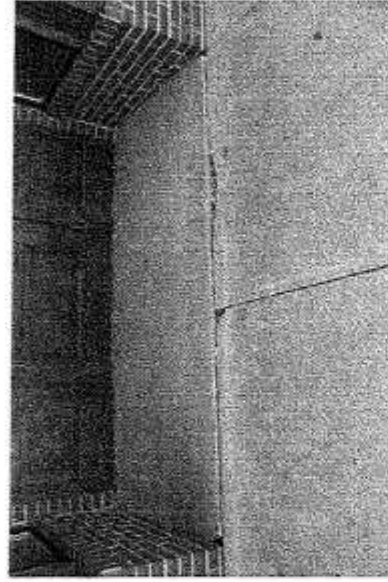
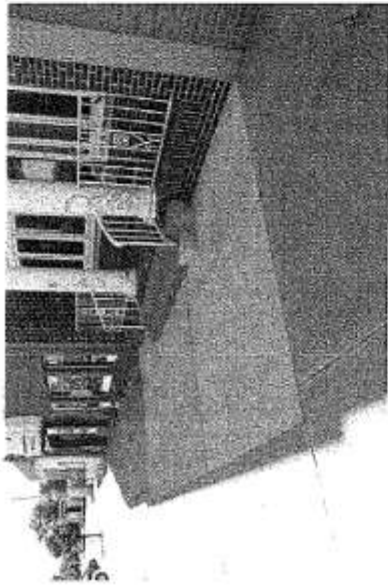
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Project Limits – 5th Street



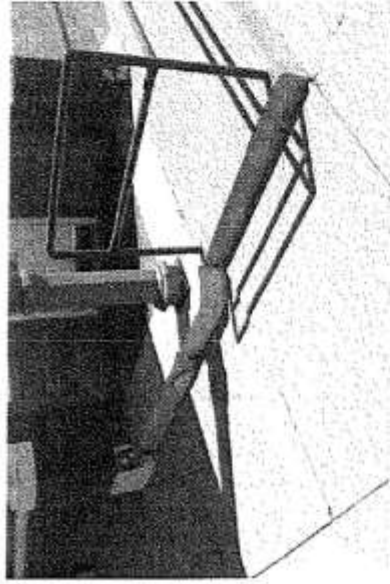
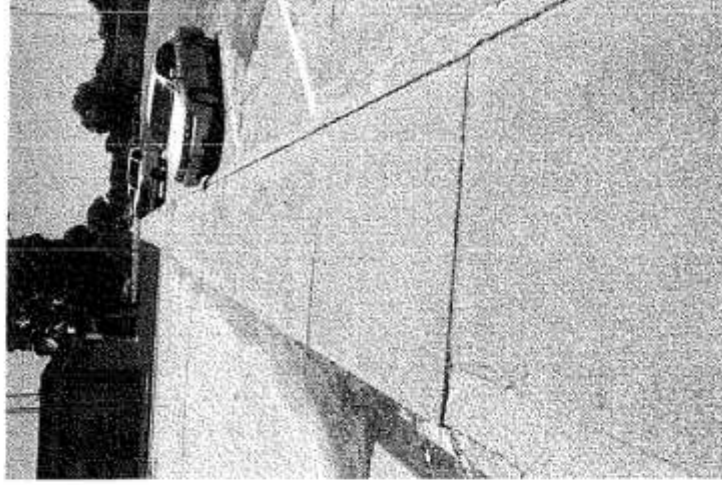
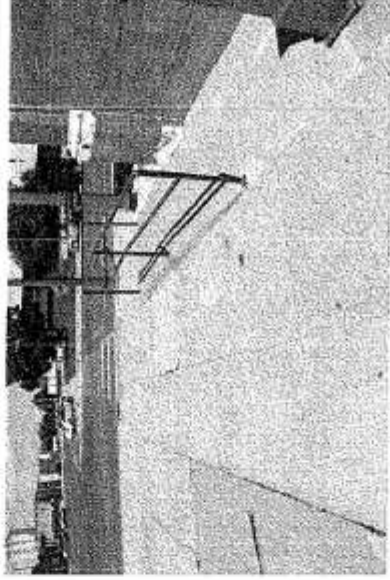
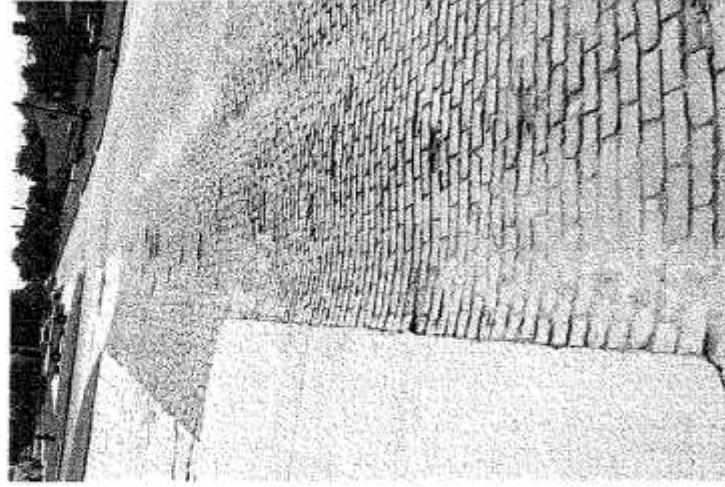
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Project Limits – D Street



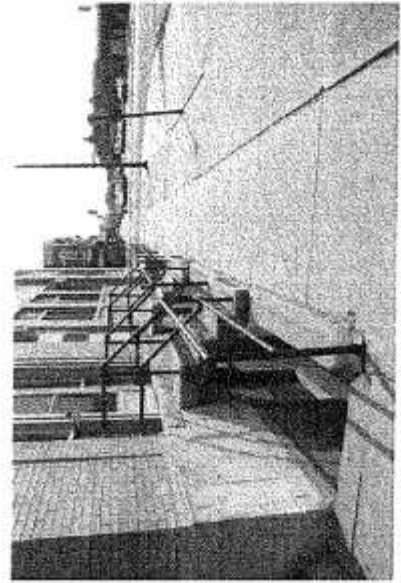
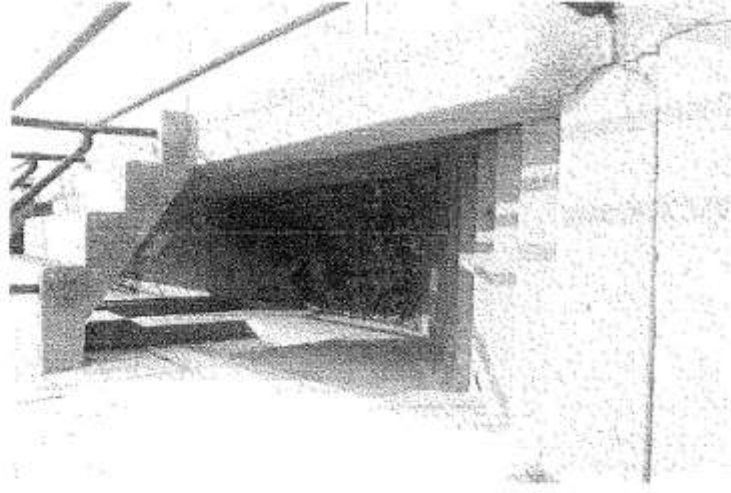
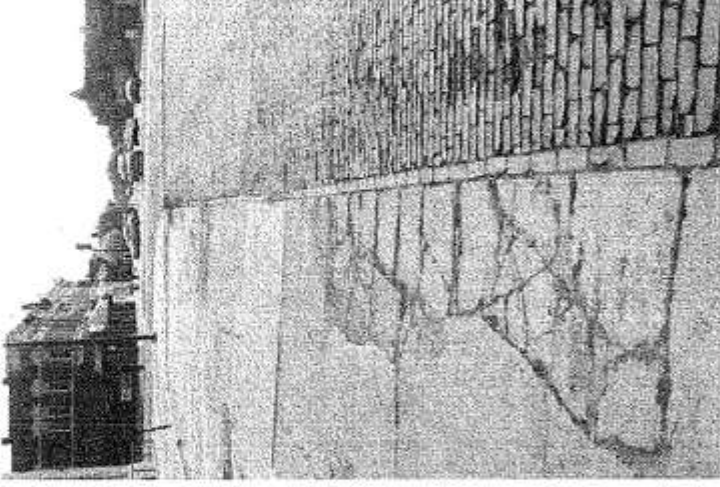
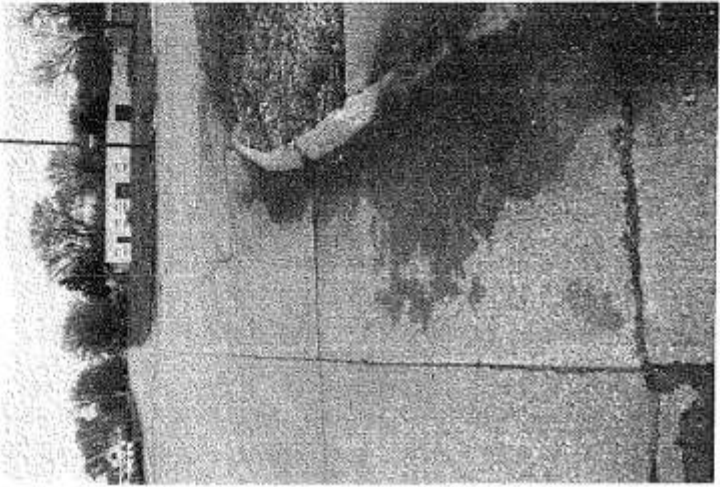
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Project Limits – D Street



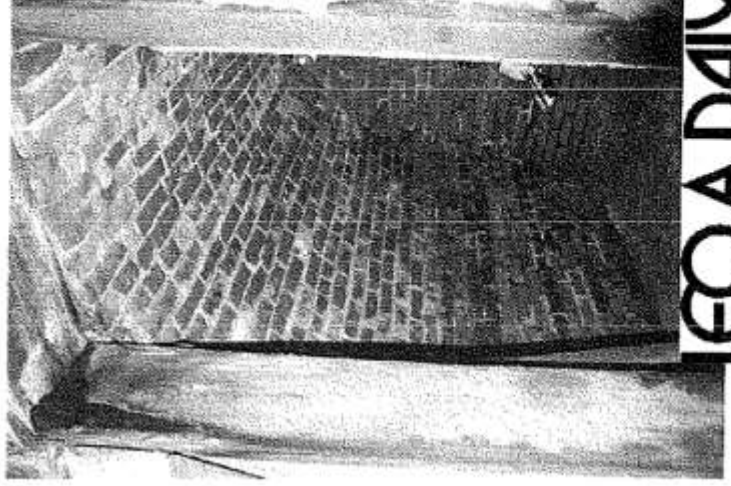
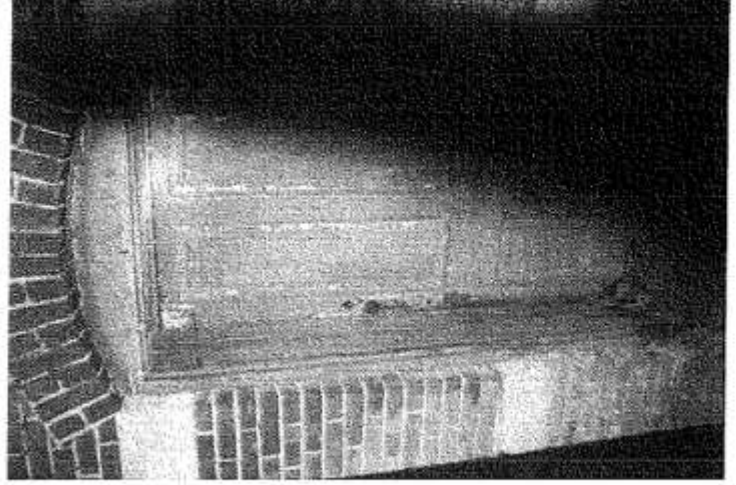
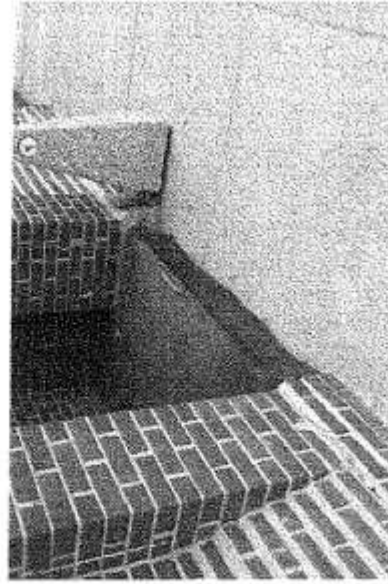
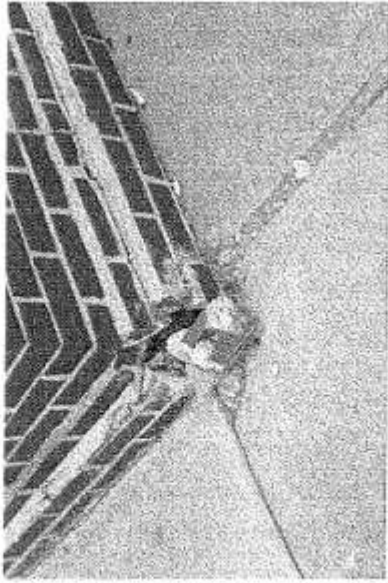
LEO A DALY

Project Limits – E Street



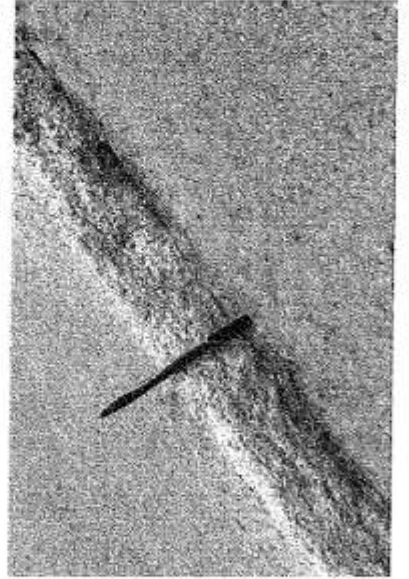
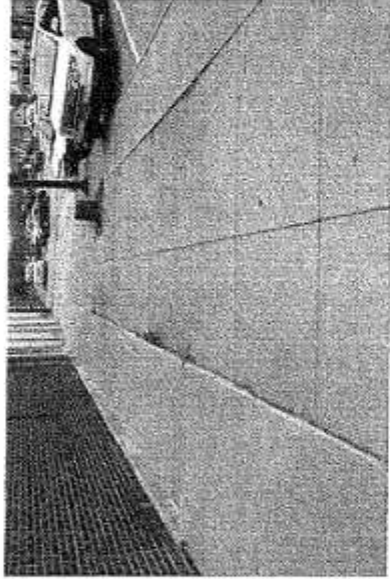
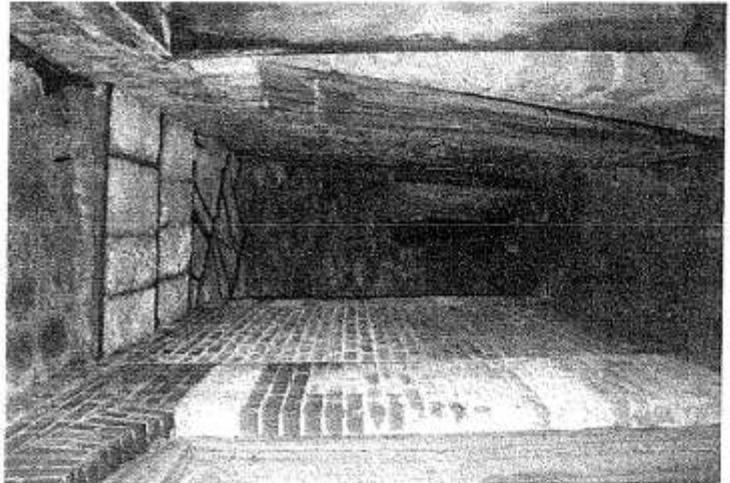
LEO A DALY

Project Limits – E Street



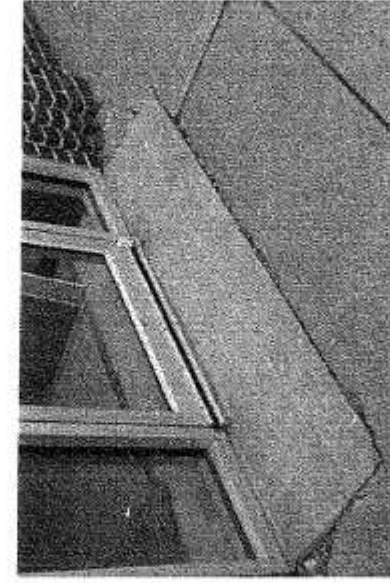
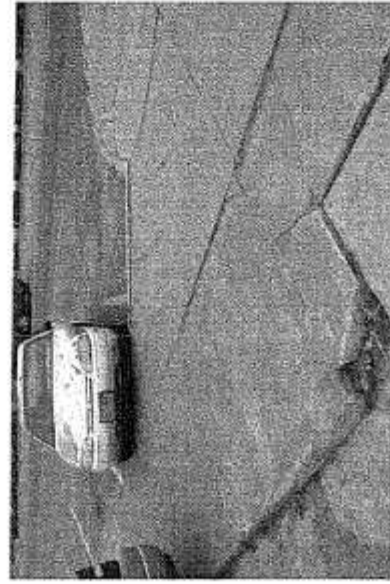
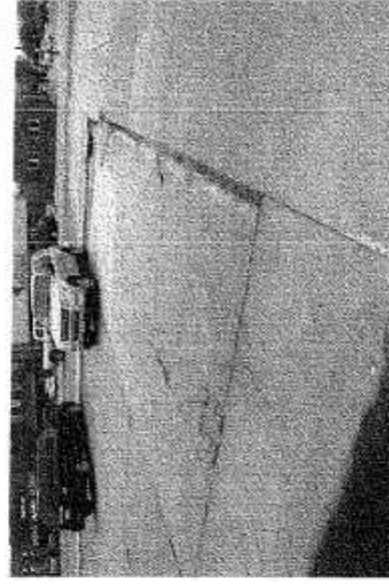
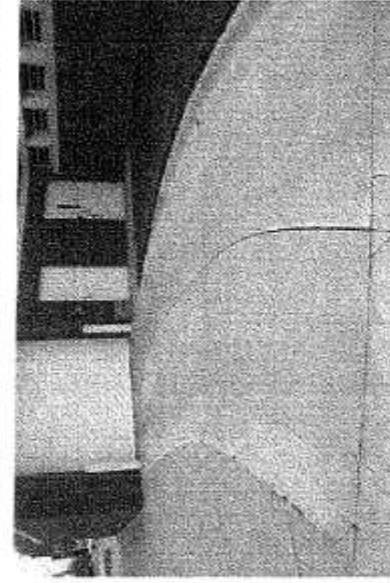
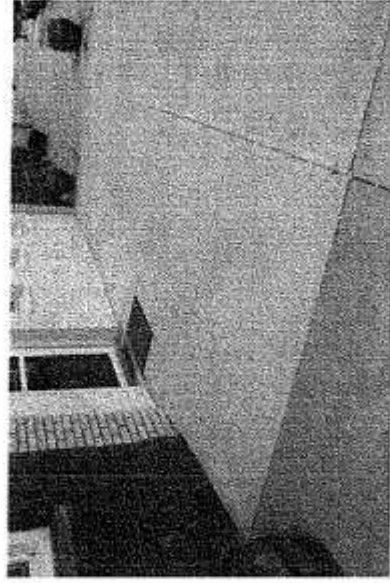
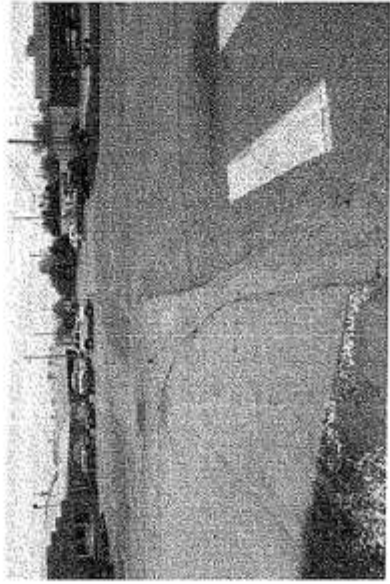
LEO A DALY

Project Limits – E Street



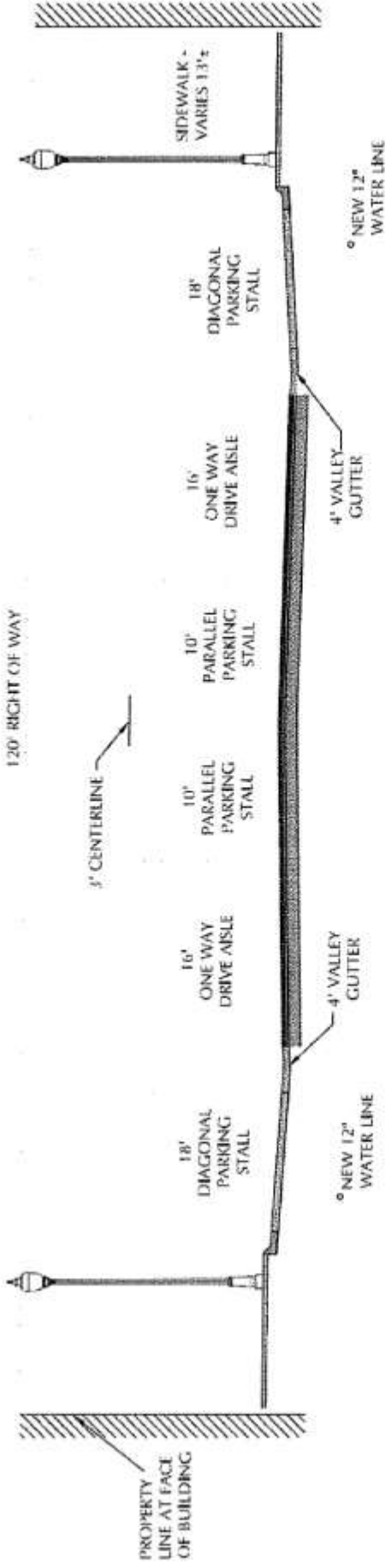
LEO A DALY

Project Limits – E Street



LEO A DAILY

Street Section – Valley Gutter



Pavement Base Bid:

- 55' of red brick pavers to match color/size of existing (parallel parking and drive lanes) Pavers to have rock base suitable for H2O loading.
- 5" concrete for valley gutter and parking stall
- 4" concrete for sidewalk
- 12" water line 5' from back of curb in parking stall at 5' deep

Pavement & Funding Options

- Permeable Pavers
 - Can be used for Commercial traffic areas
 - Has a drainage layer to keep water below ground
 - Potential for grants/loans
- Explore funding opportunities
 - USDA - Water & Waste Disposal Loan & Grant Program – Rural towns with less than 10,000 people. Provides funding for clean and reliable drinking water systems, and storm water drainage to households and businesses in eligible rural areas.
 - NE DEQ - Small Community Matching Grants (for wastewater treatment facilities).
“A subprogram of the Clean Water State Revolving Fund, the Small Community Matching Grants program provides matching grants to municipalities with population of 10,000 or less.

As of July 1, 2012, this program has provided \$7.2 million in grant funding for 55 projects in conjunction with a Clean Water State Revolving loan. Many small municipalities find that needed projects are too costly without the additional grant subsidy provided concurrent with the CWSRF loan. Grant funding comes from the CWSRF’s Construction Administration Fund.”

LEO A DAILY

Next Steps

- Business Owner Meeting August 19th and 20th – letters to be mailed early next week.
- Updated cost estimate will be presented at August 26th Meeting.
- 60% drawing set to be reviewed in October 2015 – with cost estimate
- Final drawing set to be reviewed in December 2015 – with cost estimate
- Bid in January of 2016
- Construction Starts April 2016*
- Construction Ends July 2017*

**If funding opportunities are available – schedule could change to apply for them*

B **BORGERT**
PRODUCTS, INC.

EST. 1973

... just better

Marriott

Architecturally...

Bold & Beautiful

Family owned and operated for over 85 years. St. Joseph based Borgert Products, Inc. is committed to providing quality and service unmatched in the industry. Our location in Central Minnesota allows for the finest selection of premium aggregates in the country - granite is the hardest aggregate available. Utilizing these materials and creating a carefully proportioned mix design, Borgert is able to produce an extremely dense, high quality paver on state-of-the-art equipment. Borgert pavers provide the end user with exceptional durability, environmental integrity and low maintenance. As well as being aesthetically pleasing to the eye, these pavers are an excellent alternative to poured concrete and asphalt. The granite aggregate not only offers the hardness factor, the dark color is also a benefit. Our industry standard that bits of aggregate can show on the surface of the paver and the darker aggregate is less noticeable than the lighter colored aggregates commonly available in other regions.

Better Pavement Solutions

Interlocking concrete paving stones have been a proven paving material for a wide variety of applications for nearly 40 years, offering unique advantages such as resistance to severe loads, flexibility of repair, low maintenance, exceptional durability and high quality. Because an interlocking paving stone pavement is flexible, it withstands heavy loads and resists heaving from the effects of freezing and thawing.

Mission Statement

Our mission is to produce premium interlocking concrete pavements and related products, with a responsibility to customer attention, employees and the environment.



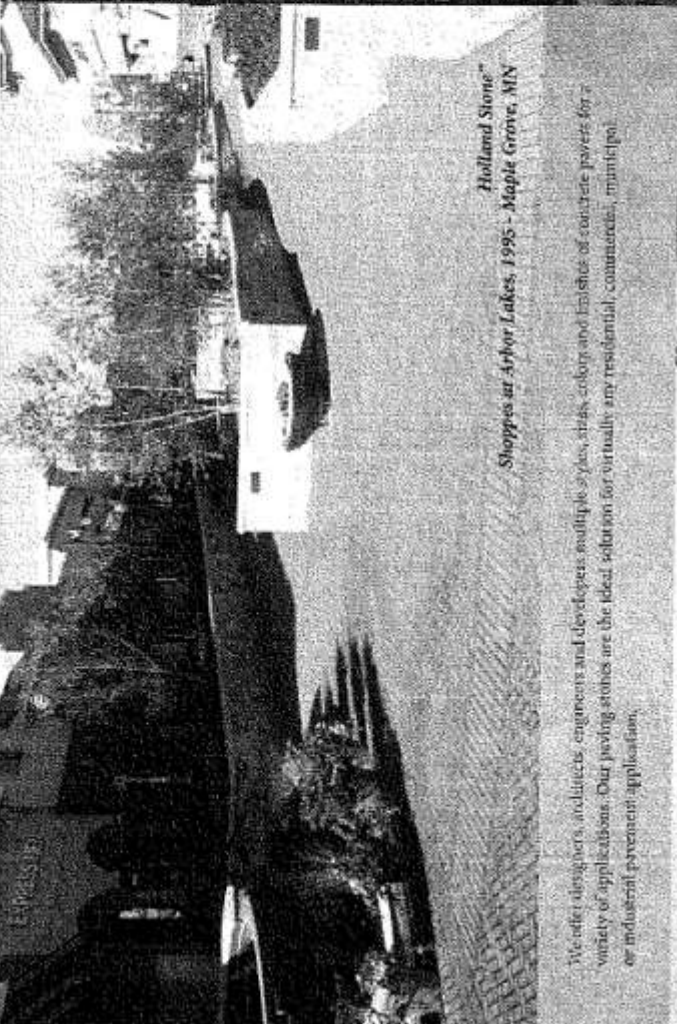
13500-Bark
NORTH LIBRARY, 20000 BARKHOLM, CO

Hill and Square - Plaza Technology - Simon Station
Baltimore Library, 2000 - Minneapolis, MN



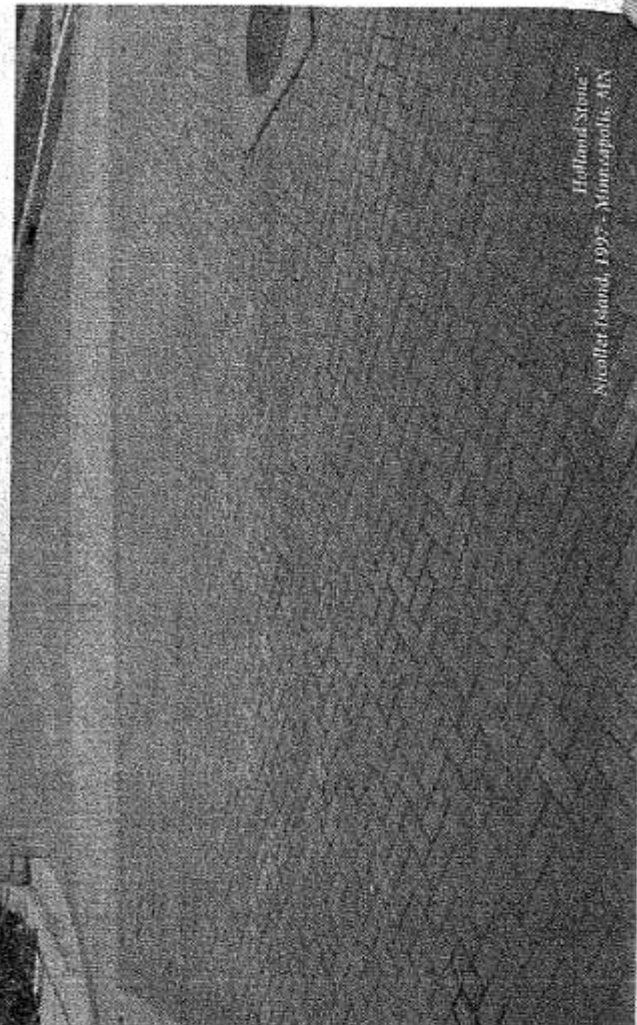
Streets

Borgert Products has set the standard of excellence in the U.S. and Canada. Well known for their beauty and elegance, Borgert's concrete paving stones also offer exceptional strength and superior stability under heavy loads. Unaffected by the extremes of heat and frost, Borgert's concrete paving stones can be utilized in any climate and unlike many other types of pavements, can be trafficked immediately after compaction.

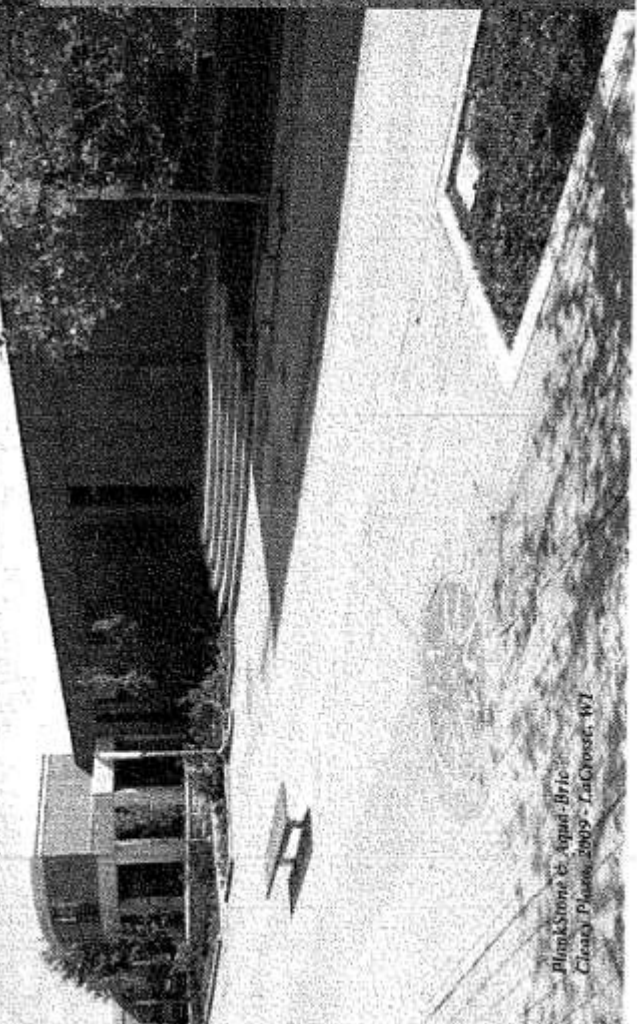


*Holland Stone™
Shoppes at Arbor Lakes, 1995 - Maple Grove, MN*

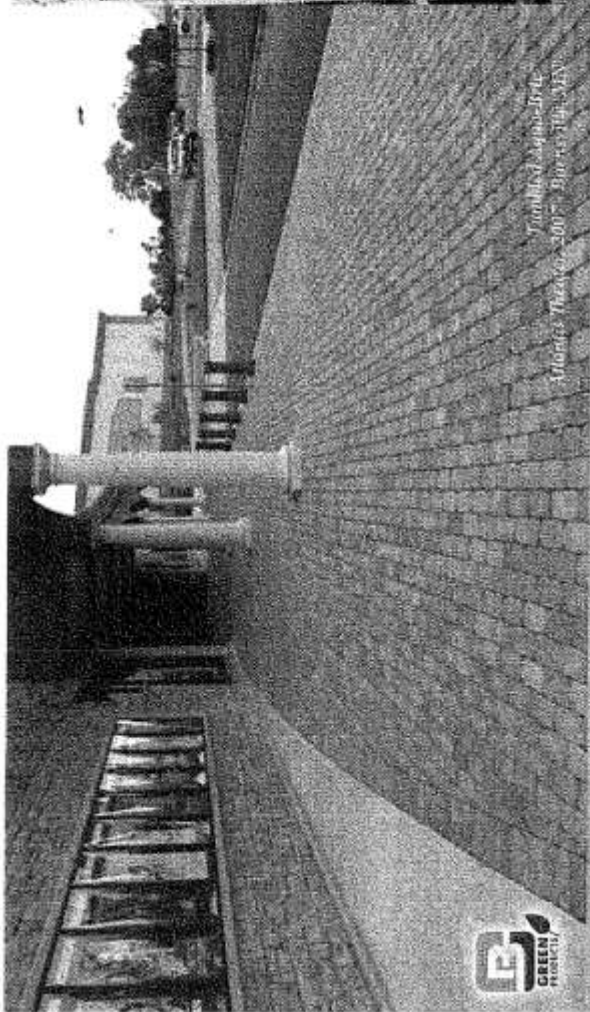
We offer designers, architects, engineers and developers multiple styles, colors and finishes of concrete pavers for a variety of applications. Our paving stones are the ideal solution for virtually any residential, commercial, municipal, or industrial pavement application.



*Holland Stone™
Nicolllet Island, 1995 - Minneapolis, MN*



*BlankStone® Aqua-Bric™
Cleary Plaza, 2009 - LaCrosse, WI*



Trademark of Aquia-Bric, Inc.
11000 Lakeside Drive, Suite 100, Denver, CO 80231

Drainable, Interlocking Concrete Pavement

Environmentally responsible solutions.



11000 Lakeside Drive, Suite 100, Denver, CO 80231

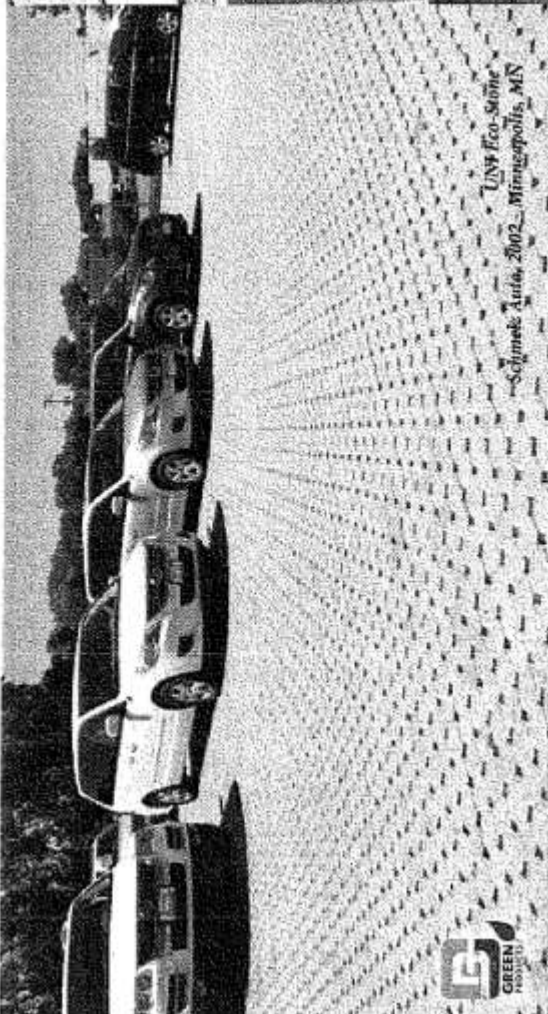


Solutions for Stormwater Management

Borgert presents a pedestrian-friendly stormwater management system featuring Aquia-Bric™ permeable pavers. The smooth, flat surface created using Aquia-Bric™ meets ADA standards and is a superior choice for areas with high foot traffic – even for pedestrians in high heels or wheelchairs. Ideal for plazas, walkways, entrances and parking lots, Aquia-Bric™ is used by Borgert to implement the environmentally sound Bio-Aquifer Storm System (BASS™).



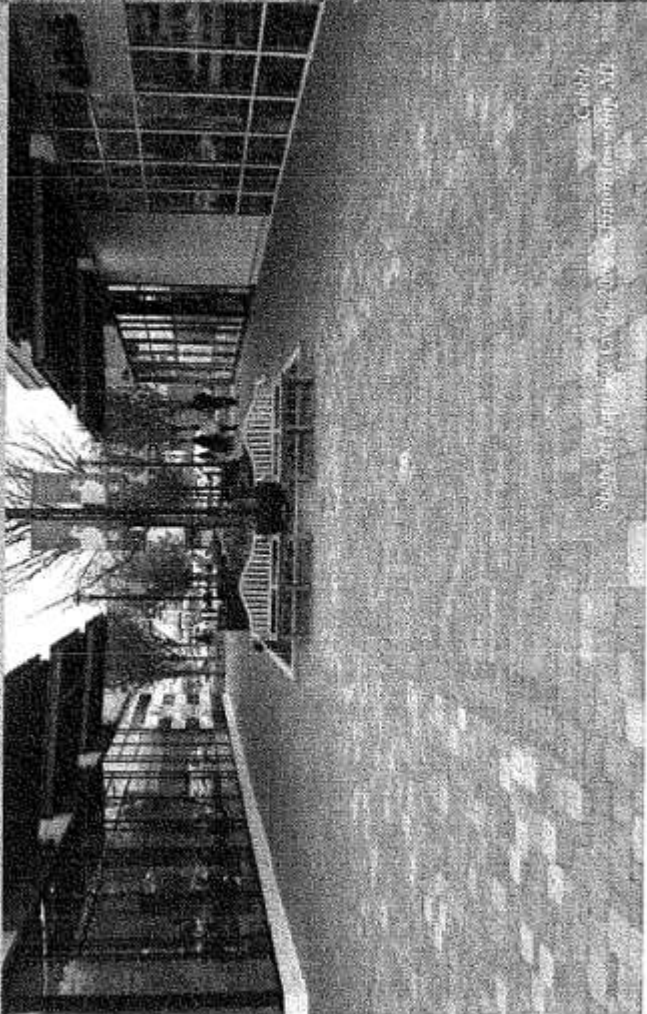
11000 Lakeside Drive, Suite 100, Denver, CO 80231



UNV Eco-Stone

Schmeck, Inc., 2002, Minneapolis, MN

Building materials made with granite aggregates have a reputation for being virtually indestructible. That is why concrete pavers made with granite can provide a long term solution for anyone who wants their pavement to last a lifetime. What more peace of mind could you ask for?



Shawmut Design Group, 2002, Farmington, CT

Castle

Versatile

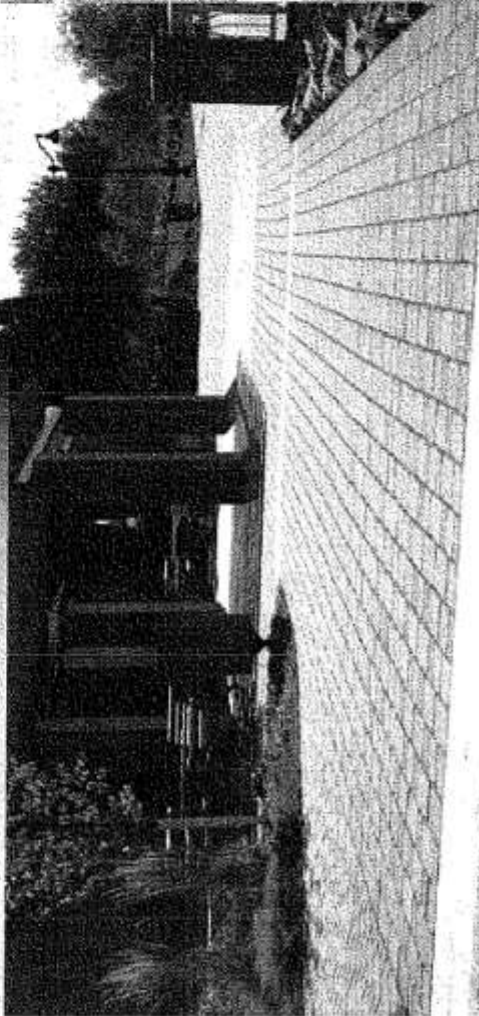
It is simple in design, yet capable of meeting the demands of architects and designers for a beautiful, durable, textured paved surface. Pavers can be applied in a number of fascinating patterns - like the popular herringbone pattern - to create warm textures. You can create a classic look with the simplicity of a one stone design.



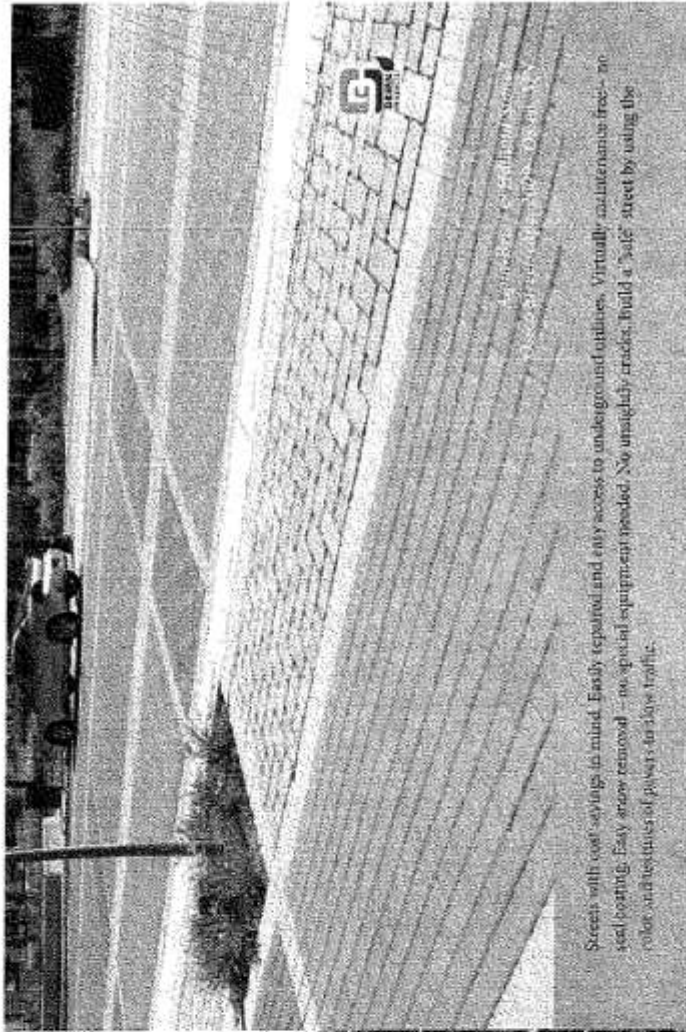
Hoiland Stone
Fitzgerald, 2005, Denver, CO

Distinctive

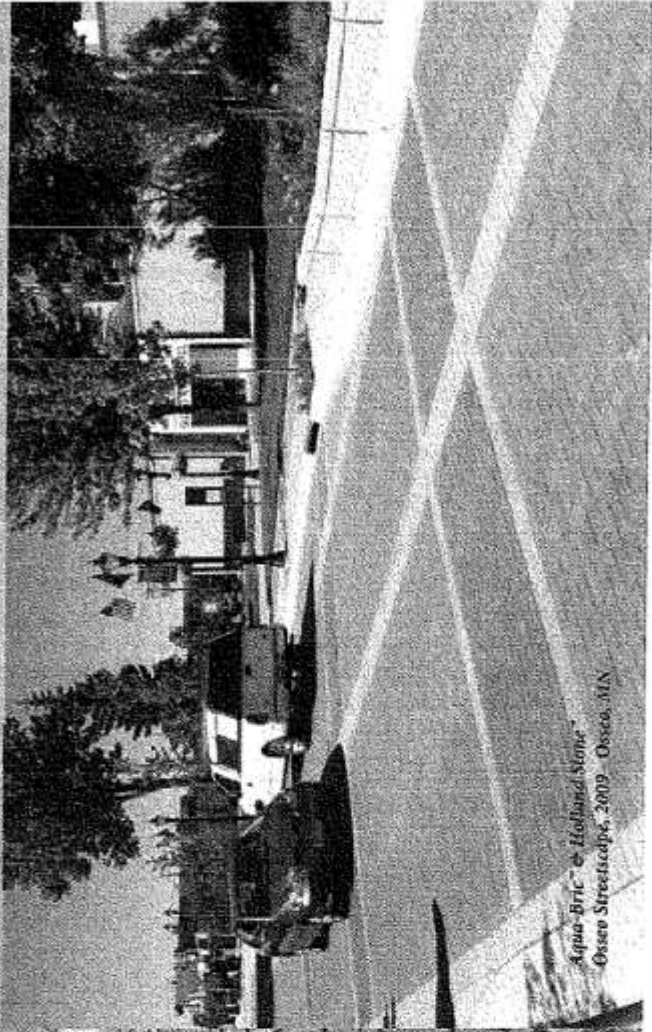
Calling to mind the distinctive look and feel of European cobblestones, the Burgert Cobble Series is a beautiful reminder of time since past. The series consists of several different sizes and a variety of colors, making the number of potential pattern designs virtually unlimited.



Cobble
Lutescens - 2009 - St. Charles, MO



Screens with cost savings in mind. Easily repaired and easy access to underground utilities. Virtually maintenance free-- no seal coating. Easy snow removal-- no special equipment needed. No unsightly tracks. Build a "safe" street by using the color and texture of pavers to slow traffic.



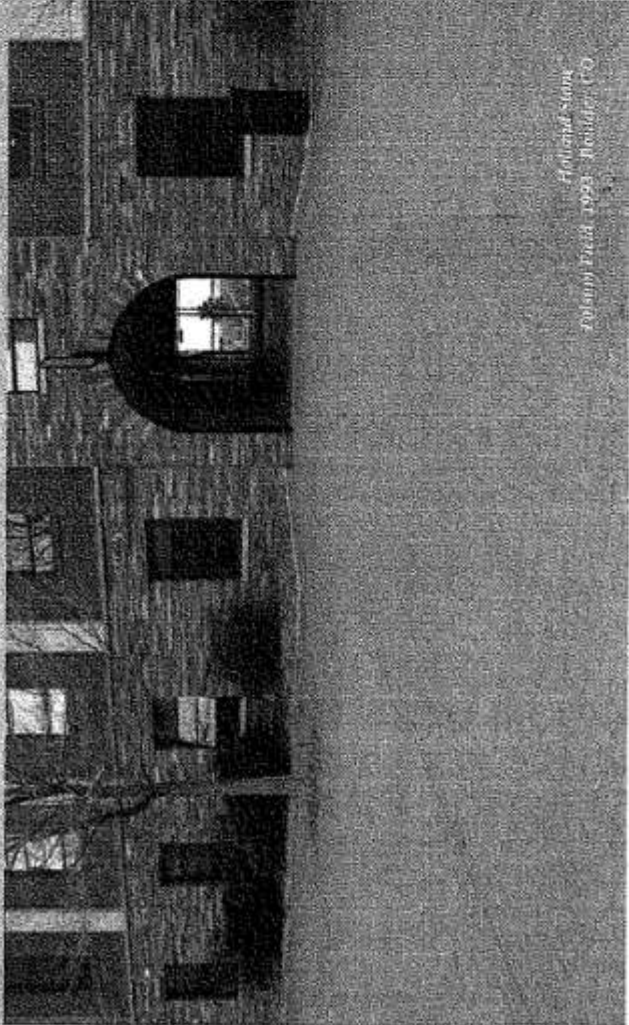
Aqua-Bric™ & Holland Stone™
Osseo Streetscape, 2009 - Osseo, MN



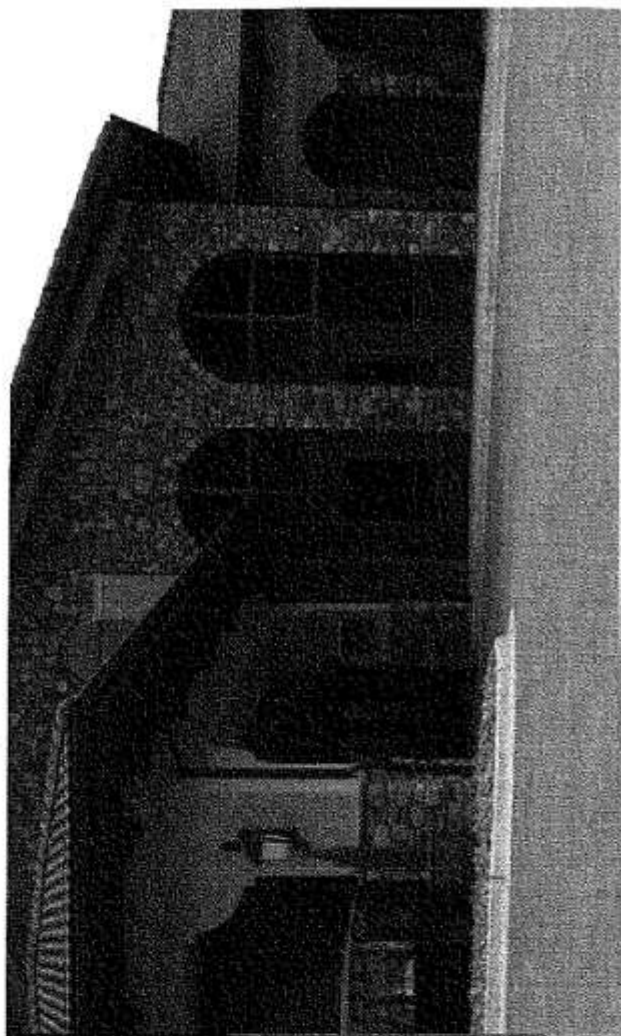
Holland Stone
Folsom Field, 2009 Boulder, CO

Borgert Pavers - The Best System - The Best Value.

An interlocking concrete paving stone pavement's superior to any other pavement. This is because our paver is 13,000 psi and only up to 3% absorption, which makes for an extremely durable wearing course that is long lasting and virtually impervious to fire. The life expectancy of a paving stone pavement is over 30 years compared to only 10 years for concrete or asphalt.

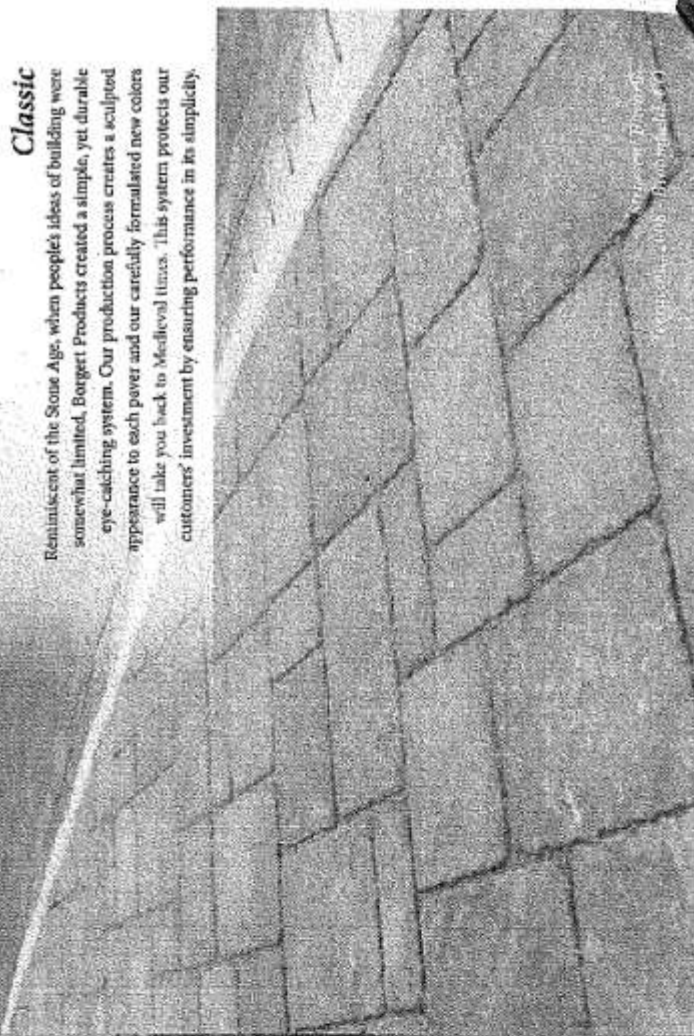


Holland Stone
2009 Field 2009 Boulder, CO



Classic

Reminiscent of the Stone Age, when people's ideas of building were somewhat limited, Borgert Products created a simple, yet durable eye-catching system. Our production process creates a sculpted appearance to each paver and our carefully formulated new colors will take you back to Medieval times. This system protects our customers' investment by ensuring performance in its simplicity.



Holland Stone
2009 Field 2009 Boulder, CO



*Cobble
Burgundy Place, 2009 - Minneapolis, MN*

Technical Data

- All Borgert paving stones are made from a "no-slump" concrete mix utilizing quality color pigments and are compacted under extreme pressure and high-frequency vibration.
- Borgert paving stones have a compressive strength greater than 8,000 psi, have a maximum water absorption of 5% and will meet or exceed ASTM C-936 and freeze-thaw testing per section 8 of ASTM C67.
- Our pavers are manufactured in thicknesses of 2 3/8 in. (60mm) and/or 3 1/8 in. (80mm). The type of application will dictate which thickness/shape(s)/pattern is best suited for a successful project.

Commercial Warranty

Borgert Products, Inc. provides a 3 YEAR guarantee on the structural integrity of its paving stone to the original purchaser of the product for commercial use. Material installed using our installation guidelines that prove defective, will be replaced without cost. Color matching cannot be guaranteed and replacement labor is not included. Proof of purchase is required.

Members:



Borgert Products is a certified DBE business.

For technical information and complete product data, see Borgert's Product Resource & Installation Guide.



MAIN OFFICE: 8646 Ridgewood Road | St. Joseph, MN 56374 | 320.363.4671 | 800.622.4952

WESTERN OPERATIONS: 5151 Bannock Street | Denver, CO 80216 | 303.783.3864

DESIGN SHOWROOM: International Market Square | 275 Market Square, Minneapolis, MN 55405 | 800.622.4952

www.borgertproducts.com

Dawn Danley, Senior Civil Project Engineer of Leo A. Daly continued: "We have structural engineers in our office. We talked about filling the tunnels; I may bring them out. We are really hesitant to filling up the buildings and blocking at the buildings. Blocking at the doorways is something we don't want to do because if we fill behind it we are creating pressure on that building wall that that wall and that foundation was not built for. So we talked about potentially building a wall just outside of their building line and it is a possibility we could design the wall for the pressure of the soil or the sand, but the footings, we don't know how they would conflict with what's underneath the building footings. So, that would be an unknown unless we could find building drawings, or we're out there. That was her major concern: you have a footing for the new wall, are you going to be in conflict with the building footing, so some unknowns tied to that. We were talking that maybe we don't do anything. The sidewalk around Sue's Just A Buck (Northeast corner of 5th & "E") is in pretty decent shape. We have to figure out what's between the top of the tunnel and the top of the actual sidewalk and see if we can remedy that. Everything adjacent to the building, we just make sure we tie in new pavement if we can and call it good. Under the road could be different, but we haven't found any yet that goes under the road. So thoughts?"

Mayor Zavodny stated: "It sounds overly optimistic to me. Once you start tearing stuff up, if you don't have a good foundation...."

Dawn Danley, Senior Civil Project Engineer of Leo A. Daly continued: "I think we are optimistic about the stuff against the buildings because there's not heavy traffic there, it's just sidewalk removal. If we find out, and I did not measure from the main floor down to the basement, I am going to have our surveyors get that so that I can figure out the depth of where that tunnel is, and then we measured the height of the tunnel, so then I can compare that to what's surface, and see what's there. If we really think the top of the tunnel is very, very close to the sidewalk, we need to keep thinking of options. If we think there's fill or dirt in between there, I think we can peel the layer of sidewalk off and put it back on. That's still a little unknown. In the roadways, whatever is in the roadways, we can certainly fill those, we don't have the structural issue that we do against a building."

Council member Kroesing stated: "I was under the impression those sidewalks, like around Sue's Just a Buck, they were formed on wood, and poured on wood. Since then, the wood has all rotted out and those sidewalks are free floating."

Dawn Danley stated: "Interesting. I have a picture, we'll see it and you can definitely see the differential between what the tunnel slab is and the normal sidewalk on grade. Meeting with the property owners; we have letters that are being put together for all of the business owners, Joan gave me the list. We are going to have an Open House on Wednesday, August 19th from 7:00 a.m. to 7:00 p.m. and Thursday, August 20th from 7:00 a.m. to 2:00 p.m. Al (Hottovy) and I will both be here; I'd like to have it here if we could, and what we're going to do is send a sign-up sheet to Joan and we'll have two slots, one for Al and one for me, and they can come sign up for their own slot for half an hour. We need to talk about utility services entering their building, ADA, construction phasing, any concerns they have and at least let them be heard, and how it will affect them. We need them present. So I will send a personal letter from us and a couple of weeks into August I will ask Joan who has signed up and maybe start

hassling those who haven't because it's very important. We don't need anybody to be upset about what we are doing and I certainly don't want to effect any of their services on a fluke or something that we did not know. We will also want to be an advertisement in the paper, make sure that we have that in plenty of time for everyone to be aware of what we are doing, and I'm going to let the "Think Tank" know about it so maybe they can reach out as well. This is a big one." *(Note: A group of concerned/interested business owners and citizens formed a group that they named the "Think Tank". They said they formed this group, as an advocate for the City and to give advice and guidance.)*

Council member Kroesing asked: "Have you had a sit down conversation with our department heads, mainly Sod on storm sewers and Kevin on water and sewer, yet?"

Dawn Danley stated: "Not yet but we can do that."

Council member Kroesing stated: "That should be an important topic I would think."

Dawn Danley stated: "Definitely, so I think we can find some time. I can come out anytime, we can certainly do that once I have an idea; I've tracked your storm sewer where it is going, it is very, very, shallow, and then we need to talk about water line locations, sizing, loops, and all that good stuff. We will certainly do that with the utility group."

Dawn Danley stated: "I have some questions and clarification as I move forward with design. "Are we going to be building the water line on "C" Street from 6th to 7th or 6th to the alley? We talked that that was in bad shape and it's very small."

Kevin Betzen stated: "5th to 6th Street?"

Dawn Danley stated: "Yes, sorry."

Kevin Betzen stated: "Yes".

Dawn Danley asked: "The size of water line? Matt requested a 12" line, now, while we are building it. We would probably recommend at least a 10", it's not that much more for pipe, you are still digging the trench. So, thoughts on that?"

Discussion followed. Water Employee Kevin Betzen stated: "That plan that we had set in place for years to come, if we get to that point, was to bring off the 12" off of "O" Street down 4th Street to connect hopefully to a 12" Downtown, loop over to 6th & "C" because that's a good 10" main down "B" Street, and in the future keep going down 5th Street down towards the Park; that way we have a 12" basically looped. I think we could save money by not going down each block like Dawn was talking and instead bringing that 12" line down, and keeping the lines where they are now, and not doing loops down every block."

Dawn Danley stated: "Let's meet here in the next couple weeks and we'll talk about where the services are, and we'll map that out and then we'll present what we think would be a good plan for that. Any new flag poles you want to add? Alleys are in dire shape. We are still planning on benches, trees in the intersection islands, decorative light poles that can have

baskets and banners. We need to address ADA entrances.” Dawn continued to discuss the Downtown Improvement Project.

Mayor Zavodny asked: “What if we did a different design; like what if we just did infrastructure? If we bring stuff like that to you, is that an additional cost every time you go and re-look at a change. I hate having change orders before we even start, look at this, what would this option cost us?”

Dawn Danley stated: “If we want to examine cutting the scope back I can certainly do that right now. If you decide that’s what you want to do, we have a contract for the full thing so we will have to work something out to back track that out. It is certainly something that I can look at without me digging you for extra charges every single time.”

A Special Council Meeting was scheduled for August 19th at 7:00 p.m. at the Hruska Memorial Library to continue the discussion of the Downtown Redevelopment Project. This will also be an agenda item for the September & October Committee of the Whole meetings. It was noted that there will probably not be Committee of the Whole meetings in November and December because of the close proximity to Thanksgiving and Christmas.

Eric Johnson, Vice President of Kirkham Michael, was not present for the review of the bids received concerning the T-Hangar Airport Project. Interim City Administrator Kovar stated: “The Engineers estimate for the T-Hangar Airport Project was \$597,079.20. Two bids were received: B-D Construction \$972,624.00 and TCW Construction, Inc.: \$722,979.00. It is Eric’s recommendation that we accept the bid of TCW Construction contingent upon FAA approval. The Nebraska Department of Aeronautics has reviewed the bid tabulation and concurs in the award of the bid to TCW Construction, Lincoln, NE“

Mayor Zavodny stated: “Well this isn’t that simple. We have \$600,000, we have some issues with compliance and drawing down our federal that address Jared’s (Storm) lease and that kind of thing, probably can work through those things, but even with the \$600,000 this is significantly higher than what we were anticipating.” Kovar stated that we may be able to get additional funding. Mayor Zavodny stated: “Until we have the money, what you might be able to get, does you no good. That’s \$123,000 in maybe and we can’t do something on maybe. That’s what causes me concern. We have two options: One, we sacrifice our federal money that we’re in trouble with anyway, and we just don’t do the T-Hangar’s at all and don’t worry about having ten planes out there, or we talk about is there another way to come up with \$123,000 and I don’t know what that would be even remotely.” Discussion followed.

Jared Storm stated: “The question I’d ask Eric Johnson if he were here, they stuck that T-Hangar clear by that wet land, and I said to him, “Why aren’t you bringing that closer in?”, and that’s where he wanted to put that was within 200’ of a wetland”.

Interim City Administrator Kovar stated: “Without the federal funding will we have money to make any Airport improvements?”

Rex Rehmer stated: "I think it should weigh heavy on your decision on what the future's going to hold for those hangars out there. What that's going to drive into town? What business can we see? What are we going to lose if we don't do it?"

Jared Storm stated: "Why don't you just have private construction out there? That's the way I'd do it."

Mayor Zavodny stated: "Maybe if we don't have the thumb of that federal funding over us, we can talk to private people and actually we have issues already with planes that are not functional and we are in violation of that. We could get rid of some of these older hangars and have somebody build a new one in a better place and with access to our apron, but, giving up that \$600,000 is not an easy thing. At that point, we put up new hangars using private money, we're out anyway, without these hangars and without having the ten planes we can't draw down the federal money. So are we willing to forfeit the federal money and put hangars in a place where.....I've never been comfortable with that whole thing."

Interim City Administrator Kovar stated: "But my concern is, will the Airport survive without the federal funding? I mean that's a 90/10 split on projects. Jared, you want to put a business out there. If we don't have the money to update the Airport and keep it maintained, what are you going to have out there? Are you going to come to the City and say "You need to make these improvements" and we say "We don't have federal funding, we don't have the money, how are we going to pay for it?"

Jared Storm stated: "The government gives you money so they can regulate you. We fought for three years to put a 22,000 square foot maintenance facility at the Airport and they keep shooting me down, I can't win. The FAA fights me every step of the way, they knit pick you. Just like this last issue here, they gripe about 53 years, our lease, and the amount of money set, and it's unbelievable. It's like someone is out to get me on the whole thing."

Discussion followed.

When Mayor Zavodny asked what the Council wanted to do, Council member Smith said he wanted to go ahead with it. Council members Rogers and Hotovy agreed. Hotovy stated that the water main extension was estimated almost \$164,000 higher than the bids came in and we were willing to go ahead and spend that.

Council member Smith made a motion to accept the construction bid, for a 6-Place T-Hangar, ramps and taxiways at the David City Municipal Airport, to TCW Construction, Inc. for a base bid of \$722,979.00 contingent upon FAA approval. Council member Kroesing seconded the motion. Voting AYE: Council members Rogers, Vandenberg, Hotovy, Kobus, Kroesing, and Smith. Voting NAY: None. The motion carried.

Matt Rief of Olsson Associates reported that on Wednesday, July 1, 2015, bids were received for the "Airport Water Main Extension" project. The engineer's opinion of probable construction costs was \$536,000. The bids were tabulated as follows:



**AIRPORT WATER MAIN EXTENSION
DAVID CITY, NEBRASKA - 2015**

BID TABULATION
1-Jul-2015 CA #015-0700
1:30 p.m. Page 1 of 2

CONTRACTOR				Obriet & Co., Inc. Columbus, Nebraska		Rutgers Construction, Inc. Titon, Nebraska		Enkeon Const., Co., Inc. Blair, Nebraska		Thompson Const., Inc. Arlington, Nebraska	
Item No.	ITEM	UNIT	QTY.	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
	Bid Section 1: Construction approx 5,400 LF of 12-inch water main & 1,100 LF of 18-inch water main, connecting to water mains or services:										
1	Mobilization/Demobilization/Bond/In	LS	1	\$6,500.00	\$6,500.00	\$25,500.00	\$25,500.00	\$28,200.00	\$28,200.00	\$15,000.00	\$15,000.00
2	Clearing, Grubbing, General Grading	LS	1	3,500.00	3,500.00	\$1,500.00	1,500.00	2,800.00	2,800.00	9,000.00	9,000.00
3	Construction Staking	LS	1	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00
4	12" C900 PVC and RJ Water Main	LF	5,410	28.50	175,785.00	34.75	225,137.50	33.00	181,731.00	42.00	244,020.00
5	18" C900 PVC and RJ Water Main	LF	1,110	28.00	31,080.00	34.55	38,350.50	28.00	31,080.00	38.00	42,180.00
6	8" C900 PVC and RJ Water Main	LF	10	22.00	220.00	28.55	285.50	28.00	280.00	50.00	500.00
7	12" Water Main HDD or Bored w/Casing	LF	35	56.00	1,960.00	56.00	1,960.00	147.00	5,145.00	112.00	3,920.00
8	18" Water Main HDD or Bored w/Casing	LF	40	42.00	1,680.00	45.80	1,832.00	123.00	4,920.00	130.00	5,200.00
9	12" Water Main Storage with 18" Casing	LF	50	150.00	7,500.00	135.00	6,750.00	352.00	17,600.00	307.00	15,350.00
10	12" Gate Valve w/Box, MJ	EA	5	2,150.00	10,750.00	2,224.00	11,120.00	2,753.00	13,766.50	2,658.00	13,290.00
11	10" Gate Valve w/Box, MJ	EA	2	2,000.00	4,000.00	1,925.00	3,850.00	2,275.00	4,550.00	2,225.00	4,450.00
12	8" Gate Valve w/Box, MJ	EA	1	1,250.00	1,250.00	1,348.00	1,348.00	1,573.00	1,573.00	1,575.00	1,575.00
13	6" Gate Valve w/Box, MJ	EA	1	950.00	950.00	1,025.00	1,025.00	1,150.00	1,150.00	1,125.00	1,125.00
14	Air Release Structure	EA	3	8,500.00	25,500.00	4,842.00	14,526.00	6,300.00	18,900.00	5,000.00	15,000.00
15	Install Sampling Station	EA	1	2,800.00	2,800.00	2,875.00	2,875.00	1,606.00	1,606.00	2,150.00	2,150.00
16	1" Service Line	LF	10	13.00	130.00	13.25	132.50	22.00	220.00	30.00	300.00
17	3/4" Service Line	LF	10	15.00	150.00	13.00	130.00	20.00	200.00	30.00	300.00
18	2" Tapping Saddle, Corp Stop, Corp Stop & Conn	EA	1	1,030.00	1,030.00	1,875.00	1,875.00	1,075.00	1,075.00	1,500.00	1,500.00
19	1 1/2" Tapping Saddle, Corp Stop, Corp Stop & Conn	EA	1	1,000.00	1,000.00	1,247.00	1,247.00	738.50	738.50	750.00	750.00
20	3/4" Tapping Saddle, Corp Stop, Corp Stop & Conn	EA	1	1,000.00	1,000.00	1,195.00	1,195.00	858.90	858.90	675.00	675.00
21	Install Fire Hydrant Assembly	EA	4	3,725.00	14,900.00	3,884.00	15,536.00	4,800.00	19,200.00	4,200.00	16,800.00
22	Ductile Iron Fittings, MJ	LB	2,230	8.25	18,487.50	4.85	10,817.50	4.00	8,920.00	5.50	12,375.00
23	Wet Coat	EA	2	2,000.00	4,000.00	680.00	1,360.00	305.00	610.00	2,000.00	4,000.00
24	Connect to Existing Water Main	EA	2	1,030.00	2,060.00	490.00	980.00	753.00	1,506.00	1,350.00	2,700.00
25	Reconnect Existing Water Service	EA	1	500.00	500.00	400.00	400.00	520.00	520.00	400.00	400.00
26	Remove and Salvage Existing Fittings	EA	1	500.00	500.00	450.00	450.00	250.00	250.00	700.00	700.00
27	Asphalt Roadway Surface	TY	1,030	18.50	19,055.00	12.85	13,271.50	38.00	39,140.00	10.00	10,300.00
28	Seeding and Mulching	LS	1	4,000.00	4,000.00	4,875.00	4,875.00	12,450.00	12,450.00	17,000.00	17,000.00
29	Excise Contol	LS	1	3,500.00	3,500.00	3,500.00	3,500.00	5,800.00	5,800.00	4,000.00	4,000.00
	TOTAL BID SECTION 1:				\$342,962.80		\$392,443.09		\$420,383.00		\$465,470.00
	Bid Section 2: Construction approx 630 LF of 10-inch water main by either trenching or trenchless technologies connection to existing water mains.										
1	Mobilization/Demobilization/Bond/In	LS	1	\$3,500.00	\$3,500.00	\$1,500.00	\$1,500.00	\$8,100.00	\$8,100.00	\$1,000.00	\$1,000.00
2	Construction Staking	LS	1	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
3	10" C900 and PVC and RJ Water Main	LF	630	25.00	15,750.00	31.75	20,025.00	29.00	18,270.00	38.00	23,940.00
4	10" Gate Valve w/Box, MJ	EA	1	2,000.00	2,000.00	1,925.00	1,925.00	2,275.00	2,275.00	2,225.00	2,225.00
5	Install Fire Hydrant Assembly	EA	1	3,725.00	3,725.00	3,884.00	3,884.00	4,800.00	4,800.00	4,300.00	4,300.00
6	Ductile Iron Fittings, MJ	LB	250	8.25	2,062.50	4.85	1,212.50	3.80	950.00	5.00	1,250.00
7	Seeding and Mulching	LS	1	1,500.00	1,500.00	1,000.00	1,000.00	1,200.00	1,200.00	2,400.00	2,400.00
	TOTAL BID SECTION 2:				\$29,677.50		\$38,794.00		\$35,820.00		\$35,715.00
	TOTAL BID SECTION 1 & 2:				\$372,640.30		\$431,237.09		\$456,203.00		\$501,185.00
	Substantially Complete On or Before:				November 13, 2015		November 13, 2015		November 13, 2015		November 13, 2015
	Complete and Ready for Final Payment On or Before:				December 23, 2015		December 23, 2015		December 23, 2015		December 23, 2015
	Addendum No. 1				June 23, 2015		June 23, 2015		June 23, 2015		June 23, 2015
	Bid Guarantee:				5% Bid Bond		5% Bid Bond		5% Bid Bond		5% Bid Bond
	Remarks:										



**AIRPORT WATER MAIN EXTENSION
DAVID CITY, NEBRASKA - 2015**

BO TABULATION
1-JUL-2015 QA #015-0703
3:30 p.m. Page 2 of 2

CONTRACTOR				General Excavating Lincoln, Nebraska		M.E. Collins Contract, Co, Inc. Wahoo, Nebraska					
Item No.	ITEM	UNIT	QTY.	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
Bid Section 1: Constructing approx 5,800 LF of 12-inch water main & 1,106 LF of 10-inch water main, connecting to water mains or services:											
1	Mobilization/Demobilization/Bonds/ins	LS	1	\$48,424.80	\$48,424.80	\$37,520.00	\$37,520.00				
2	Clearing, Grubbing, General Grading	LS	1	4,957.70	4,957.70	25,668.00	25,668.00				
3	Construction Staking	LS	1	2,556.00	2,556.00	2,500.00	2,500.00				
4	12" C900 PVC and RJ Water Main	LF	5,810	47.20	274,232.00	57.00	331,170.00				
5	10" C900 PVC and RJ Water Main	LF	1,110	41.50	46,065.00	62.00	57,720.00				
6	8" C900 PVC and RJ Water Main	LF	10	105.40	1,054.00	29.00	290.00				
7	12" Water Main HDD or Bored w/Casing	LF	35	46.20	1,722.00	73.00	2,555.00				
8	10" Water Main HDD or Bored w/Casing	LF	40	49.20	1,968.00	73.00	2,920.00				
9	12" Water Main Bored with 18" Casing	LF	50	272.10	13,605.00	\$16.00	\$800.00				
10	12" Gate Valve w/Box, MJ	EA	5	2,935.80	14,679.00	3,170.00	15,850.00				
11	10" Gate Valve w/Box, MJ	EA	2	2,345.30	4,690.60	2,025.00	4,050.00				
12	8" Gate Valve w/Box, MJ	EA	1	1,841.80	1,841.80	1,790.00	1,790.00				
13	6" Gate Valve w/Box, MJ	LF	1	1,209.90	1,209.90	1,252.00	1,252.00				
14	Air Release Structure	EA	3	10,718.14	32,154.42	11,000.00	33,000.00				
15	Install Sampling Station	EA	1	3,722.10	3,722.10	6,020.00	6,020.00				
16	1" Service Line	LF	10	45.85	458.50	31.00	310.00				
17	3/4" Service Line	LF	10	43.50	435.00	31.00	310.00				
18	2" Tapping Saddle, Corp Stop, Curb Stop & Conn	EA	1	2,412.25	2,412.25	2,604.00	2,604.00				
19	1" Tapping Saddle, Corp Stop, Curb Stop & Conn	EA	1	1,613.80	1,613.80	1,290.00	1,290.00				
20	3/4" Tapping Saddle, Corp Stop, Curb Stop & Conn	EA	1	1,481.30	1,481.30	1,207.00	1,207.00				
21	Install Fire Hydrant Assembly	EA	4	5,827.30	23,309.20	6,181.00	24,724.00				
22	Ductile Iron Fittings, M.J.	LB	2,250	8.30	18,675.00	8.00	18,000.00				
23	Wat Cables	EA	2	1,183.50	2,367.00	2,550.00	5,100.00				
24	Connect to Existing Water Main	EA	2	1,183.50	2,367.00	2,550.00	5,100.00				
25	Reconnect Existing Water Service	EA	1	681.75	681.75	751.00	751.00				
26	Remove and Salvage Existing Fittings	EA	1	681.75	681.75	626.00	626.00				
27	Aggregate Roadway Surfacing	TN	1,055	28.50	29,955.00	40.00	42,000.00				
28	Seeding and Mulching	LS	1	8,450.90	8,450.90	6,238.00	6,238.00				
29	Erosion Control	LS	1	1,250.00	1,250.00	6,821.00	6,821.00				
TOTAL BID SECTION 1:					\$642,660.22		\$672,277.88				
Bid Section 2: Construction approx 638 LF of 10-inch water main by either trenching or trenchless technologies connection to existing water mains.											
1	Mobilization/Demobilization/Bonds/ins	LS	1	5,621.00	5,621.00	3,151.00	3,151.00				
2	Construction Staking	LS	1	500.00	500.00	500.00	500.00				
3	10" C900 and PVC and RJ Water Main	LF	630	40.80	25,676.00	58.00	36,290.00				
4	10" Gate Valve w/Box, MJ	EA	1	2,384.90	2,384.90	2,344.00	2,344.00				
5	Install Fire Hydrant Assembly	EA	1	5,827.30	5,827.30	6,181.00	6,181.00				
6	Ductile Iron Fittings, MJ	LB	250	7.20	1,800.00	8.00	2,000.00				
7	Seeding and Mulching	LS	1	1,859.00	1,859.00	3,791.00	3,791.00				
TOTAL BID SECTION 2:					\$43,570.44		\$43,417.00				
TOTAL BID SECTION 1 & 2:					\$586,431.82		\$715,694.00				
Substantially Complete On or Before:				November 13, 2015		November 13, 2015					
Complete and Ready for Final Payment On or Before:				December 23, 2015		December 23, 2015					
Addendum No. 1				June 23, 2015		June 17, 2015					
Bid Guarantee:				5% Bid Bond		5% Bid Bond					
Remarks:											

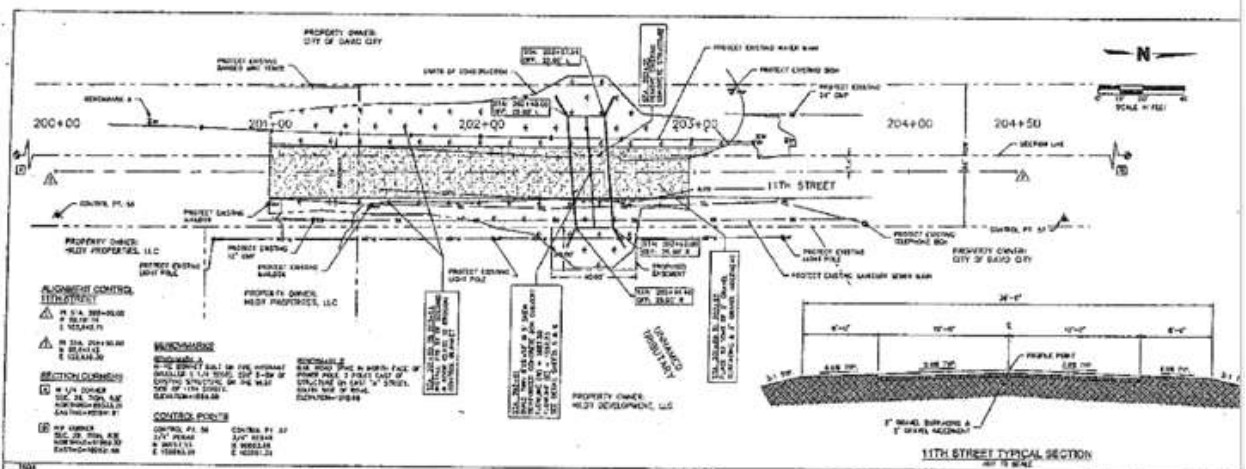
Council member Smith made a motion to accept the bid of Obrist & Co., Inc., Columbus, Nebraska for a bid of \$372,000.00 for the Airport Water Main Extension. Council member Kobus seconded the motion. Voting AYE: Council members Kroesing, Vandenberg, Rogers, Hotovy, Smith, and Kobus. Voting NAY: None. The motion carried.

Matt Rief asked if the Council wanted to consider upsizing the 10-inch water main proposed for the project to a 12-inch water main. This would increase the available flow to the airport and allow for additional usage, such as truck/tanker filling at the airport access road. It is estimated that the price difference for the water main would be between \$6,000 and \$15,000. The Mayor and Council agreed that this would make sense while we are doing it and instructed Matt to request a price of the Contractor.

Matt Rief of Olsson Associates presented the following concerning the 11th Street Bridge Project:

**11th Street
 Engineer's Estimate of Costs
 David City Box Culverts 2015
 June 8, 2015**

Twin 8.0' X 6.0'				
Item	Unit	Quantity	Unit Price	Total Price
Twin 8'x6' Concrete Box Culvert	LS	1	\$63,950.80	\$63,950.80
Remove Concrete Structure	LS	1	\$15,000.00	\$15,000.00
Gravel Surfacing	TONS	82	\$75.00	\$6,150.00
Class 1D Erosion Control Blanket	SY	775	\$2.50	\$1,937.50
Seeding	SY	775	\$2.00	\$1,550.00
Earthwork	LS	1	\$6,000.00	\$6,000.00
Total Base Bid				\$94,588.30
			<i>w/ 5% Contingency</i>	\$99,317.72



Council member Smith made a motion to advertise for bids for improvements to the 11th Street Bridge. Council member Kobus seconded the motion. Voting AYE: Council members Hotovy, Kroesing, Vandenberg, Rogers, Smith, and Kobus. Voting NAY: None. The motion carried.

The Larry Parmer property at 1055 North 7th Street had been declared a nuisance and Larry was given time to get the property in compliance. The Mayor and Council reviewed pictures of the property that were taken earlier in the day. It was evident that some progress had been made in the front yard, however, the property is still not up to code, especially in the back yard. Trash can that can collect water and breed mosquitos, weeds, pickup full of junk, etc.

Council member Rogers made a motion that the property at 1055 North 7th Street is a nuisance in violation of City Codes and directed the City to abate the nuisance and file the cost as a lien against the property. Council member Hotovy seconded the motion. It was noted that law enforcement should accompany the City crew. Voting AYE: Council members Kroesing, Vandenberg, Smith, Kobus, Hotovy, and Rogers. Voting NAY: None. The motion carried.

The Rodger & Kathy Treat property at 715 North 4th Street had been declared a nuisance and they were given time to get the property in compliance. Pictures of the property, taken earlier in the day, were reviewed. Bricks have been added around some of the trees and as an edging around the yard. It was noted that the landscaping with brick took a lot of work and it looks nicer. It was evident that they have been working on the property, however, the property is still not up to code. A lot of clean-up has been done on their spare lot to the west. They have mowed but there is still too much wild undergrowth; volunteer trees. To have a nice yard with so many plantings is an ongoing process; it almost needs to be manicured daily.

Interim City Administrator Kovar read the following note from Kathy Treat: *Joan, I have to take time off for Rodger. I hope the yard, etc. is okay for you guys; we will work on it more. It's not all done as I would like it but we have to do something right now. Everyone that we ask about the place says they like it very much and can't understand why we are a nuisance. Rodger and I feel we are not a nuisance. Yes, it is ongoing to keep up and we will continue to do so. So, I hope everyone can understand this and hope that we will be okay. We can't come to the meeting; we have to take care of Rodger for now, it's very important. I have a lot of ideas I want to do and have been wanting to do. It is very stressful to be put in the spotlight and we are trying to deal with it. We have a lot of things we have to deal with right now. Thank you for listening to me, Kathy Treat.*

Council member Kobus made a motion to declare the property at 715 N 4th Street a nuisance in violation of City Codes and directed the City to abate the nuisance and file the cost as a lien against the property. Council member Rogers seconded the motion. It was noted that law enforcement should accompany the City crew. Voting AYE: Council members Vandenberg, Kroesing, Hotovy, Kobus, Smith, and Rogers. Voting NAY: None. The motion carried.

The request of Seth Cada to hold a fireworks display at the football field for a wedding reception on August 15, 2015 at 10:00 p.m. was discussed. Mr. Cada was not able to be present at the council meeting. The City received a copy of his Fireworks Display Operator's License, however did not have proof of insurance. Mr. Cada stated that proof of insurance could be found at the website for Viking Pyrotechnics. It was noted that the City should not have to look for information requested/required; it should be provided.

Council member Kroesing made a motion to approve the request by Seth Cada to hold a fireworks display at the football field for a wedding reception on August 15, 2015 at 10:00 p.m. Mayor Zavodny asked three times if there was a second to the motion. Mayor Zavodny declared that the motion died for lack of a second.

Council member Hotovy introduced Ordinance No. 1226 approving an increase in the water rates. A water rate study was performed in 2013 that suggested the rate increases proposed in Ordinance No. 1226, however the rates were not implemented at that time. Mayor Zavodny read Ordinance No. 1226 by title. Council member Vandenberg made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hotovy seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, and Hotovy. Voting NAY: Council members Kroesing and Rogers. The motion to suspend failed. (Note: a 3/4 vote of the council - 5 council members – are required to vote AYE to suspend the statutory rule.)

Council member Hotovy made a motion to pass and adopt Ordinance No. 1226 on the first reading only. Council member Vandenberg seconded the motion. Voting AYE: Council members Kobus, Hotovy, Smith, and Vandenberg. Voting NAY: Kroesing and Rogers. The motion carried and Ordinance No. 1226 was passed on first reading only as follows:

ORDINANCE NO. 1226 – (Passed on 1st reading only)

AN ORDINANCE SETTING THE MONTHLY RATES TO BE CHARGED FOR WATER USAGE; CUSTOMER CHARGES; EFFECTIVE DATES AND RATES; REPEALING ALL PARTS OF THE MUNICIPAL CODE AND ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, SECTION 3-101 OF THE MUNICIPAL CODE PROVIDES THAT THE GOVERNING BODY SHALL SET RATES TO BE CHARGED BY ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA.

Section 1. That the following monthly rates and customer charges shall become effective **November 19, 2015**. (Water used October 19th – November 19th, billed in November, and due December 1st - 10th)

For 5/8" by 3/4" meters: (Approximately an 11% increase overall)
Customer charge of \$25.60 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

For 3/4" meters:
Customer charge of \$32.20 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000

and \$3.49 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$32.20 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

For 1 ½" meters:

Customer charge of \$64.20 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$191.40 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$270.25 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$270.25 per month (no water usage included)
and \$3.07 per 1,000 gallons for First 10,000
and \$3.49 per 1,000 gallons Over 10,000

Section 2. That the following monthly rates and customer charges shall become effective **November 19, 2016**. (Water used October 19th – November 19th, billed in November, and due December 1st - 10th)

For 5/8" by 3/4" meters: (Approximately a 10% increase overall)

Customer charge of \$28.50 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 3/4" meters:

Customer charge of \$35.75 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 1" meters:

Customer charge of \$35.75 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 1 ½" meters:

Customer charge of \$71.25 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 2" meters:

Customer charge of \$212.50 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 3" meters:

Customer charge of \$300.00 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

For 4" meters:

Customer charge of \$300.00 per month (no water usage included)
and \$3.41 per 1,000 gallons for First 10,000
and \$3.87 per 1,000 gallons Over 10,000

- Section 3. The monthly rates to be charged for water usage and customer charges will be reviewed by the City Council on as needed basis;
- Section 4. That any other ordinance or section of any ordinance passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.
- Section 5. 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 8th day of July, 2015.

(ATTEST)

(Passed on 1st reading only)
Mayor Alan Zavodny

(Passed on 1st reading only)
City Clerk Joan Kovar

Water Employee Kevin Betzen stated: This is mainly for contractors, road working crews, boring companies, some farmers but not too much of the farm traffic anymore. You haven't gone up on these water rates for ten years. There's been a lot of, with a lot of traffic, there's been a lot of overtime hours going and fixing the spout too because they've been breaking it a lot. There's just added costs. They've broken the valve a couple of times, and a pin, and sometimes somebody leaves it on and I get a call that the water's running."

Council member Smith introduced Ordinance No. 1227 approving an increase in the rates to be charged for water sold from the fill stations. Mayor Zavodny read Ordinance No. 1227 by title. Council member Smith made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Rogers seconded the motion. Voting AYE: Council members Hotovy, Kroesing, Vandenberg, Kobus, Smith, and Rogers. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1227 on the third and final reading. Council member Rogers seconded the motion. Voting AYE: Council members Hotovy, Vandenberg, Kobus, Smith, Rogers, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1227 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1227

AN ORDINANCE SETTING THE RATES TO BE CHARGED FOR WATER SOLD FROM FILL STATIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

WHEREAS, Section 3-101 of the Municipal Code provides that the Governing Body shall set rates to be charged by Ordinance.

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

Section 1. The following rates shall be charged for water sold from fill stations:

\$7.50 minimum charge

\$7.50	for first	1,000 gallons
\$12.50	for 1,001 to	2,000 gallons
\$17.50	for 2,001 to	3,000 gallons
\$22.50	for 3,001 to	4,000 gallons
\$27.50	for 4,001 to	5,000 gallons
\$32.50	for 5,001 to	6,000 gallons
\$37.50	for 6,001 to	7,000 gallons
\$42.50	for 7,001 to	8,000 gallons
\$47.50	for 8,001 to	9,000 gallons
\$52.50	for 9,001 to	10,000 gallons
.....	etc., etc., etc.,	

Section 2. That any other ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 8th day of July, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mark Dahmke would like to install a memorial sundial for his parents Chris and Eulalia Dahmke. Mark stated that he would be willing to pay for the sundial, foundation, engraving, and installation; everything.

Council member Hotovy made a motion to authorize Mark Dahmke to install a sundial as a memorial for his parents, Chris & Eulalia Dahmke. Council member Rogers seconded the motion. It was noted that the sundial needs to be placed in a secure location so these details will be determined at a later date. Voting AYE: Council members Kroesing, Vandenberg, Kobus, Smith, Hotovy, and Rogers. Voting NAY: None. The motion carried.

Mayor Zavodny opened the Public Hearing at 9:26 p.m. to consider amending the Future Land Use Map by changing the zoning classification from C – Commercial to I - Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City. This was requested by Scott Steager. There being no comments, Mayor Zavodny closed the Public Hearing at 9:27 p.m.

Council member Smith introduced Ordinance No. 1228 amending the Future Land Use Map by changing the zoning classification from C – Commercial to I - Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City. Mayor Zavodny read Ordinance No. 1228 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Hotovy, Kobus, Vandenberg, Smith, and Kroesing. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1228 on the third and final reading. Council member Hotovy seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Hotovy, Rogers, Kroesing, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1228 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1228

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM C - COMMERCIAL TO I – INDUSTRIAL AS REQUESTED BY SCOTT STEAGER, REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the land use plan be amended as follows:

- a. To amend the following property from C – Commercial to I - Industrial:
 - Lot 5 and the S. 103' of Lot 6, Block 2, Schmid's Addition to David City

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

Passed and adopted this 8th day of July, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 9:28 p.m. to consider amending the Official Zoning Map by changing the zoning classification from C-1 Highway Commercial to I- 2 Heavy Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City. This was requested by Scott Steager. There being no comments, Mayor Zavodny closed the Public Hearing at 9:28:30 p.m.

Council member Vandenberg introduced Ordinance No. 1229 amending the Official Zoning Map by changing the zoning classification from C-1 Highway Commercial to I-2 Heavy Industrial for the following real estate: Lot 5 and the S 103' of Lot 6, Block 2, Schmid's Addition to David City. Mayor Zavodny read Ordinance No. 1229 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Kobus seconded the motion. Voting AYE: Council members Vandenberg, Smith, Hotovy, Rogers, Kroesing, and Kobus. Voting NAY: None. The motion carried.

Council member Smith made a motion to pass and adopt Ordinance No. 1229 on the third and final reading. Council member Kroesing seconded the motion. Voting AYE: Council members Rogers, Hotovy, Kobus, Vandenberg, Kroesing, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1229 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1229

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP BY CHANGING THE ZONING CLASSIFICATION OF REAL ESTATE DESCRIBED FROM C-1 – HIGHWAY COMMERCIAL TO I-2 HEAVY INDUSTRIAL AS REQUESTED BY SCOTT STEAGER, REPEAL ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBE THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDE FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the Official Zoning Map be amended as follows:

- b. To amend the following property from C-1 Highway Commercial to I-2 Heavy Industrial:
 - Lot 5 and the S. 103' of Lot 6, Block 2, Schmid's Addition to David City

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

Passed and adopted this 8th day of July, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 9:30 p.m. to consider amending I-2 Heavy Industrial District, Section 5.14, by adding: 37 – Outdoor Storage Facilities, as a permitted use. This was requested by Scott Steager so that he can erect a storage facility on his property located on part of Lot 6, Block 2, Schmid's Addition to David City. There being no comments, Mayor Zavodny closed the Public Hearing at 9:30:10 p.m.

Council member Hotovy introduced Ordinance No. 1230 amending I-2 Heavy Industrial District, Section 5.14, by adding: 37 – Outdoor Storage Facilities, as a permitted use. Mayor Zavodny read Ordinance No. 1230 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Hotovy seconded the motion. Voting AYE: Council members Rogers, Kobus, Vandenberg, Smith, Kroesing, and Hotovy. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1230 on the third and final reading. Council member Kobus seconded the motion. Voting AYE: Council members Rogers, Hotovy, Vandenberg, Kroesing, Kobus, and Smith. Voting NAY: None. The motion carried and Ordinance No. 1230 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1230

AN ORDINANCE TO AMEND DAVID CITY, NEBRASKA - ZONING ORDINANCE NO. 1060, SECTION 5.14: I-2 – HEAVY INDUSTRIAL BY AMENDING SECTION 5.14.02 - PERMITTED USES - BY ADDING THE FOLLOWING AS A PERMITTED USE; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE OR RESOLUTION IN CONFLICT THEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE THEREOF; AND TO AUTHORIZE PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, THAT THE FOLLOWING SECTION 5.14.02 – HEAVY INDUSTRIAL - PERMITTED USES - BE AMENDED BY THE ADDITION OF THE FOLLOWING:

#37. Outdoor storage facilities

Section 2. That any ordinance or section of any ordinance passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby appealed.

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

Passed and adopted this 8th day of July, 2015.

Mayor Alan Zavodny

City Clerk Joan E. Kovar

Mayor Zavodny opened the Public Hearing at 9:32 p.m. to consider amending Section 8.06 Commercial/Utility Grade Wind Energy Systems to mirror the changes required by the Nebraska State Legislature. Interim City Administrator stated that this agenda item should have stated that it was for Wireless Communication Towers and therefore needed to be tabled. Therefore, Council member Kroesing made a motion to table Consideration of amending Section 8:06. Council member Hotovy seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Smith, Hotovy, Rogers, and Kroesing. Voting NAY: None. The motion carried.

Mayor Zavodny stated: "I think it's been a while since we've hired a firm to provide a salary survey, I think we need to look at it. I know that they offer one through the League but this will factor in a lot more information I think, and I just think it's the responsible thing for us to do as a government entity, but it's up to you."

Council member Hotovy asked: "Who determines job titles and how they compare to the salary survey? Are there defined job titles? Does each employee know what there defined job titles are? What kind of cost is there for having this survey done?"

Mayor Zavodny stated: "Let's vote to pursue it, but we'll need to approve a contract with someone and the amount."

Council member Hotovy made a motion to pursue and research someone doing a salary survey. Council member Smith seconded the motion. Voting AYE: Council members Kroesing, Rogers, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

The next agenda item was consideration of Ordinance No. 1232 approving the renewal of a Franchise Agreement between the City of David City and Time Warner Cable. City Attorney Jim Egr stated: "This is a non-exclusive agreement, they have more defined and bigger coverages on liability, they acknowledge that if they do any damages you are covered. Joan also provided me with the previous one and I made comparisons with that. I believe you are okay in executing and passing this ordinance and the particular agreement that's involved."

Council member Smith introduced Ordinance No. 1232 approving the renewal of a Franchise Agreement between the City of David City and Time Warner Cable. Mayor Zavodny read Ordinance No. 1232 by title. Council member Kroesing made a motion to suspend the statutory rule that requires an Ordinance be read on three separate days. Council member Smith seconded the motion. Voting AYE: Council members Kobus, Vandenberg, Kroesing, Hotovy, Rogers, and Smith. Voting NAY: None. The motion carried.

Council member Kroesing made a motion to pass and adopt Ordinance No. 1232 on the third and final reading. Council member Smith seconded the motion. Voting AYE: Council members Rogers, Hotovy, Vandenberg, Kobus, Smith, and Kroesing. Voting NAY: None. The motion carried and Ordinance No. 1232 was passed on 3rd and final reading as follows:

ORDINANCE NO. 1232

AN ORDINANCE GRANTING A FRANCHISE AGREEMENT BETWEEN THE CITY OF DAVID CITY, NEBRASKA (the "Grantor") AND TIME WARNER CABLE MIDWEST LLC d/b/a/ TIME WARNER CABLE, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR DEFINITIONS, GENERAL PROVISIONS, FRANCHISE FEES, ETC; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; DESCRIBING THE TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT, AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

**FRANCHISE AGREEMENT
TO PROVIDE CABLE TELEVISION SERVICES**

**Between
City of David City, Nebraska
AND
Time Warner Cable Midwest LLC**

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made and between City of David City, Nebraska (the "Grantor") and Time Warner Cable Midwest LLC d/b/a Time Warner Cable.

WHEREAS, the Grantee has applied under the provisions of Federal law to Grantor for a renewal of its franchise granting it the right to construct and operate a cable television system and provide cable service; and

WHEREAS, the Company is providing such service pursuant to a franchise dated (date) and has substantially complied with the material terms of the franchise and applicable law; and

WHEREAS, the technical ability, financial condition and character of the Grantee and Grantee's plans for constructing and operating the cable system were considered and found adequate and feasible and approved by Grantor at a full public proceeding affording due process; and

WHEREAS, the franchise granted herein is non-exclusive

NOW, THEREFORE, in consideration of the mutual conditions and covenants contained herein:

IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1. SHORT TITLE

This Franchise Agreement shall become known and may be cited as the David City/Time Warner Cable Franchise Agreement.

SECTION 2. DEFINITIONS.

For the purpose of this Agreement, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this Section 2. The

words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- 2.1 “Cable Act” means the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779 (1984) (codified at 47 U.S.C. § § 521-611) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 (1992) and the Telecommunications Act of 1996, Pub. Law No. 104-104, 110 Stat. 56 (1996), and as may be further amended.
- 2.2 “Cable Service” shall have the meaning provided under Section 602(6) of the Cable Act (47 U.S.C. §522(6) as may be amended.
- 2.3 “Cable System” or “System” shall have the meaning provided under Section 602(7) of the Cable Act (47 U.S.C. §522(7) as may be amended.
- 2.4 “Channel” means a portion of the electromagnetic frequency spectrum or any other means of transmission (including, without limitation, optical fibers or any other means now available or that may become available) which is used in a cable television system and is capable of delivering a television channel as television channel is defined by FCC regulation.
- 2.5 “Effective Date” is July 8, 2015.
- 2.6 “FCC” means the Federal Communications Commission, its designee, or any successor thereto.
- 2.7 “Franchise Area” means the territorial area of the City of David City. Such area shall include all areas annexed by the City of David City. For purposes of this Agreement, annexations shall be effective upon sixty (60) days’ notice from the Grantor to Grantee, including a list of affected addresses. If Grantee is operating a cable system in an annexed area immediately prior to the date of annexation under the terms of another franchise, Grantee may, at its option, continue to operate under the terms of such other franchise until any date up to the expiration of said franchise at which time Grantee will operate its system in the annexed area under the terms of this Franchise.
- 2.8 “Grantee” means Time Warner Cable Midwest LLC or any successor thereto.
- 2.9 “Gross Revenues” means all revenue as determined in accordance with generally accepted accounting principles (“GAAP”) received by Grantee from Subscribers and derived from the operation of the cable system to provide cable service. Gross Revenues shall not include monies received by Grantee attributable to its payment of franchise fees which it has passed through or any taxes on services or equipment furnished by Grantee which are imposed by the state, county, local or other governmental unit and collected by Grantee on behalf of said governmental unit, bad debt or monies received by Grantee that Grantee is required to expend for promotional activities.
- 2.10 “Person” means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company, or other legally recognized entity, private or public, whether for profit or not-for-profit.
- 2.11 “Public Property” means any real property owned by any governmental unit.

- 2.12 “Streets” means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right-of-way now or hereafter held and/or maintained by the Grantor.
- 2.13 “Subscriber” means any Person who lawfully receives Cable Service provided by Grantee by means of or in connection with the Cable System whether or not a fee is paid for such Cable Service.

SECTION 3. GRANT OF AUTHORITY AND GENERAL PROVISIONS.

3.1 Grant of Franchise.

Upon the Effective Date and subject to the terms and conditions of this Agreement and of applicable law, Grantee is granted a non-exclusive franchise for the occupation and use of the Grantor's Streets for the installation, operation, maintenance, repair, upgrade, and removal of the Cable System (the “Franchise”). This Agreement specifically gives Grantee the right to provide Cable Service via the Cable System within the Franchise Area.

3.2 Authority for Use of Streets.

- A. For the purpose of operating, maintaining, and constructing a Cable System in the Franchise Area, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets within the Franchise Area such lines, cables, conductors, poles, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Cable System.
- B. Grantee shall operate and maintain the Cable System so as not to interfere with other uses of Streets. Grantee shall participate and cooperate in any “one-call” or similar system for the exchange of information on the utility location or work to be conducted.

3.3 Franchise Term.

This Franchise shall commence upon July 8, 2015 and shall expire ten (10) years thereafter on July 8, 2025 unless renewed, revoked or terminated sooner as herein provided.

3.4 Extension of System.

- A. Residents in those areas with a density of at least thirty-five (35) homes per cable mile, shall be provided service upon payment of the standard installation charge and applicable monthly fees; except that installations requiring aerial drops in excess of one hundred twenty five (125) feet or underground installations shall be considered a non-standard installation to be charged to the subscriber at Grantee's actual cost of installation.
- B. Service to homes not meeting those density requirements of paragraph (A) above shall be provided on a time plus material basis.
- C. Grantee shall, upon request, make service available to all commercial establishments located within three hundred feet (300) of its useable trunk at the expense of such commercial establishment.

- D. Grantee is not required to extend its system or construct plant within private rights-of-way for which Grantee is unable to secure easements or other rights of access on reasonable terms and conditions.

3.5 Police Powers.

Grantor reserves the right to adopt in addition to the provisions contained herein and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers; provided, however, that such regulations are reasonable, not inconsistent with the privileges granted herein and consistent with all federal and state laws, rules, regulations and orders.

3.6 Written Notice.

All notices, reports or demands shall be given in writing and shall be hand-delivered or deposited in the United States mail in a sealed envelope, with certified mail postage prepaid thereon, or by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

If to Grantor:	The City of David City Attn: Interim City Administrator/ City Clerk Joan Kovar P.O. Box 191 David City, NE 68632-0191
with a copy to:	The City of David City Attn: Mayor Zavodny
If to Grantee:	Time Warner Cable 5400 S. 16 th Street Lincoln, NE 68512
With a copy to:	Time Warner Cable Attn: Law Department/Regulatory 60 Columbus Circle New York, NY 10023

Such addresses may be changed by either party upon notice to the other party given as provided in this Section. In addition, either party may agree to receive certain notices, reports or demands by email at an email address which it provides to other party.

3.7 Franchise Non-Exclusive.

- A. The Franchise granted herein is non-exclusive. The Grantor specifically reserves the right to grant, at any time, additional franchises for a cable television system in accordance with state and federal law. The Grantor agrees that any grant of additional franchises by the Grantor to any other entity to provide cable or video service shall not be on terms and conditions that when taken as a whole are more favorable or less burdensome to the franchisee of any such additional franchise than those which are set forth herein.

- B. If the Grantor grants a cable television franchise or other right to provide cable service to another person on terms which overall provide greater benefits or impose lesser burdens than provided herein, the Grantor agrees to amend this Franchise (effective upon the grant to said other person) to overall provide such greater benefits or lesser burdens.
- C.(i) Grantee agrees that it will not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of another franchisee without the prior written consent of such other franchisee. Grantee shall indemnify such other franchisee against any damages or expenses incurred by such other franchisee as a result of any removal, damage, penetration, replacement or interruption of the services of such other franchisee caused by the Grantee.
- (ii) In the event Grantor grants to any other Person (being referred to as "Other Person" in the below quoted paragraph) a franchise, consent or other right to occupy or use the Streets, or any part thereof, for the construction, operation or maintenance of all or part of a cable television system or any similar system or technology, the Grantor shall include the following language or language to similar effect into any such franchise, consent or other document and/or promptly pass a resolution, conditioning the use of the Streets or any part thereof by any such Person, as follows:
- "Other Person agrees that it will not move, damage, penetrate, replace or interrupt any portion of the Cable Television System of another franchisee without the prior written consent of such other franchisee. Other Person shall indemnify such other franchisee against any damages or expenses incurred by such other franchisee as a result of any removal, damage, penetration, replacement or interruption of the services of such other franchisee caused by the Other Person."
- D. Notwithstanding any other provision in this Franchise: In the event any change to state or federal law occurring during the term of this Franchise eliminates the requirement for any person desiring to construct, operate or maintain a cable system in the Franchise Area to obtain a franchise from the Grantor for the construction, operation or maintenance of a cable system, then, Grantee shall have the right to terminate this Franchise and operate the system under the terms and conditions established in applicable law. If Grantee chooses to terminate this Franchise pursuant to this provision, this Franchise shall be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise. Furthermore, in the event any change to state or federal law occurring during the term of this Franchise materially alters the regime of cable franchising applicable to any persons desiring to construct, operate or maintain a cable system in the Franchise Area in a way that reduces the regulatory or economic burdens for such person, then, at Grantee's request, Grantor shall agree with Grantee to amend this Franchise to similarly reduce the regulatory or economic burdens on Grantee. It is the intent of this section that, at Grantee's election, Grantee shall be subject to no more burdensome regulation or provided lesser benefits under this Franchise than any other persons that might construct, operate or maintain a cable system in the Franchise Area.

SECTION 4. TECHNICAL STANDARDS.

4.1 Technical Standards.

The Cable System shall be designed, constructed, and operated so as to meet the technical standards promulgated by the FCC relating to Cable Communications Systems contained in part 76 of the FCC's rules and regulations, as may be amended from time to time.

SECTION 5. EAS.

5.1 Emergency Alert System.

Grantee shall comply with the Emergency Alert System regulations of the FCC. The emergency alert system shall meet all Federal and State requirements.

SECTION 6. CONSTRUCTION PROVISIONS.

6.1 Construction Standards.

- A. Grantee shall construct and maintain its cable system using materials of good and durable quality. All work involved in the construction, installation, maintenance, and repair of the cable system shall be performed in a safe, thorough, and reliable manner.
- B. All construction practices shall be in accordance with all applicable Federal and state law and generally applicable local codes.
- C. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the applicable National Electrical Safety Code and National Electrical Code.
- D. All of Grantee's plant and equipment (a) shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices; and (b) shall not endanger or interfere with ordinary use of the rights-of-way or unnecessarily hinder or obstruct pedestrian or vehicular traffic.
- E. Grantee shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

6.2 Construction Codes.

- A. Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction in the Franchise Area.
- B. The Grantor shall have the right to inspect all construction or installation work in the public rights-of-way performed pursuant to the provisions of this Agreement.

6.3 Repair of Streets and Property.

- A. Any and all Streets, municipal property, or private property, which are destroyed or damaged by Grantee during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the Cable System shall be promptly replaced or repaired by Grantee, at its expense, and restored to a serviceable condition as good as that prevailing prior to Grantee's disturbance of, or damage to, the property. If Grantee fails to repair, replace, or otherwise correct a Street or property following reasonable

written notice by the Grantor, the Grantor may complete any repair, replacement, restoration or other correction and invoice Grantee for the same.

6.4 Use of Existing Poles.

- A. Poles may be erected by Grantee subject to any generally applicable regulation by Grantor with regard to location, height, type, and any other pertinent aspect. It is the responsibility of Grantee to secure agreements for use of poles or conduits owned by third parties.
- B. Where poles already existing for use in serving the Franchise Area are available for use by Grantee, but it does not make arrangements for such use, the Grantor may require Grantee to use such poles if it determines that the public convenience would be enhanced thereby, and if the Grantee can obtain such use on reasonable terms and conditions and at less cost to Grantee than erecting its own poles. No term or condition shall be reasonable if not consistent with pole attachments rates and conditions established by the FCC and/or the State of Nebraska.

6.5 Undergrounding of Cable.

Cable shall be installed underground where the existing telephone and electrical utilities are already underground. In the event the Grantor reimburses any utility for undergrounding, Grantee shall be similarly reimbursed.

6.6 Reservation of Street Rights.

- A. Nothing in this Agreement shall be construed to prevent the Grantor from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.
- B. All such work shall be done, insofar as practicable in such a manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.
- C. If any such property of Grantee shall interfere with the construction or relocation, maintenance or repair of any Street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, or water main, Street or any other public improvement, at least thirty (30) days written notice shall be given to Grantee by the Grantor and all such poles, wires, conduits or other appliances and facilities shall be removed or replaced by Grantee in such manner as shall be directed by the Grantor so that the same shall not interfere with the said public work of the Grantor, as reasonably determined by the Grantor and such removal or replacement shall be at the expense of Grantee, provided, however, if any other right-of-way user is compensated for such work by the Grantor, then Grantee shall be similarly compensated.
- D. Nothing contained in this Agreement shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid damaging Grantee's facilities while performing any work connected with grading, re-grading, or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system or with any other work.

6.7 Trimming of Trees.

Grantee shall have the authority to trim trees, in accordance with all generally applicable utility restrictions, ordinance and easement restrictions, upon and hanging over Streets, alleys, sidewalks, and public places of the Grantor so as to prevent the branches of such trees from interfering with the Cable System.

6.8 Movement of Facilities.

In the event it is necessary temporarily to move or remove any of Grantee's wires, cables, poles, or other facilities placed pursuant to this Agreement, in order to lawfully move a large object, vehicle, building or other structure over the Streets of the Franchise Area, upon two (2) weeks written notice by the Grantor to Grantee, Grantee shall move, such of its facilities as may be required to facilitate such movements. The Person requesting the temporary removal shall pay Grantee in advance the costs Grantee incurs in moving its facilities. Any service disruption provisions of this Agreement shall not apply in the event that the removal of Grantee's wires, cables, poles or other facilities pursuant to this Section results in temporary service disruptions.

SECTION 7. REPORTING PROVISIONS.

7.1 Audit and Inspection.

The Grantor, its agents and its representatives shall have the authority, during normal business hours, to arrange for and conduct an inspection of the books, records, maps, plans, financial statements and other like materials of Grantee where such inspection is necessary to ascertain Grantee's compliance with the material terms of this Franchise. Grantee will be given thirty (30) business days advance written notice of such an inspection request and a description, to the best of the Grantor's ability, of the materials it wants to inspect.

7.2 Communications with Regulatory Agencies.

Copies of all publicly available petitions, applications, communications and reports submitted by Grantee, to any federal or state regulatory commission or agency relating to the Cable System operated pursuant to this Franchise shall also be made available to the Grantor upon request. Copies of publicly available responses from the regulatory agencies to Grantee shall likewise be made available to the Grantor upon request.

7.3 Confidentiality.

Grantor shall maintain as confidential any information provided to it by Grantee under the terms of this Franchise which Grantee has designated as confidential. In the event that Grantor believes at any time that it is required by law to disclose such information to a third party, Grantor will so notify Grantee at a time prior to any such disclosure that affords Grantee a reasonable opportunity to take such action as it deems necessary to prevent such disclosure, including seeking relief in court.

SECTION 8. CONSUMER PROTECTION PROVISIONS.

8.1 Rate Regulation.

Grantee's rate and charges for cable service shall be subject to regulation in accordance with Federal law.

8.2 Customer Service.

Grantee shall comply with the cable customer service and consumer protection standards of the FCC.

SECTION 9. FRANCHISE FEES.

- A. Grantee shall pay to the Grantor a franchise fee in an amount equal to five percent (5%) of Grantee's Gross Revenues.
- B. Payments due the Grantor under this provision shall be computed at the end of each calendar year. Payments shall be due and payable for each year not later than February 15 of the following year. Each payment shall be accompanied by a brief report of Grantee's Gross Revenues for the preceding year.
- C. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the Grantor may have for further or additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to audit and recomputation by the Grantor.
- D. No auditor engaged by the Grantor shall be compensated on a success based formula, e.g., payment based on a percentage of an underpayment, if any.
- E. Grantee shall not conduct an audit more frequently than once every three (3) years and may not audit any period earlier than six (6) years prior to the time the audit is conducted.
- F. The amount of franchise fee and the method of calculation shall be competitively neutral when compared to the amount or method of calculation of the franchise fee in any other cable franchise granted by Grantor.

SECTION 10. INDEMNITY AND INSURANCE PROVISIONS.

10.1 Indemnity.

- A. Grantee shall indemnify, defend, and hold harmless the Grantor for all damages and penalties incurred by Grantor as a result of Grantee's conduct or performance under this Agreement or exercise of the Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omission, theft, fire, and all other damages arising out of Grantee's exercise of the Franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement; such indemnification shall include, but not be limited to, reasonable attorney's fees and costs. Grantee's obligations hereunder shall not extend to any claim or loss to the extent arising from the Grantor's negligence; misconduct; [the content of programming carried on any channel set aside for public educational or governmental use, or] channels leased pursuant to 47 U.S.C. §532; and, the Grantor's use of Grantee's emergency alert system ("EAS") capability.

- B. In order for the Grantor to assert its rights to be indemnified and held harmless, the Grantor must:
- (1) promptly notify Grantee of any claim or legal proceeding which gives rise to such right;
 - (2) afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding; and
 - (3) fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto.

10.2 Liability Insurance.

- A. Grantee shall maintain, throughout the term of the Franchise, liability insurance with a company licensed to do business in the State of Nebraska with a rating by Best of not less than "A-," insuring Grantee and the Grantor (wherein the Grantor is named as additional insured) with respect to Grantee's activities in the Franchise Area in the minimum amounts of:
1. One Million Dollars (\$1,000,000.00) for bodily injury or death to any one (1) person;
 2. Three Million Dollars (\$3,000,000.00) for bodily injury or death resulting from any one (1) accident or occurrence;
 3. One Million Dollars (\$1,000,000.00) for all other types of liability.
 4. Five Million Dollars (\$5,000,000.00) excess liability or umbrella coverage.
- B. Grantee shall maintain in force during the term of this Agreement and any renewal thereof Workers' Compensation Insurance, covering its obligations under the Workers' Compensation statute.
- C. Upon request, Grantee shall furnish to the Grantor a certificate evidencing that a satisfactory insurance policy has been obtained. Such insurance policy shall require that the Grantor be notified thirty (30) days prior to any expiration or cancellation.

SECTION 11. REVOCATION AND REMOVAL

11.1. City's Right to Revoke.

- A. In addition to all other rights which the Grantor has pursuant to law or equity, the Grantor reserves the right to revoke, terminate or cancel this Agreement and the Franchise and all rights and privileges pertaining thereto, after following the procedures outlined herein, in the event that Grantee substantially violates any material provision of this Agreement and fails to remedy such violation as required.
- B. Whenever the Grantor finds that Grantee has allegedly violated one or more material terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee. The written notice shall describe in reasonable detail the alleged violation so

as to afford the Grantee an opportunity to investigate and/or remedy the alleged violation. Grantee shall have sixty (60) days subsequent to receipt of the notice in which to correct the violation. Grantee may, within thirty (30) days of receipt of notice, notify the Grantor that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and stay the running of the above-described time.

- C. Grantor shall hear Grantee's dispute at a regularly scheduled or specially scheduled Council meeting of which Grantee has been given at least two weeks' notice. Grantee shall have the right to subpoena and examine witnesses and cross-examine any other witnesses. The Grantor shall determine if Grantee has committed a violation and shall make written findings of fact relative to its determination and provide such findings to Grantee. If a violation is found, Grantee may petition for reconsideration.
- D. If after hearing the dispute, the claim of non-compliance is upheld by the Grantor, then Grantee shall have sixty (60) days from the date of receipt of Grantor's written decision within which to remedy the violation.
- E. The time for Grantee to correct any alleged violation shall be extended by the Grantor if the necessary action to correct the alleged violation is of such a nature or character as to require more than sixty (60) days within which to perform, provided Grantee commences corrective action and thereafter exercises due diligence to correct the violation.
- F. In the event that Grantee fails to remedy the violation within the time frame set herein, Grantor may revoke the franchisee by vote of its governing body after a public hearing of which Grantee has been given at least two weeks notice and at which Grantee shall have the right to be heard; to subpoena and examine witnesses; and cross-examine any other witnesses. Grantor shall state in writing the basis for any decision to revoke the Franchise. Any revocation hereunder is subject to appeal by Grantee in a court of competent jurisdiction.

11.2. Removal After Revocation or Termination.

- A. At the termination of the Franchise Term if renewal has been finally denied in accordance with Federal law, or upon revocation of the Franchise, as provided for herein, the Grantor shall have the right to require Grantee to remove, at Grantee's expense, all or any portion of the Cable System from Streets and Public Property within the Franchise Area. In so removing the Cable System, Grantee shall refill and compact at its own expense any excavation that shall be made and shall leave all Streets, Public Property and private property in as good a condition as that prevailing prior to Grantee's removal of the Cable System, and without affecting, altering or disturbing in anyway electric, telephone or utility, cables wires or attachments. The Grantor, or its delegate, shall have the right to inspect and approve the condition of such Streets and Public Property after removal. The insurance and indemnity provisions of this Agreement shall remain in full force and effect during the entire term of removal.

SECTION 12. TRANSFER

12.1 Sale or Transfer of Franchise.

- A. Grantee shall provide at least sixty days notice to Grantor in the event the Franchise is to be sold, assigned or otherwise transferred.

- B. Within thirty (30) days of the consummation of any Franchise Transfer subject to the provisions of this Section, Grantee shall notify the Grantor of the closing of such Franchise Transfer.

SECTION 13. RIGHTS OF INDIVIDUALS PROTECTED.

13.1 Discriminatory Practices Prohibited.

- A. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of age, race, creed color, national origin or sex. Grantee shall comply at all times with all applicable federal and state laws relating to non-discrimination.
- B. Grantee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment on the basis of age, race, creed, color, national origin or sex.

SECTION 14. MISCELLANEOUS PROVISIONS.

14.1 Compliance with Laws.

Grantor and Grantee shall conform to all applicable state and federal laws and rules regarding cable television as they become effective. Grantee shall also conform with all generally applicable Grantor ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise. In the event of a conflict between Grantor ordinances, resolutions, rules or regulations and the provisions of this Agreement, the provisions of this Agreement shall govern.

14.2 Severability.

If any provision of this Agreement is held to be invalid or unenforceable, that provision will be ineffective but the remainder of this Agreement will not be affected, and it will in all other respects, continue to be effective and enforceable. If the holding of invalidity or unenforceability is subsequently repealed, unenforceable or otherwise changed so that the provision which had been held invalid is no longer in conflict with the law, rules and regulations then in effect, the provision will return to full force and effect.

14.3 Controlling Law.

This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

14.4 No Third Party Beneficiaries.

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any person other than the parties to this Agreement.

14.5 Captions.

The paragraph captions and headings in this Agreement are for convenience and reference purpose only and shall not affect in any way the meaning of interpretation of this Agreement.

14.6 Calculation of Time.

Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance or during thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period, or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

14.7 Amendments.

This Agreement may be amended only by the mutual consent of the Grantor and Grantee. Any amendment must be in writing and executed by the Grantor and Grantee.

14.8 Force Majeure.

In no event, and notwithstanding any contrary provision in this Franchise, shall this Franchise be subject to revocation or termination, or Grantor or Grantee be subject to penalty or prejudice or in any way liable for non-compliance with or delay in the performance of any obligations hereunder, where its failure to cure or take reasonable steps to cure is due to reason of Acts of God; acts of public enemies; order of any kind of a government of the United States of America or of the State or any of their departments, agencies, political subdivisions; riots; strikes; failure of suppliers; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; partial or entire failure of utilities or any other cause or event not reasonably within the control of the party. Neither Grantor nor Grantee shall be deemed to be in violation or default during the continuance of such inability and such party shall be excused from its obligations herein during the course of any such events or conditions and the time specified for performance of the obligations hereunder shall automatically extended for a period of time equal to the period of the existence of any such events or conditions and such reasonable time thereafter as shall have been necessitated by any such events or conditions.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Agreement to be signed by their duly authorized officials and officers as of July 8, 2015.

CITY OF DAVID CITY, NEBRASKA

TIME WARNER CABLE MIDWEST
LLC

By: _____

By: _____

Title: Mayor Alan Zavodny

Title: _____

Attest:

Interim City Administrator / City Clerk
Joan Kovar

Council member Rogers made a motion to authorize \$1,500 of Keno Funds to be budgeted for the purchase of fireworks as requested by Rex Rehmer on behalf of the Butler County Chamber. Council member Hotovy seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Smith, Kroesing, Hotovy, and Rogers. Voting NAY: None. The motion carried.

Council member Hotovy made a motion to advance to Agenda Item #28 – Consideration of Resolution No. 13 – 2015 concerning a title for the Tri-Plex located an approximately Oak & “E” Streets. Council member Vandenberg seconded the motion. Voting AYE: Council members Kroesing, Rogers, Hotovy, Vandenberg, Kobus, and Smith. Voting NAY: None. The motion carried.

Council member Hotovy introduced Resolution No. 13 – 2015 and moved for its passage and adoption. Council member Rogers seconded the motion. Voting AYE: Council members Smith, Kobus, Vandenberg, Hotovy, Rogers, and Kroesing. Voting NAY: None. The motion carried and Resolution No. 13 - 2015 was passed and adopted as follows:

RESOLUTION NO. 13 - 2015

WHEREAS, Steve Maguire, previously appeared before this Council and received permission to construction a Tri-Plex on previously undeveloped property;

WHEREAS, the Tri-Plex property has three separate units with the following legal descriptions:

Unit 1:

A tract of land out of and a part of Outlot 2, West Addition to David City located in the West Half of the Southwest Quarter of Section 19, Township 15 North, Range 3 East of the 6th PM, David City, Butler County, Nebraska, more particularly described as follows:

Commencing at a 5/8” rebar being the Northeast corner of the vacated F.E. and M.V.R.R. right of way as described in Instrument No. 12-00925, recorded in the Butler County Clerk’s Office; Thence: S 00°00’00” E, along and with the West line of said Oak Street, a distance of 119.64 feet to the Point of Beginning; Thence: continuing, S 00°00’00” E, continuing along and with the East line of said Outlot 2, a distance of 176.19 feet; Thence: N 43°38’08” W, a distance of 202.37 feet; Thence: N 59°33’44” E, a distance of 58.68 feet; Thence: S 90°00’00” E, a distance of 89.05 to the Point of Beginning and containing 13626.2 Square feet of land, more or less.

Unit 2:

A tract of land out of and a part of Outlot 2, West Addition to David City located in the West Half of the Southwest Quarter of Section 19, Township 15 North, Range 3 East of the 6th PM, David City, Butler County, Nebraska, more particularly described as follows:

Commencing at a 5/8” rebar being the Northeast corner of the vacated F.E. and M.V.R.R. right of way as described in Instrument No. 12-00925, recorded in the Butler County Clerk’s Office; Thence: S 00°00’00” E, along and with the West line of said Oak Street, a distance of 295.83 feet, to the Point of Beginning;

Thence: continuing, S 00°00'00" E, continuing along and with the East line of said Outlot 2, a distance of 20.00 feet; Thence: N 90°00'00" W, a distance of 30.98 feet; Thence: N 43°38'08" W, a distance of 195.52 feet; Thence: N 40°48'34" E, a distance 25.56 feet; Thence: N 59°33'44" E, a distance 11.08 feet; Thence: S 43°38'08" E, a distance of 202.37 feet to the Point of Beginning and containing 7561.7 Square Feet of land more or less.

And

Unit 3:

A tract of land out of and a part of Outlot 2, West Addition to David City located in the West Half of the Southwest Quarter of Section 19, Township 15 North, Range 3 East of the 6th PM, David City, Butler County, Nebraska, more particularly described as follows:

Commencing at a 5/8" rebar being the Northeast corner of the vacated F.E. and M.V.R.R. right of way as described in Instrument No. 12-00925, recorded in the Butler County Clerk's Office; Thence: S 00°00'00" E, along and with the West line of said Oak Street, a distance of 315.83 to the Point of Beginning;

Thence: continuing, S 00°00'00" E, continuing along and with the East line of said Outlot 2, a distance of 20.00 feet; Thence: N 90°00'00" W, a distance of 96.01 feet; Thence: N 00°12'15" E, a distance of 14.83 feet; Thence: N 46°04'59" W, a distance of 149.02 feet; Thence: N 40°48'34" E, a distance 57.23 feet; Thence: S 43°38'08" E, a distance of 195.52 feet; Thence: S 90°00'00" E, a distance of 30.98 feet to the Point of Beginning and containing 10995.7 Square Feet of land more or less;

WHEREAS, Steve Maguire has agreed to install an appropriate water line per the request of the City following the completion of the City's infrastructure upgrade project;

WHEREAS, each unit has been sold to individual purchasers;

WHEREAS, to facilitate resale of the units and comply with requests from a title company, Mr. Maguire requests that the Council approve the Tri-Plex as saleable property without further subdivision action.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, that the Tri-Plex property units with the aforementioned legal description are saleable without further subdivision action.

Passed and approved this 8th day of July, 2015

Mayor Alan Zavodny

City Clerk Joan Kovar

Mayor Zavodny stated: Consideration of the proposed Budgets for Fiscal Year October 1, 2015 – September 30, 2016. What I would suggest we do; do we have any changes since we went over it the first time?”

City Clerk Kovar stated: “Yes, we have changes on the water department and the power plant. Eric added \$40,000 for the SCADA computer and software as they are 10 years old. The computer is needed to be rebooted more frequently and they are in need of upgrades.”

Mayor Zavodny stated: “The other thing that I wanted to make you aware of, is, when we approved in last year’s budget to do the windows, and that kind of work, that’s not going to work. What the pricing was based on was more of a residential, and he needs windows to open, especially up high for ventilation. So, he had talked to me and my recommendation was, even though we approved that in the budget last year, obviously not to go forward because he is not getting what he needs, and to resubmit that as a budget item for this next fiscal year.”

The Water Department budget changed because when the budget was first drafted we did not know what to budget for the Airport water line. The Airport was increased to include an automatic card reader for fuel. Council member Hotovy stated that he thought it would be helpful to see inventory lists for the departments. Discussion followed. The proposed budgets will be discussed again at the upcoming Committee of the Whole meeting.

There being no further business to come before the Council, Council member Hotovy made a motion to adjourn. Council member Rogers seconded the motion. Voting AYE: Council members Vandenberg, Kobus, Hotovy, Kroesing, Rogers, and Smith. Voting NAY: None. The motion carried and Mayor Zavodny declared the meeting adjourned at 9:58 p.m.



CERTIFICATION OF MINUTES
July 8, 2015

I, Joan E. Kovar, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of July 8th, 2015; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Joan E. Kovar, City Clerk