

CITY COUNCIL PROCEEDINGS  
July 24, 2024

The City Council of the City of David City, Nebraska, met in an open public session at 7:00 p.m. in the meeting room of the City Office at 490 "E" Street, David City, Nebraska. The Public had been advised of the meeting by posting in four public places (City Office, US Post Office, Butler County Courthouse and Hruska Public Library). The Mayor and members of the City Council acknowledged advance notice of the meeting by signing the Agenda which is a part of these minutes. The advance notice to the Public, Mayor, and Council members conveyed the availability of the agenda, which was kept continuously current in the office of the City Clerk and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the Council meeting.

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

Also present for the meeting were: Deputy Clerk Lori Matchett, Police Chief Marla Schnell, Bob Veenstra with Veenstra & Kimm and Ethan Joy with JEO were present via Zoom, Jan & Dan Sypal, and Marlene Hein.

The meeting opened with the Pledge of Allegiance.

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

Council member Jim Angell made a motion to approve the minutes of the July 10, 2024 meeting of the Mayor and City Council as presented. Council Member Keith Marvin seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1

Council member Keith Marvin made a motion to approve Change Order #1 for Midlands Contracting, Inc. in the amount of (\$53,327.00) for the Water Main Improvements Project. Council Member Jim Angell seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1

# CHANGE ORDER



No. 1

Date of Issuance: 7/11/2024 Effective Date: 7/11/2024

Project: Water Main Improvements & Replacement	Owner: City of David City, Nebraska	Owner's Contract No.: N/A
Contract: Base Bid – Unit Price (Revised with City purchased materials)		Date of Contract: November 3, 2023
Contractor: Midlands Contracting, 10075 1 <sup>st</sup> Ave, Kearney, NE 68847		Engineer's Project No.: 016-2784

The Contract Documents are modified as follows upon execution of this Change Order:  
 Description:  
 1. Final quantity adjustments from as-built construction conditions.

Attachments: Final quantity spreadsheet.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: <u>\$ 492,602.00</u>	Original Contract Times: Substantial Completion (days or date): <u>August 1, 2024</u> Ready for Final Payment (days or date): <u>September 1, 2024</u>
[Increase] [Decrease] from previously approved Change Orders No. <u>   </u> to No. <u>   </u> : <u>\$ 0</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>   </u> to No. <u>   </u> : Substantial Completion (days or date): <u>N/A</u> Ready for Final Payment (days or date): <u>N/A</u>
Contract Price prior to this Change Order: <u>\$ 492,602.00</u>	Contract Times prior to this Change Order: Substantial Completion (days or date): <u>August 1, 2024</u> Ready for Final Payment (days or date): <u>September 1, 2024</u>
Decrease of this Change Order: <u>\$ 53,327.00</u>	Increase of this Change Order: Substantial Completion (days or date): <u>0</u> Ready for Final Payment (days or date): <u>0</u>
Contract Price incorporating this Change Order: <u>\$ 439,275.00</u>	Contract Times with all approved Change Orders: Substantial Completion (days or date): <u>August 1, 2024</u> Ready for Final Payment (days or date): <u>September 1, 2024</u>

RECOMMENDED:  By: <u></u> Engineer (Authorized Signature)  Title: <u>Lead Engineer</u> Date: <u>7/11/2024</u>	ACCEPTED:  By: _____ Owner (Authorized Signature)  Title: _____ Date: _____	ACCEPTED:  By: <u></u> Contractor (Authorized)  Title: <u>PM</u> Date: <u>7/11/24</u>
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Approved by Funding Agency (if applicable):  
 By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Cc: City of David City; Midlands Contracting (Contractor); Olsson File  
 F:\2016\2501-3000\016-2784\60-Construction\Contract Documents\Change Order\24-07-11\_Change Order\_01 016-2784.docx

City Council Proceedings  
 July 24, 2024  
 Page #3

David City, NE - Water Main Improvements & Replacement  
 Olsson Project No.

016-2784

Item No.	ITEM	UNIT	ORIGINAL QTY.	Unit Price	ORIGINAL Extension	UNIT	Final QTY	Unit Price	FINAL Extension	PRICE DIFFERENCE	Notes	
1	Mobilization/Demo/Bonds/Ins	LS	1	\$ 25,000.00	\$ 25,000.00	LS	1	\$25,000.00	\$25,000.00	\$0.00		
2	Construction Testing	LS	1	\$ 3,000.00	\$ 3,000.00	LS	1	\$3,000.00	\$3,000.00	\$0.00		
3	8-inch C900 PVC Water Main	LF	2,384	\$ 78.00	\$ 179,864.00	LF	2,384	\$78.00	\$179,864.00	\$0.00		
4	8-inch C900 PVC Water Main	LF	25	\$ 74.00	\$ 1,850.00	LF	25	\$74.00	\$1,850.00	\$0.00		
5	4-inch C900 PVC Water Main	LF	11	\$ 70.00	\$ 770.00	LF	11	\$70.00	\$770.00	\$0.00		
6	8-inch Water Main Bored with Casing	LF	1	\$ 950.00	\$ 950.00	LF	0	\$950.00	\$0.00	-\$950.00		
7	8-inch Water Main HDD or Bored without Casing	LF	487	\$ 95.00	\$ 46,265.00	LF	487	\$95.00	\$46,265.00	\$0.00		
8	8-inch Water Main HDD or Bored without Casing	LF	10	\$ 90.00	\$ 900.00	LF	0	\$90.00	\$0.00	-\$900.00		
9	8-inch Gate Valve w/Box, MJ	EA	6	\$ 3,000.00	\$ 18,000.00	EA	7	\$3,000.00	\$21,000.00	\$3,000.00		
10	8-inch Gate Valve w/Box, MJ	EA	2	\$ 2,200.00	\$ 4,400.00	EA	3	\$2,200.00	\$6,600.00	\$2,200.00	Add a FH Aux valve at ball fields	
11	4-inch Gate Valve w/Box, MJ	EA	1	\$ 1,900.00	\$ 1,900.00	EA	1	\$1,900.00	\$1,900.00	\$0.00		
12	2-inch Service Line	LF	5	\$ 40.00	\$ 200.00	LF	0	\$40.00	\$0.00	-\$200.00		
13	1 1/2-inch Service Line	LF	10	\$ 38.00	\$ 380.00	LF	5	\$38.00	\$190.00	-\$190.00		
14	1-inch Service Line	LF	147	\$ 30.00	\$ 4,410.00	LF	147	\$30.00	\$4,410.00	\$0.00		
15	3/4-inch Service Line	LF	188	\$ 28.00	\$ 5,264.00	LF	188	\$28.00	\$5,264.00	\$0.00		
16	Bore 3/4-inch Service Line	LF	802	\$ 34.00	\$ 27,268.00	LF	791	\$34.00	\$26,894.00	-\$3,774.00		
17	Bore 1-inch Service Line	LF	70	\$ 35.00	\$ 2,450.00	LF	70	\$35.00	\$2,450.00	\$0.00		
18	Bore 1 1/2-inch Service Line	LF	10	\$ 38.00	\$ 380.00	LF	0	\$38.00	\$0.00	-\$380.00		
19	Bore 2-inch Service Line	LF	1	\$ 43.00	\$ 43.00	LF	0	\$43.00	\$0.00	-\$43.00		
20	2" Tapping Saddle, Corporation Stop, Curb Stop & Connection	EA	1	\$ 3,000.00	\$ 3,000.00	EA	0	\$3,000.00	\$0.00	-\$3,000.00		
21	1 1/2" Tapping Saddle, Corp Stop, Curb Stop & Connection	EA	1	\$ 2,700.00	\$ 2,700.00	EA	1	\$2,700.00	\$2,700.00	\$0.00		
22	1" Tapping Saddle, Corp Stop, Curb Stop, & Connection	EA	4	\$ 1,850.00	\$ 7,400.00	EA	5	\$1,850.00	\$9,250.00	\$1,850.00		
23	3/4" Tapping Saddle, Corp Stop, Curb Stop & Connection	EA	29	\$ 1,550.00	\$ 44,950.00	EA	27	\$1,550.00	\$41,850.00	-\$3,100.00		
24	Fire Hydrant Assembly	EA	6	\$ 7,300.00	\$ 43,800.00	EA	8	\$7,300.00	\$58,400.00	\$14,600.00		
25	Fire Hydrant Only - No Valve	EA	1	\$ 5,000.00	\$ 5,000.00	EA	1	\$5,000.00	\$5,000.00	\$0.00		
26	8" Direct Tapping Tee & Valve, MJ w/Thrust Block	EA	1	\$ 4,900.00	\$ 4,900.00	EA	1	\$4,900.00	\$4,900.00	\$0.00		
27	8" x 8" Direct Tapping Tee & Valve, MJ w/Thrust Block	EA	1	\$ 4,100.00	\$ 4,100.00	EA	0	\$4,100.00	\$0.00	-\$4,100.00		
28	8" Direct Tapping Tee & Valve, MJ w/Thrust Block	EA	1	\$ 4,000.00	\$ 4,000.00	EA	0	\$4,000.00	\$0.00	-\$4,000.00		
29	4" Direct Tapping Tee & Valve, MJ w/Thrust Block	EA	1	\$ 3,700.00	\$ 3,700.00	EA	0	\$3,700.00	\$0.00	-\$3,700.00		
30	Abandon Water Main	EA	3	\$ 375.00	\$ 1,125.00	EA	3	\$375.00	\$1,125.00	\$0.00		
31	Abandon Water Service	EA	2	\$ 350.00	\$ 700.00	EA	2	\$350.00	\$700.00	\$0.00		
32	Abandon Water Service/Meter Manhole	EA	2	\$ 750.00	\$ 1,500.00	EA	2	\$750.00	\$1,500.00	\$0.00		
33	Ductile Iron Fittings, M.J.	LB	3,733	\$ 7.00	\$ 26,131.00	LB	4,277	\$7.00	\$29,939.00	\$3,808.00	Add an 8"x4" Tee for Soccer Field Irrigation = 229 Lbs from Pre-con site review, Trade 8" 45 degree fitting (Sta 16+94, sheet 7) to 47+90 (sheet 11), Subtract 2x 8" 45s (sheet 8) = -118 lbs. Added a sleeve at Sta. 40+04 (sheet 10) = 141 lbs. Add 2, 8" 45s to connect to existing mains (+ 170 lbs) at 3rd and A and 4th and C, and an 8" (122 lbs) fire hydrant tee at the ball fields due to an end of line hydrant.	
34	Wet Out-in	EA	1	\$ 1,500.00	\$ 1,500.00	EA	2	\$1,500.00	\$3,000.00	\$1,500.00	Added a wet out-in to fix a leaking tee at Sta. 40+04 (sheet 10).	
36	Connect to Existing Water Main 4" or Larger Service	EA	9	\$ 1,475.00	\$ 13,275.00	EA	9	\$1,475.00	\$13,275.00	\$0.00		
38	Remove Existing Fire Hydrant Assembly	EA	5	\$ 700.00	\$ 3,500.00	EA	5	\$700.00	\$3,500.00	\$0.00		
37	Remove Existing 8-inch Valve and Box	EA	1	\$ 900.00	\$ 900.00	EA	1	\$900.00	\$900.00	\$0.00		
38	Remove Existing 4-inch Valve and Box	EA	1	\$ 800.00	\$ 800.00	EA	1	\$800.00	\$800.00	\$0.00		
39	Remove and Salvage Existing Fittings	EA	3	\$ 175.00	\$ 525.00	EA	3	\$175.00	\$525.00	\$0.00		
40	Abandon Existing 8-inch Valve and Box	EA	1	\$ 400.00	\$ 400.00	EA	1	\$400.00	\$400.00	\$0.00		
41	Abandon Existing 8-inch Valve and Box	EA	3	\$ 400.00	\$ 1,200.00	EA	3	\$400.00	\$1,200.00	\$0.00		
42	Abandon Existing 4-inch Valve and Box	EA	4	\$ 400.00	\$ 1,600.00	EA	4	\$400.00	\$1,600.00	\$0.00		
43	Saw Cut, Remove, and Replace Brick Roadway	SY	20	\$ 325.00	\$ 6,500.00	SY	0	\$325.00	\$0.00	-\$6,500.00		
44	Saw Cut, Remove, and Replace 4' Sidewalk	SF	252	\$ 18.50	\$ 4,650.00	SF	236	\$18.50	\$4,366.00	-\$284.00		
45	Saw Cut, Remove, and Replace 8" Conc/DWI/Pavement	SY	51	\$ 190.00	\$ 9,690.00	SY	140	\$190.00	\$26,600.00	\$16,910.00		
46	Saw Cut, Remove, and Replace 8" Concrete Pavement	SY	28	\$ 200.00	\$ 5,600.00	SY	21	\$200.00	\$4,200.00	-\$1,400.00		
47	Saw Cut, Remove, and Replace 8" Asphalt Pavement	SY	20	\$ 200.00	\$ 4,000.00	SY	0	\$200.00	\$0.00	-\$4,000.00		
48	Saw Cut, Remove, and Replace 8" Asphalt Pavement	SY	20	\$ 200.00	\$ 4,000.00	SY	0	\$200.00	\$0.00	-\$4,000.00		
49	Install 8-inch Bollard	EA	2	\$ 800.00	\$ 1,600.00	EA	0	\$800.00	\$0.00	-\$1,600.00		
50	Aggregate Roadway Surfacing	TN	79	\$ 80.00	\$ 6,320.00	TN	27	\$80.00	\$2,160.00	-\$4,160.00		
51	Seeding and Mulching	LS	1	\$ 10,000.00	\$ 10,000.00	LS	0	\$10,000.00	\$0.00	-\$10,000.00	To be completed by City	
52	Erosion Control	LS	1	\$ 5,000.00	\$ 5,000.00	LS	1	\$5,000.00	\$5,000.00	\$0.00		
53	Deduct for City Purchased Materials	LS	1	-\$68,850.00	-\$68,850.00	LS	1	-\$68,850.00	-\$68,850.00	\$0.00	Coordinated after the bid opening but included in the NOA and associated Contract. Midlands may use other materials provided. Remainder to City.	
<b>Total Bid Price:</b>									<b>\$439,275.00</b>			
Substantially Complete	8/1/2024				Yes					Difference:	-\$53,327.00	
Final Completion	9/1/2024				Yes					Change Order #1:	Total add:	-\$53,327.00
Bid Guarantee:	5%				Yes					Change:	-\$53,327.00	change order amount
Appendix No. 1					Yes							

Original bid \$ 559,452.00

Council member Kevin Woita made a motion to approve Certificate of Payment #3 for Midlands Contracting, Inc. in the amount of \$110,341.62 for the Water Main Improvements

City Council Proceedings

July 24, 2024

Page #4

Project. Council Member Keith Marvin seconded the motion. The motion carried. Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1

CERTIFICATE OF PAYMENT NO. 3



Date of Issuance: July 11, 2024

Project: Water Main Improvements and Replacement, David City, Nebraska

Project No. 016-2784

Contractor: Midlands Contracting, Inc., 10075 1<sup>st</sup> Avenue, Kearney, Nebraska 68848

DETAILED ESTIMATE		
Description	Unit Prices	Extension
See Attached.		
PLEASE REMIT PAYMENT TO: Midlands Contracting, Inc.		

Value of Work Completed: \$439,275.00

Original Contract Cost:	\$492,602.00
Approved Change Orders:	\$ -53,327.00
No. <u>1</u>	
Total Contract Cost:	\$439,275.00

Value of completed work and materials stored.....	\$439,275.00
Less retained percentage (10%) .....	\$ 0.00
Net amount due including this estimate.....	\$439,275.00
Less: Estimates previously approved:	

No. 1	<u>\$201,133.18</u>	No. 2	<u>\$127,800.20</u>	No. 3	_____
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Total Previous Estimates \$328,933.38


**NET AMOUNT DUE THIS ESTIMATE \$110,341.62**

The undersigned hereby certifies, based upon periodic observations as set forth in scope of work and the data included in all applicable payment applications that, to the best of its knowledge, information and belief: (1) the work has progressed as indicated in the applicable payment applications; (2) the work performed and materials delivered by Contractor are in conformance with the plans and specifications; and (3) the Contractor, in accordance with the contract, is entitled to payment as indicated above.

This certification does not constitute a warranty or guarantee of any type. Client shall hold its Contractor solely responsible for the quality and completion of the Project, including construction in accordance with the construction documents. Any duty or obligation of Olsson hereunder is for the sole benefit of the Client and not for any third party, including the Contractor or any Subcontractor.

cc: City of David City, Owner  
Midlands Contracting, Inc., Contractor  
Olsson Project File

OLSSON, INC

By: 

APPLICATION & CERTIFICATE FOR PAYMENT

PROJECT: David City NE - Water Main Impr. & Repl. ENGINEER: Olsson  
 ENGINEER'S PROJECT NO.: 016-2784  
 TO: (OWNER) City of David City CONTRACTOR: Midlands Contracting Inc. MCI JOB #: 1455  
 490 E St. CONTRACT FOR: Water  
 David City NE 68632 APPLICATION DATE: 30-Jun-24 APPLICATION NO.: 3 & FINAL  
 ATTN: PERIOD FROM: 01-May-24 to: 30-Jun-24

CHANGE ORDER SUMMARY:

Application is made for Payment, as shown below in connection with the Contract.

Continuation sheets are attached.

The present status of the account is as follows:

Change Orders approved in previous months by Owner		ADDITIONS \$	DEDUCTIONS \$
TOTAL			
Subsequent Change Orders			
	Approved (Date)		
01/01/00	6/30/2024		\$ 53,327.00
TOTALS		\$0.00	\$53,327.00

ORIGINAL CONTRACT SUM \$492,602.00  
 Net Change by Change Orders -\$53,327.00  
 CONTRACT SUM TO DATE \$439,275.00

TOTAL COMPLETED & STORED TO DATE \$439,275.00  
 RETAINAGE 0% \$0.00  
 TOTAL EARNED LESS RETAINAGE \$439,275.00  
 LESS PREVIOUS PAYMENTS \$328,933.38  
 CURRENT PAYMENT DUE \$110,341.62

Net Change by Change Orders \$ (53,327.00)

State of: Nebraska County of: Buffalo

In accordance with the Contract and this Application for Payment, the Contractor is entitled to payment in the amount shown above.

The undersigned CONTRACTOR certifies that the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by him for Work for which previous Certificate for Payment were issued and payments received from the Owner, and that the current payment shown herein is now due

ENGINEER:  OWNER  
 CONTRACTOR  
 By: \_\_\_\_\_  ENGINEER

CONTRACTOR: Midlands Contracting, Inc.

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

By: *[Signature]* Date: 6/30/24

Please mail a check payable to Midlands Contracting P O Box 1065 Kearney NE 68848-1065.  
 If you would like to wire or ACH funds, please call Susan Nickerson 308-237-7979 ext. 132 to confirm banking and wiring information before sending funds.

E-MAILED JUL 11 2024

City Council Proceedings

July 24, 2024

Page #6

APPLICATION AND CERTIFICATE FOR PAYMENT-CONTINUATION SHEET

Page \_\_\_ of \_\_\_

APPLICATION NUMBER: 3 & FINAL  
 APPLICATION DATE: 30-Jun-24  
 PERIOD FROM: 01-May-24 TO: 30-Jun-24  
 ENGINEER'S PROJECT NO.: 016-2784

ITEM NO.	DESCRIPTION OF WORK	ESTIMATED QUANTITY		UNIT PRICE	TOTAL AS BID	QUANTITY COMPLETED TO DATE	TOTAL COMPLETED	STORED TO DATE	COMPLETED AND STORED TO DATE
1	Mob-Demob-Bond-Insur	1	LS	\$ 25,000.00	\$ 25,000.00	1	\$25,000.00		\$25,000.00
2	Construction Testing	1	LS	\$ 3,000.00	\$ 3,000.00	1	\$3,000.00		\$3,000.00
3	8" C900 PVC Water Main	2364	LF	\$ 76.00	\$ 179,664.00	2364	\$179,664.00	\$0.00	\$179,664.00
4	6" C900 PVC Water Main	25	LF	\$ 74.00	\$ 1,850.00	25	\$1,850.00	\$0.00	\$1,850.00
5	4" C900 PVC Water Main	11	LF	\$ 70.00	\$ 770.00	11	\$770.00	\$0.00	\$770.00
6	8" Water Main Bored w/ Casing	1	LF	\$ 950.00	\$ 950.00	0	\$0.00		\$0.00
7	8" Water Main HDD or Bored w/o Casing	487	LF	\$ 95.00	\$ 46,265.00	487	\$46,265.00	\$0.00	\$46,265.00
8	6" Water Main HDD or Bored w/o Casing	10	LF	\$ 90.00	\$ 900.00	0	\$0.00	\$0.00	\$0.00
9	8" Gate Valve w/ Box MJ	6	EA	\$ 3,000.00	\$ 18,000.00	7	\$21,000.00	\$0.00	\$21,000.00
10	6" Gate Valve w/Box MJ	2	EA	\$ 2,200.00	\$ 4,400.00	3	\$6,600.00		\$6,600.00
11	4" Gate Valve w/ Box MJ	1	EA	\$ 1,900.00	\$ 1,900.00	1	\$1,900.00	\$0.00	\$1,900.00
12	2" Service Line	5	LF	\$ 40.00	\$ 200.00	0	\$0.00		\$0.00
13	1-1/2" Service Line	10	LF	\$ 38.00	\$ 380.00	5	\$190.00		\$190.00
14	1" Service Line	147	LF	\$ 30.00	\$ 4,410.00	147	\$4,410.00	\$0.00	\$4,410.00
15	3/4" Service Line	166	LF	\$ 28.00	\$ 4,648.00	166	\$4,648.00		\$4,648.00
16	Bore 3/4" Service Line	902	LF	\$ 34.00	\$ 30,668.00	791	\$26,894.00	\$0.00	\$26,894.00
17	Bore 1" Service Line	70	LF	\$ 35.00	\$ 2,450.00	70	\$2,450.00	\$0.00	\$2,450.00
18	Bore 1-1/2" Service Line	10	LF	\$ 38.00	\$ 380.00	0	\$0.00		\$0.00
19	Bore 2" Service Line	1	LF	\$ 43.00	\$ 43.00	0	\$0.00		\$0.00
20	2" Tapping Saddle Corp Curb & Connection	1	EA	\$ 3,000.00	\$ 3,000.00	0	\$0.00	\$0.00	\$0.00
21	1-1/2" Tapping Saddle Corp Curb & Connection	1	EA	\$ 2,700.00	\$ 2,700.00	1	\$2,700.00		\$2,700.00
22	1" Tapping Saddle Corp Curb & Connection	4	EA	\$ 1,850.00	\$ 7,400.00	5	\$9,250.00	\$0.00	\$9,250.00
23	3/4" Tapping Saddle Corp. Curb & Connection	29	EA	\$ 1,550.00	\$ 44,950.00	27	\$41,850.00	\$0.00	\$41,850.00
24	Fire Hydrant Assembly	6	EA	\$ 7,300.00	\$ 43,800.00	6	\$43,800.00	\$0.00	\$43,800.00
25	Fire Hydrant Only - No Valve	1	EA	\$ 5,000.00	\$ 5,000.00	1	\$5,000.00		\$5,000.00
26	8" Direct Tapping Tee & Valve MJ w/ Thrust Block	1	EA	\$ 4,900.00	\$ 4,900.00	1	\$4,900.00		\$4,900.00
27	8"x6" Direct Tapping Tee & Valve MJ w/ Thrust Blo	1	EA	\$ 4,100.00	\$ 4,100.00	0	\$0.00	\$0.00	\$0.00
28	6" Direct Tapping Tee & Valve MJ w/ Thrust Block	1	EA	\$ 4,000.00	\$ 4,000.00	0	\$0.00	\$0.00	\$0.00
29	4" Direct Tapping Tee & Valv MJ w/ Thrust Block	1	EA	\$ 3,700.00	\$ 3,700.00	0	\$0.00	\$0.00	\$0.00
30	Abandon Water Main	3	EA	\$ 375.00	\$ 1,125.00	3	\$1,125.00		\$1,125.00
31	Abandon Water Service	2	EA	\$ 350.00	\$ 700.00	2	\$700.00		\$700.00
32	Abandon Water Service/Meter Manhole	2	EA	\$ 750.00	\$ 1,500.00	2	\$1,500.00		\$1,500.00
33	Ductile Iron Fittings MJ	3733	LB	\$ 7.00	\$ 26,131.00	4277	\$29,939.00	\$0.00	\$29,939.00
34	Wet Cut-In	1	EA	\$ 1,500.00	\$ 1,500.00	2	\$3,000.00		\$3,000.00
35	Connect to Ex Water Main 4" or Larger	9	EA	\$ 1,475.00	\$ 13,275.00	9	\$13,275.00		\$13,275.00
36	Remove Ex Fire Hydrant Assy	5	EA	\$ 700.00	\$ 3,500.00	5	\$3,500.00		\$3,500.00



**CONSENT OF SURETY  
TO FINAL PAYMENT**

Conforms with the American Institute of  
Architects, AIA Document G707

Bond No.: 107912215

OWNER   
ARCHITECT   
CONTRACTOR   
SURETY   
OTHER

TO OWNER: **City of David City, Nebraska**  
*(Name and address)* **P.O. Box 191**  
**David City, NE 68632-0191**

ARCHITECT'S PROJECT NO.:

CONTRACT FOR: **Construction**

PROJECT:  
*(Name and address)*  
**Water Main Improvement & Replacements, David City, NE**

CONTRACT DATED:

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the  
*(Insert name and address of Surety)*

**Travelers Casualty and Surety Company of America**  
**One Tower Square, Hartford, CT 06183**

, SURETY.

on bond of  
*(Insert name and address of Contractor)*  
**Midlands Contracting, Inc.**  
**P.O. Box 1065, Kearney, NE 68848**

, CONTRACTOR.

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of any  
of its obligations to

*(Insert name and address of Owner)*  
**City of David City, Nebraska**  
**P.O. Box 191, David City, NE 68632-0191**

, OWNER.

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: **July 10th, 2024**

*(Insert in writing the month followed by the numeric date and year.)*

**Travelers Casualty and Surety Company of America**

*(Surety)*

  
*(Signature of authorized representative)*

Attest:  
(Seal):



**Joan Leu, Attorney-in-Fact**

*(Printed name and title)*





POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Joan Leu** of OMAHA, Nebraska, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

By:   
Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026



  
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 10th day of July, 2024



  
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

### SUPPLIER/MATERIAL WAIVER OF LIEN

This is to certify that the undersigned has been paid in full for all material/equipment/subcontract work furnished to Midlands Contracting, Inc. for use in the construction of

David City NE – Water Main Impr. & Repl.

for the period up to and including April 30, 2024 in

the amount of \$5,919.52

and hereby release all lien rights. This material/equipment/subcontract work

consisted of Pipe & Materials.

Municipal Supply  
Company Name

By: Ron Skiff

Title: Manager

Date: 5-7-2024

Witness: Danette A. Kramer

Title: Office Manager

Date: 5-7-2024

### SUPPLIER/MATERIAL WAIVER OF LIEN

This is to certify that the undersigned has been paid in full for all material/equipment/subcontract work furnished to Midlands Contracting, Inc. for use in the construction of

David City NE – Water Main Impr. & Repl.

for the period up to and including April 30, 2024 in

the amount of \$106,516.48

and hereby release all lien rights. This material/equipment/subcontract work

consisted of Pipe & Materials.

Core & Main LP  
Company Name

By:   
Title: Credit Manager  
Date: May 7th, 2024

Witness:   
Title: Receptionist  
Date: May 7th, 2024

### SUPPLIER/MATERIAL WAIVER OF LIEN

This is to certify that the undersigned has been paid in full for all material/equipment/subcontract work furnished to Midlands Contracting, Inc. for use in the construction of

David City NE – Water Main Impr. & Repl.

for the period up to and including April 30, 2024 in

and hereby release all lien rights. This material/equipment/subcontract work

consisted of Rock, Crusher Run materials.

Nebraska Salt & Grain

Company Name

By:



Witness:

Title: V.P of Business Development

Title:

Date: 5-9-24

Date:

### SUPPLIER/MATERIAL WAIVER OF LIEN

This is to certify that the undersigned has been paid in full for all material/equipment/subcontract work furnished to Midlands Contracting, Inc. for use in the construction of

David City NE – Water Main Impr. & Repl.

for the period up to and including April 30, 2024 in

the amount of \$8,081.60

and hereby release all lien rights. This material/equipment/subcontract work

consisted of Concrete.

ARPS  
Company Name

By: [Signature]

Title: President

Date: 5-13-24

Witness: Katrina Andrews

Title: AR Specialist

Date: 5/13/24

# City Council Proceedings

July 24, 2024

Page #14

Council member Keith Marvin made a motion to approve Change Order #1 for Municipal Pipe Tool in the amount of (\$11,667.70) for the South Sewer Rehab Pro. Council Member Kevin Woita seconded the motion. The motion carried.

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

Yea: 5, Nay: 0, Absent: 1



## VEENSTRA & KIMM INC.

3000 Westown Parkway  
West Des Moines, Iowa 50266

515.225.8000 // 800.241.8000  
www.v-k.net

July 22, 2024

Tami Comte  
City Clerk  
City of David City  
1220 E Street  
David City, NE 68632

CITY OF DAVID CITY, NEBRASKA  
SOUTH AREA SEWER REHABILITATION  
CHANGE ORDER NO. 1

Enclosed is a copy of Change Order No. 1 for the contract between the City of David City and Municipal Pipe Tool Co. LLC for the South Area Sewer Rehabilitation project. Change Order No. 1 decreases the contract price by \$11,667.70.

The South Area Sewer Rehabilitation project was bid as a base project with alternate bid items. The City Council elected to move forward with the base project and did not include any of the alternate items in the scope of the project.

The base project was developed as the priority areas for rehabilitation. In developing the base project it was determined the need based on the highest priority improvements and improvements in adjoining areas would be included in the base project. The methodology for this approach was to reduce the logistics related costs to the contractor and that would reflect in a lower cost to the City.

The alternate items were also identified as areas that could benefit from rehabilitation, but were considered to be slightly lower in priority or not contiguous to other areas of rehabilitation.

The scope of the base project and alternate projects were based on the television inspection that had previously been contracted by the City. During construction of the project it was determined there were some reaches of the sewer that were not easily accessible. It was determined an area of rehabilitation adjacent to the wastewater treatment plant could be deleted from the project as there will be modifications to the piping in the Wastewater Treatment Plant Improvement project.

City Council Proceedings

July 24, 2024

Page #15

Tami Comte  
July 22, 2024  
Page 2

After evaluation it was determined some of the work that was originally identified as part of the alternate bid could replace certain work included in the base project. By substituting the alternate work items the City would accomplish the same overall level of rehabilitation, but could do so in a manner that was more efficient, reduces the project cost and avoided some issues that could increase the cost of the base project.

Change Order No. 1 deletes from the project certain work items identified with numbers beginning with "1.". These items are replaced by portions of the alternate bid item group identified as "2.". The overall impact of the change in the scope of the project is to reduce the project cost by \$11,667.70. With the approval of Change Order No. 1 the contract price is decreased to \$655,715.45.

Veenstra & Kimm, Inc. would recommend the City approve Change Order No. 1 as it accomplishes the same overall level of system rehabilitation at a slightly lower cost to the City.

If you have any questions or comments concerning the project, please contact the writer at 515-225-8000, or at [bveenstra@v-k.net](mailto:bveenstra@v-k.net).

VEENSTRA & KIMM, INC.



H. R. Veenstra Jr.

HRVJr:paj  
6476  
Enclosure



**VEENSTRA & KIMM INC.**

3000 Westown Parkway  
 West Des Moines, Iowa 50266

515.225.8000 // 800.241.8000  
 www.v-k.net

July 19, 2024

**CHANGE ORDER NO. 1**

CITY OF DAVID CITY  
 SOUTH SEWER REHAB

Change Order No. 1 modifies the contract to adjust bid items from the base bid project and include agreed upon bid items of Add Alternate 1, as well as adjust quantities for observations noted during the initial cleaning and televising of the project.

Compensation

Item No.	Bid Item	Unit	Qty	Unit Price	Extended Price
1.1	Mobilization	LS	0.10	\$39,917.50	\$3,991.75
1.5	HMA Pavement	SY	-64	\$100.80	(\$6,451.20)
1.8	8" Sanitary Sewer Televising	LF	-240.7	\$1.00	(\$240.70)
1.9	8" Sanitary Sewer Cleaning	LF	-240.7	\$2.00	(\$481.40)
1.10	8" Sanitary Sewer Cured-in-Place Pipe	LF	-240.7	\$34.00	(\$8,183.80)
1.11	10" Sanitary Sewer Televising	LF	411.9	\$1.00	\$411.90
1.12	10" Sanitary Sewer Cleaning	LF	411.9	\$2.00	\$823.80
1.13	10" Sanitary Sewer Cured-in-Place Pipe	LF	411.9	\$39.00	\$16,064.10
1.14	12" Sanitary Sewer Televising	LF	-48.6	\$1.00	(\$48.60)
1.15	12" Sanitary Sewer Cleaning	LF	-48.6	\$3.00	(\$145.80)
1.16	12" Sanitary Sewer Cured-in-Place Pipe	LF	-1,326.6	\$42.00	(\$55,717.20)
1.17	18" Sanitary Sewer Televising	LF	-395.7	\$1.00	(\$395.70)
1.18	18" Sanitary Sewer Cleaning	LF	-395.7	\$4.00	(\$1,582.80)
1.20	18" Sanitary Sewer Cured-in-Place Pipe	LF	-395.7	\$74.00	(\$29,281.80)
1.21	Point Repair No. 1	EA	-1	\$3,528.00	(\$3,528.00)
1.22	Point Repair No. 2	EA	-1	\$3,528.00	(\$3,528.00)
1.23	Point Repair No. 3	EA	-1	\$3,528.00	(\$3,528.00)
1.24	Point Repair No. 4	EA	-1	\$3,024.00	(\$3,024.00)
1.26	Point Repair No. 6	EA	-1	\$10,185.00	(\$10,185.00)
1.29	Point Repair No. 9	EA	-1	\$3,024.00	(\$3,024.00)
1.31	Reinstate Service Connection	EA	-13	\$90.00	(\$1,170.00)
1.32	Grout Service Connection	EA	-31	\$450.00	(\$13,950.00)
1.33	Manhole, 48" Dia	EA	1	\$14,610.00	\$14,610.00
2.1	PCC Pavement	SY	50	\$100.80	\$5,040.00
2.2	Hot Mix Asphalt	SY	125	\$117.60	\$14,700.00
2.3	8" Sanitary Sewer Televising	LF	923	\$1.00	\$923.00
2.4	8" Sanitary Sewer Cleaning	LF	923	\$2.00	\$1,846.00



City of David City  
 South Sewer Rehab  
 Change Order No. 1

2.5	8" Sanitary Sewer Cured-in-Place Pipe	LF	923	\$36.00	\$33,228.00
2.6	Point Repair No. 10	EA	1	\$8,531.25	\$8,531.25
2.7	Point Repair No. 11	EA	1	\$8,531.25	\$8,531.25
2.8	Point Repair No. 12	EA	1	\$8,531.25	\$8,531.25
2.9	Heavy Cleaning / Root Cutting	LF	488	\$5.00	\$2,440.00
2.10	Reinstate Service Connection	EA	21	\$90.00	\$1,890.00
2.11	Grout Service Connection	EA	21	\$500.00	\$10,500.00
2.12	Trim Protruding Service, Clay or PVC	EA	2	\$368.00	\$736.00
				<b>Total CO 1</b>	<b>(\$11,667.70)</b>

Change Order No. 1 Decreases the contract amount by \$11,667.70. New contract amount is \$655,715.45.

Reference Information

**Item 1.33 Manhole, 48" Dia:** This item is for replacing cleanout with precast manhole; Nebraska DOT Standard Plan No. 435-R3, Type B Manhole; Unit price includes, but is not limited to, excavation; furnishing and installing pipe; furnishing, placing, and compacting bedding and backfill material; base; structural concrete; reinforcing steel; precast units; concrete fillets; pipe connections; castings; adjustment rings; and additional miscellaneous appurtenances for complete manhole.

Completion Date

Change Order No. 1 adds zero (0) days to the Project Completion Date.  
 Project Completion Date: June 1, 2025

**MUNICIPAL PIPE TOOL COMPANY**

**CITY OF DAVID CITY**

By 

By \_\_\_\_\_


Title Project Manager

Title \_\_\_\_\_

Date 7-22-2024

Date \_\_\_\_\_

**VEENSTRA & KIMM, INC.**

By 

Title Project Manager

Date July 22, 2024

Council member Keith Marvin made a motion to accept the resignation of Gary Kroesing, with regret, from the Board of Zoning Adjustment. Council Member Bruce Meysenburg

City Council Proceedings

July 24, 2024

Page #18

seconded the motion. The motion carried.

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

Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Keith Marvin made a motion to appoint Andrew Holloway as a regular member of the Board of Zoning Adjustment instead of the alternate to complete the term of Gary Kroesing ending July, 2026. Council Member Jim Angell seconded the motion. The motion carried.

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

Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Kevin Woita made a motion to reappoint Allen Steinberger and Roger Comte to the Board of Zoning Adjustment for three-year terms ending July of 2024. Council Member Jim Angell seconded the motion. The motion carried.

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

Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

Council member Keith Marvin made a motion to approve Food Bank of Lincoln Mobile Food Distribution Memorandum of Understanding. Council Member Kevin Woita seconded the motion. The motion carried.

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

Meysenburg: Yea, Kevin Woita: Yea

Yea: 5, Nay: 0, Absent: 1

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## Food Bank of Lincoln Mobile Food Distribution Memorandum of Understanding

This document is an agreement made between the Food Bank of Lincoln located at 1221 Kingbird Rd and

City of DC Auditorium located at 699 Kansas Street  
(hereinafter referred to as "Program Partner"). By signing this agreement, both parties acknowledge their respective duties and responsibilities related to the administration of the Mobile Food Distribution.

The mission of the Mobile Food Distribution Program is to serve neighbors with limited access to food resources in our 16-county service area. The Mobile Food Distribution Program will operate at identified sites throughout our service area that have high poverty and/or low access to food. Sites are consistently in the same location, have set distribution schedules, and offer ongoing food assistance services.

### A. MOBILE FOOD DISTRIBUTION PARTNER AGREES TO:

- Identify a staff member to be the primary contact for the Mobile Food Distribution Program Not engage in discrimination, in the provision of service, against any person because of race, color, citizenship, religion, gender, national origin, ancestry, age, marital status, disability, sexual orientation including gender identity or expression, unfavorable discharge from the military or status as a protected veteran.
- Inform Food Bank of Lincoln in writing of any changes that are needed to the current Mobile Food Distribution Program schedule.
- Communicate problems and requests to Food Bank of Lincoln in a timely manner.
- Secure appropriate parking space for the Mobile Food Distribution Program vehicle.
- Ensure the program complies with all applicable federal and local statutes, ordinances and regulations.
- Accommodate provision of food a minimum of once a month while the program is in operation.

### B. FOOD BANK OF LINCOLN AGREES TO:

- Appoint a primary contact for the Mobile Food Distribution Program to oversee the general operations.
- Not engage in discrimination, in the provision of service, against any person because of race, color, citizenship, religion, gender, national origin, ancestry, age, marital status, disability, sexual orientation including gender identity or expression, unfavorable discharge from the military or status as a protected veteran.
- Ensure the Mobile Food Distribution Program complies with all applicable federal and local statutes, ordinances and regulations.
- Safe and proper handling of food, which conforms to all local, state and federal regulations.
- Distribute food to individuals free of charge.
- Identify and procure staple food items and supplies necessary for the operation of the Mobile Food Distribution Program.
- Recruit volunteers on an as needed basis.
- Provide food a minimum of once a month while the program is in operation.
- Communicate with Program Partner if any changes need to be made to the current Mobile Food Distribution schedule.
- Respect policies and procedures that are specific to the Program Partner Mobile Food Distribution site.



**C. GENERAL PROVISIONS**

This Agreement will be renewed on an annual basis and may be terminated at will by either party with written notice delivered to either. Upon termination of this agreement, the Program Partner will return any equipment, materials and/or food provided by the Food Bank of Lincoln for the Mobile Food Distribution Program to the Food Bank of Lincoln within 30 days of termination date.

**D. SIGNATURES**

The Program Partner's authorized representative's signature below confirms that the Program site is accepting and agrees to abide by all terms of this agreement.

**Program Partner Signature:**

*Jessica J Miller*  
Program Partner Signature

7-24-24  
Date

Jessica J Miller  
Print Name of representative who signed this agreement

**Food Bank Signature:**

\_\_\_\_\_  
Food Bank Signature (Network Capacity Manager)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of representative who signed this agreement



Council member Bruce Meysenburg made a motion to approve an agreement with David City Public Schools for the 2024-2025 school year. Council Member Kevin Woita seconded the motion. The motion carried.

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

Yea: 5, Nay: 0, Absent: 1

#### FACILITY USE AGREEMENT

**THIS FACILITY USE AGREEMENT** ("**Agreement**"), effective as of the date last written below, is by and between the **CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class ("**City**") and **DAVID CITY PUBLIC SCHOOLS**, a Nebraska political subdivision and school district (District No. 12-0056-000) ("**DCPS**"). This Agreement refers to City and DCPS collectively as the "**Parties**" and individually as a "**Party**."

#### RECITALS

**WHEREAS**, City owns that certain real property in David City, Butler County, Nebraska, as described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Property**"); and

**WHEREAS**, the David City Football Stadium ("**Stadium**"), the David City Auditorium ("**Auditorium**") and the gymnasium within the Auditorium ("**Gym**") are located on the Property (collectively, the "**Facilities**"); and

**WHEREAS**, DCPS desires to use the Stadium, Auditorium and Gym for various scholastic, athletic and social purposes; and

**WHEREAS**, the Parties wish to execute this Agreement to define the terms and conditions under which DCPS may use the Facilities.

#### AGREEMENT

**IN CONSIDERATION OF** the mutual promises and covenants contained herein and other good and valuable consideration the receipt and sufficiency of which the Parties acknowledge and accept, the Parties agree as follows:

1. **USE OF FACILITIES**. City shall allow DCPS to utilize the Facilities for the activities as provided below ("**Permitted Activity**") or "**Permitted Activities**").

A. **Stadium**. DCPS may use the Stadium and all appurtenances, facilities and amenities thereto for the following Permitted Activities:

- i. Up to four (4) track meets;
- ii. Up to five (5) regular season varsity football games;
- iii. Up to three (3) post-season varsity football games, with City's prior written consent;
- iv. Up to five (5) junior-varsity football games;
- v. Up to four (4) middle school football games; and
- vi. Regular track practice during the track season;
- viii. Regular middle school football practice during the football season;

B. Auditorium. DCPS may use the Auditorium, including all appurtenances and facilities thereto, for the following Permitted Activities:

- i. Regular in-season middle school basketball practice and up to two games; and
- ii. Use of the locker facilities therein for middle school football practice; and
- iii. Use of the locker facilities therein for high school football games; and
- iv. David City High School Prom.

C. Gym. DCPS may reserve and use the Gym on an hourly-basis, subject to the Gym Rental Rate (defined below), for any Permitted Activity. City may allow DCPS to use the Gym for a non-Permitted Activity by providing its prior written consent.

D. Miscellaneous. City may allow DCPS to utilize the Facilities for other purposes not contained herein by providing DCPS its prior written consent. City may, in its sole discretion, require DCPS to provide additional payments for the right use the Stadium or Auditorium for such nonPermitted Activity.

2. **TERM**. This Agreement shall last for one (1) year beginning on the Effective Date ("**Term**").

3. **RENTAL PAYMENTS**. DCPS shall provide City a lump-sum payment of Seven Thousand and Five-Hundred and Fifty Dollars and Zero Cents (\$7,550.00) ("**Annual Rental Payment**"). The Annual Rental Payment is due and payable from DCPS to City within thirty (30) days of the Effective Date. The City may allow DCPS to remit the Annual Rental Payments in installments with its prior written consent.

In addition to the Annual Rental Payment, DCPS shall pay to City Twenty-Dollars and Zero Cents (\$20.00) per hour that DCPS reserves the Gym ("**Gym Rental Payment**"). DCPS shall remit the Gym Rental Payment to City prior to each instance DCPS wishes to reserve the Gym for its use.

4. **SCHEDULING**. On the first business day of the first month after the Effective Date, and on the first business day of each month thereafter, DCPS shall provide City with a written schedule of all Permitted Activities for which DCPS intends to use the Facilities during the following month. Such schedule shall include the date and time of each event, expected attendance, and any other information the City may request DSCP to provide.

5. **CONCESSIONS**. DCPS may sell food, non-alcoholic beverages, and other consumable concession products at the Facilities during Activities. Provided however, such right is subject to the following:

- A. DCPS shall secure and maintain all necessary permits associated with the sale of concession products;
- B. DCPS shall be solely responsible for compliance with all necessary laws, regulations, and statute pertaining to the sale of concession products;
- C. DCPS shall be solely responsible for payment of all applicable state and

federal taxes relating to its selling of concession products, including but not limited to sales and use tax and income tax; and

D. City may terminate DCPS' right to sell concession products on the Facilities at any time with written notice to DCPS.

6. **NO REPRESENTATIONS.** City makes no representations regarding the conditions of the Facilities, their suitability for a particular purpose, or otherwise any warranty, express or implied, regarding the Property, Facilities or any amenities or appurtenances thereto.

7. **UTILITIES.** City shall pay or cause to be paid all charges for gas, electricity, water, sewer, telephone or other communication services and all other utilities servicing the Facilities utilize throughout the Term.

8. **MAINTENANCE AND REPAIRS.** City shall, at its sole expense, provide for all general repairs and maintenance of the Facilities, including but not limited to grass mowing, snow removal, maintenance of restrooms, regular painting of the football field and other general upkeep. DCPS shall maintain the Facilities and Property in a clean, safe and good condition and keep and return the same in at least as good condition as they currently exist or may be improved, ordinary wear and tear excepted.

9. **DAMAGE.** DCPS shall, at its sole expense, repair all damage to the Property, Facilities, and any other appurtenances, equipment, facilities, or personal property thereon, that DCPS, its agents, invitees, licensees, employees, or assigns causes, whether intentional, negligent, or otherwise.

10. **ALTERATIONS AND IMPROVEMENTS.** DCPS shall not make any improvements or alterations to the Premises without the City's prior written consent. DCPS shall hold the City harmless from any costs, liens, or damages that any alteration or improvement work DCPS permits on the Property or Facilities causes and shall immediately discharge any lien filed for services or material furnished for such work. Any improvements, alterations, repairs, additions or personal property remaining on the Property or Facilities after the expiration of this Agreement shall become City's property.

11. **SIGNAGE.** DCPS shall not erect or place or allow the erection or placing of any signs or other similar materials on the Property or Facilities. Except that, DCPS may erect or place promotional or informational materials for upcoming Activities on the Property or Facilities, provided that, DCPS shall remove or cause the removal of any promotional or information signs, advertisements, posters, or other DCPS insignia it erects or places on the Property or Facilities during the term of this Agreement within twenty-four (24) hours after the promoted or advertised event concludes. City may demand DCPS to remove all signs and other materials from the Property or Facilities by providing written notice.

12. **INSURANCE.** During the Term, DCPS shall obtain, maintain in effect and pay all premiums for, the following insurance coverages in connection with its use of the Property and Facilities: (a) comprehensive general public liability insurance with broad form extended coverage (including contractual liability insurance) insuring City and DCPS against claims for personal injury, death or property damage occurring upon, in or about the Property, and such insurance shall have a limit of not less than \$1,000,000.00 in respect to any injury or death to a single person and to the limit of not less than \$500,000.00 in respect to property damages; and (b) insurance against such other risks as City may deem necessary or as DCPS may desire to put into effect, of a similar or

dissimilar nature. City may obtain all of the aforesaid insurance coverages on behalf of DCPS, and DCPS shall immediately pay or reimburse City for the premiums in connection with any of such insurance coverages City obtains on DCPS' behalf.

All policies of insurance shall be subject to the review and approval of City, and shall provide (a) that no material change or cancellation of said policies shall be made without fifteen (15) days prior written notice to City and DCPS, (b) that any loss shall be payable notwithstanding any act or negligence of DCPS or the City which might otherwise result in the forfeiture of said insurance, (c) that the insurance company issuing the same shall have no right of subrogation against the City or DCPS and shall name the City as additional insured. All of DCPS' policies of insurance that this Section 12 so requires shall be primary to any of City's insurance coverages for the Property or Facilities.

DCPS shall provide City with a certificate of insurance together with satisfactory evidence (a) that the said insurance is in full force and effect or effectively renewed, and (b) the payment of the premiums for said insurance has been made.

13. **INDEMNIFICATION.** DCPS shall indemnify and hold City harmless from all claims and demands, including those of third parties, arising from or based upon any alleged act, omission or negligence of DCPS or any of DCPS' agents, employees, licensees, servants, invitees or employees on the Property and Facilities. DCPS' obligation hereunder to indemnify and hold City harmless from liability shall extend to any of DCPS' contracts with third parties relating to the Property, the Facilities, and DCPS' use of the same.

14. **DEFAULT.** IF DCPS defaults in the performance of any of the terms of this Agreement, and DCPS has not cured such default within thirty (30) days after written notice from City to DCPS, then the City may, at its sole option, terminate this Agreement.

15. **WAIVER OF DEFAULT.** Any waiver, express or implied, by City of DCPS' breach of this Agreement shall not be a waiver of any subsequent breach of the same or any other term, condition or promise herein.

16. **NOTICE.** Notice under this Agreement shall be given in writing to the following persons:

If to City: City of David City, Nebraska  
c/o Tami Comte  
490 E Street  
David City, Nebraska 68632  
(402) 367-3135  
tcomte@davidcityne.gov

With a Copy to: Baird Holm LLP  
c/o David C. Levy  
1700 Farnam Street, Suite 1500  
Omaha, Nebraska 68102  
(402) 344-0500  
dlevy@bairdholm.com

If to DCPS: David City Public Schools  
c/o Dr. Chad Denker, DCPS



Superintendent  
750 D. Street  
David City, Nebraska 68632  
(402) 367-4590  
*denker@dcscouts.org*

With a Copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each Party reserves the right to change the name, address and/or telephone and fax numbers with respect to which notices are to be sent by giving written notice of such change to the other party at any time.

17. **AUTHORITY**. City and DCPS each covenant that each said entity has full authority to execute this Agreement.

18. **ENTIRE AGREEMENT**. This Agreement represents the entire agreements, representations, understandings, and expectations between City and DCPS. The Parties may only amend this Agreement with the Parties mutual, prior written consent.

19. **GOVERNING LAW**. The laws of the State of Nebraska shall govern this Agreement.

20. **BINDING EFFECT**. This Agreement shall be binding the successors, delegees, and assigns of each party.

21. **RELATIONSHIP OF THE PARTIES**. The Parties' relationship under this Agreement shall not constitute a partnership or an agency relationship and DSPC is neither City's employee nor independent contractor hereunder.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement as of the day and year last written below.

CITY:

DCPS:

THE CITY OF DAVID CITY, NEBRASKA,  
a municipal corporation and city of the second  
class

DAVID CITY PUBLIC SCHOOLS,  
a Nebraska political subdivision and school  
district (District No. 12-0056-000).

By:

By:

\_\_\_\_\_  
Jessica Miller, Mayor

\_\_\_\_\_  


Date:

Name:

\_\_\_\_\_  
CHAD DENKER

Its:

\_\_\_\_\_  
DCPS SUPT

Date:

\_\_\_\_\_  
07-30-2024

Council member Keith Marvin made a motion to pass and adopt Resolution No. 20-2024 authorizing the Mayor and City Council to execute a purchase and sale agreement and deed to convey the property located on 11th Street between "B" Street and "C" Street. Council Member Bruce Meysenburg seconded the motion. The motion carried.

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

Yea: 5, Nay: 0, Absent: 1

**RESOLUTION NO. 20 -2024**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, BUTLER COUNTY, NEBRASKA, AUTHORIZING THE SALE OF REAL PROPERTY LOCATED IN DAVID CITY, BUTLER COUNTY, NEBRASKA.**

**WHEREAS**, the City of David City, Nebraska, a municipal corporation and city of the second class ("**City**"), owns that certain real property located in the City legally described and depicted in **EXHIBIT A**, attached hereto and incorporated herein by this reference ("**Property**"); and

**WHEREAS**, the City received a bid for the Property, in excess of the reserve amount, from Cole and Carla Ratkovec, husband and wife ("**Buyer**"), of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) ("**Bid**"); and

**WHEREAS**, the City desires to accept the Bid and convey the Property to Buyer by executing that certain Purchase and Sale Agreement in **EXHIBIT B**, attached hereto and incorporated herein ("**PSA**"), and that certain quitclaim deed in **EXHIBIT C**, attached hereto and incorporated herein ("**Deed**"); and

**WHEREAS**, the City must first complete the Right of Remonstrance Period pursuant to Nebraska Revised Statutes section 17-503 to complete its conveyance of the Property ("**Right of Remonstrance Period**"); and

**WHEREAS**, the City finds it in the best interest of the City to accept the Bid and execute the PSA and Deed, and convey the Property to Buyer.

**NOW, THEREFORE**, the Mayor and City Council of the City of David City, Nebraska, hereby resolve as follows:

1. The Mayor and City Clerk shall execute the PSA, substantially in the form attached hereto, and other documents as reasonably necessary to convey the Property to Buyer.

2. The Mayor shall execute the Deed, substantially in the form attached hereto, once the Right of Remonstrance Period has concluded, and the City Clerk is hereby further directed to undertake all necessary actions for the City to pass the thirty (30) day Right of Remonstrance period.

3. The City Clerk shall publish the terms of the sale once a week for three (3) consecutive weeks in a legal newspaper of general circulation in the City and take all other steps necessary to comply with applicable law and effectuate this Resolution.

Passed and approved this 24<sup>th</sup> day of July, 2024.

---

Mayor Jessica Miller

ATTEST:

---

City Clerk Tami Comte

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**EXHIBIT A**  
**The Property**

**Legal Description:**

Lot Seven (7) and the North Half (N1/2) of Lot Ten (10), Block Ten (10), East David City Addition to Section Twenty (20), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., of the City of David City, Butler County, Nebraska.

**Property Address:**

*None.*

**Parcel Number:**

120006931

**EXHIBIT B**  
**Purchase and Sale Agreement**

**REAL ESTATE PURCHASE AGREEMENT**

This **REAL ESTATE PURCHASE AGREEMENT** ("**Agreement**") is effective as of the date last written below ("**Effective Date**") by and between **THE CITY OF DAVID CITY NEBRASKA**, a municipal corporation and city of the second class ("**Seller**") and **COLE RATKOVEC** and **CARLA RATKOVEC**, husband and wife (collectively, "**Buyer**"). Seller and Buyer are herein referred to individually as a "**Party**" and collectively as the "**Parties**."

**RECITALS**

A. Seller owns that certain real property in Butler County, Nebraska as shown on **EXHIBIT A**, attached hereto and incorporated herein ("**Property**"); and

B. Buyer wishes to purchase, and Seller wishes to sell the Property, on the terms and conditions herein.

**NOW, THEREFORE**, in consideration of the foregoing Recitals which the Parties hereby incorporate herein and for other good and valuable consideration the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

**AGREEMENT**

1. **Property**. Seller agrees to sell and Buyer agrees to purchase all of Seller's right, interest, and title to the Property.

a. **Right of Remonstrance Period**. The Parties expressly acknowledge and agree that the Seller's obligation to convey the Property to Buyer is expressly conditional upon the Property satisfying the thirty (30)-day statutory Right of Remonstrance Period as section 17-503(3) of the Nebraska Revised Statutes so requires ("**Right of Remonstrance Period**"). In the event Seller is unable to convey the Property as a result of a validly submitted remonstrance petition, pursuant to section 17-503(1) of the Nebraska Revised Statutes, this Agreement shall automatically terminate and Seller shall return the Earnest Deposit (defined below) to Buyer. Notwithstanding anything else in this Agreement to the contrary, Seller's execution of the Quitclaim Deed (defined below) shall not constitute a waiver of this statutory requirement nor an acknowledgement of its satisfaction and the only evidence of the Seller's satisfaction of the Right of Remonstrance Period and this condition of Seller's obligation to convey the Property is Seller's passing of an ordinance confirming the sale of the Property pursuant to section 17-503(5) of the Nebraska Revised Statutes.

2. **Purchase Price**. Buyer agrees to pay and Seller agrees to accept Fifteen Thousand Dollars and Zero Cents (\$15,000.00) ("**Purchase Price**") for the Property. Such Purchase Price is due and payable to Seller at the Closing Date (defined below).

3. **Earnest Deposit.** Buyer will pay directly to Seller within five (5) business days after the Effective Date an earnest money deposit of Two Thousand and Five Hundred Dollars and Zero Cents (\$2,500.00) ("**Earnest Deposit**"). The Earnest Deposit shall be nonrefundable to Buyer except as specifically provided in this Agreement but will be applied toward payment of the Purchase Price at Closing. If Buyer fails to remit the Earnest Deposit as provided above this Agreement shall immediately terminate upon written notice from Seller to Buyer.

4. **Closing.** The closing of the sale of the Property ("**Closing**") shall take place as soon as possible after the Effective Date and in no event earlier than sixty (60) days after the Effective Date ("**Closing Date**") at Seller's offices located at 490 E Street, David City, Nebraska 68632. If the Closing Date falls on a weekend day or a banking holiday, the Closing Date shall be the next business day thereafter. Seller agrees not to sell, lease, or otherwise convey or encumber, all or a portion of, the Property between the Effective Date and the Closing Date. The Parties may extend the Closing Date by mutual written consent.

a. At Closing, Seller shall deliver to Buyer:

(1) A duly executed and acknowledged Quitclaim Deed for the Property;

(2) A non-foreign person affidavit reasonably acceptable to Buyer, if section 76-2,141 of the Nebraska Revised Statutes so requires one;

(3) All other Seller documents necessary to close this transaction in accordance with the terms of this Agreement; and

(4) Possession of the Property.

b. At Closing, Buyer shall deliver to Seller:

(1) The Purchase Price;

(2) All other Buyer documents necessary to close this transaction in accordance with the terms of this Agreement.

5. **Expenses to be Paid at or Prior to Closing.**

a. Seller shall pay on or before Closing: Half of the costs of any escrow or closing fee, if any; all applicable real estate transfer taxes; all of Seller's attorney's fees; the cost of preparation of the Quitclaim Deed; and all other expenses stipulated to be paid by Seller under other provisions of this Agreement.

b. Buyer shall pay in cash on or before Closing: All of the cost of any title insurance policy and endorsements, environmental surveys or other studies on the Property that Buyer elects in its sole cost and discretion to obtain; half of the costs of any escrow or closing fee, if any; all costs of recording the Quitclaim Deed (excluding real estate transfer taxes); all of Buyer's attorney's fees; and all other expenses stipulated to be paid by Buyer under other provisions of this Agreement.

6. **Prorations.**

a. *Real Estate Taxes.* All real estate taxes becoming delinquent in the year Closing occurs shall be prorated between the Parties as of the Closing Date. Real estate tax proration shall be based upon the then-most current property valuations and upon the most current tax rate as determined by law.

b. *Association Dues and Special Assessments.* All association dues and assessments and all special assessments for public improvements due and payable but not yet delinquent or for which construction commences as of the Closing Date, shall be prorated between the Parties as of the Closing date.

9. **Default.** Unless otherwise provided for herein, if Seller fails or refuses, in violation of this Agreement, to comply with any obligation herein, Buyer's only remedies shall be to either (a) terminate this Agreement, in which event Seller shall return the Earnest Deposit to Buyer, or (b) bring an action to specifically enforce this Agreement; provided, if Buyer fails to bring any such action within one-hundred and eighty (180) days after the Closing Date Buyer shall forfeit and waive any such right to such remedy. In the event Buyer fails or refuses, in violation of this Agreement, to comply with any obligation set forth herein, Seller's sole and only remedy shall be to terminate this Agreement and retain as Seller's property the Earnest Deposit.

10. **No Seller Representations.** The Parties acknowledge and accept that Seller makes no representations of any kind with respect to the title to or the condition of the Property. Buyer acknowledges, agrees, and accepts that at Closing Seller will provide and Buyer will accept a Quitclaim Deed for the Property. Buyer waives any and all claims against Seller related to the Property. This provision shall specifically survive closing and shall not merge into the Quitclaim Deed.

11. **Condemnation.** If prior to Closing, condemnation proceedings commence against all or a portion of the Property, Buyer, at Buyer's option, may terminate this Agreement by written notice to Seller within ten (10) business days after Buyer receives notice of such condemnation proceedings. If Buyer elects to terminate the Agreement neither party shall have any further rights or obligations pursuant to this Agreement as to such Property (unless otherwise provided herein to survive such termination). If Buyer does not elect to terminate the Agreement, the Parties shall close this Agreement without adjustment to the Purchase Price and Buyer shall have the right to participate with Seller in such condemnation proceedings prior to Closing, and appear on its own behalf following Closing. Any condemnation award or payment in lieu of such condemnation proceeds made after Closing shall belong to Buyer but shall not reduce the Purchase Price for the Property.

12. **Brokers' Fees.** Neither Party engaged the services of a real estate broker in connection with this Agreement. Each Party hereto shall indemnify and hold the other party harmless (which indemnification shall survive Closing or any termination of this Agreement) from any and all claims and/or expense resulting to the indemnified party by reason of such representation being incorrect.



13. **“As-Is” Purchase.** BUYER’S PURCHASE OF THE PROPERTY HEREUNDER is “AS-IS”, “WHERE-IS” AND “WITH ALL FAULTS”, AND BUYER IS CONCLUDING THIS PURCHASE SOLELY ON ITS OWN INSPECTION AND INVESTIGATION OF THE PROPERTY. WITHOUT LIMITING THE FOREGOING, BUYER ACKNOWLEDGES THAT SELLER HAS NOT MADE ANY REPRESENTATIONS AND WARRANTIES, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT ON WHICH BUYER IS RELYING AS TO ANY MATTERS CONCERNING THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE REAL ESTATE, IMPROVEMENTS, LEASES, CONTRACTS, DEVELOPMENT RIGHTS, TAXES, BONDS, PERMISSIBLE USES, WATER OR WATER RIGHTS, TOPOGRAPHY, UTILITIES, ZONING, SOIL, SUBSOIL, THE PURPOSES FOR WHICH THE PROPERTY IS TO BE USED, DRAINAGE, ENVIRONMENTAL OR BUILDING LAWS, RULES OR REGULATIONS, OR ANY OTHER REPRESENTATIONS OR WARRANTIES). UPON CLOSING ON THE PURCHASE OF THE PROPERTY, BUYER HEREBY WAIVES ANY CLAIM IT MAY HAVE AGAINST SELLER AS TO MATTERS RELATED TO THE PROPERTY OR SELLER OF WHICH BUYER HAS KNOWLEDGE AT CLOSING. THE PROVISION OF THIS SECTION SHALL EXPRESSLY SURVIVE CLOSING.

14. **Notice.** Any notice required hereunder shall be sent to the following addresses unless the Parties agree, in writing, to change the following:

To SELLER:

The City of David City, Nebraska  
c/o Tami Comte  
490 E Street, P.O. Box 191  
David City, NE 68632  
[tcomte@davidcityne.gov](mailto:tcomte@davidcityne.gov)  
(402) 367-3135

To BUYER:

Cole & Carla Ratkovec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a Copy To:

Baird Holm LLP  
c/o David C. Levy  
1700 Farnam Street, Suite 1500  
Omaha, NE 68102-2068  
(402) 344-0500  
[dlevy@bairdholm.com](mailto:dlevy@bairdholm.com)

With a Copy To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. **Governing Law.** The laws of the State of Nebraska shall govern this Agreement and any action hereunder shall be brought only in the state or federal court having jurisdiction in Butler County, Nebraska.

16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

17. **Severability.** If any one or more of the provisions of this Agreement are held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall

not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18. **Entire Agreement.** This Agreement constitutes the sole and only agreement of the Parties and supersedes any prior understandings or written or oral agreements between the Parties and cannot be modified except with the Parties' mutual, written consent.

19. **Counterparts.** This Agreement may be executed in a number of identical counterparts and each of such counterparts is to be deemed an original for all purposes and all such counterparts shall, collectively, constitute one Agreement.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK – SIGNATURES FOLLOW]**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date last written below.

**SELLER**

**THE CITY OF DAVID CITY, NEBRASKA**,  
a municipal corporation and city of the second class

By: \_\_\_\_\_  
Jessica Miller, Mayor

Date: \_\_\_\_\_

**BUYER**

**COLE RATKOVEC** and **CARLA RATKOVEC**,  
husband and wife

\_\_\_\_\_  
Cole Ratkovec

Date: \_\_\_\_\_

\_\_\_\_\_  
Carla Ratkovec

Date: \_\_\_\_\_

**EXHIBIT A**

DESCRIPTION OF PROPERTY

Legal Description:

Lot Seven (7) and the North Half (N1/2) of Lot Ten (10), Block Ten (10), East David City Addition to Section Twenty (20), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., of the City of David City, Butler County, Nebraska.

Property Address:

*None.*

Parcel Number:

120006931

**EXHIBIT C**  
**Quitclaim Deed**

(SEE ATTACHED)

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*(Above space reserved for Register of Deeds)*

Prepared By and Return to:

Baird Holm LLP  
c/o David C. Levy  
1700 Farnam Street, Suite 1500  
Omaha, Nebraska 68102-2068

**QUITCLAIM DEED**

**THE CITY OF DAVID CITY, NEBRASKA**, a municipal corporation and city of the second class ("**Grantor**"), for One Dollar and Zero Cents (\$1.00), and other good and valuable consideration the receipt and sufficiency of which the Parties hereby acknowledge and accept, hereby conveys and quitclaims to **COLE** and **CARLA RATKOVEC**, husband and wife (collectively, "**Grantee**"), all right, title and interest in and to, whether beneficial or actual, that certain real estate (as Nebraska Revised Statutes section 76-201 so defines) in Butler County, Nebraska, as legally described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Property**").

Executed: \_\_\_\_\_, 2024.

\_\_\_\_\_  
Jessica Miller, Mayor  
The City of David City, Nebraska

**ACKNOWLEDGEMENT**

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF BUTLER    )

The foregoing Warranty Deed was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by **JESSICA MILLER**, as Mayor of the City of David City, Nebraska, a municipal corporation and city of the second class, Grantor.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date:

**EXHIBIT A**

**Legal Description of the Property**

Legal Description:

Lot Seven (7) and the North Half (N1/2) of Lot Ten (10), Block Ten (10), East David City Addition to Section Twenty (20), Township Fifteen (15) North, Range Three (3) East of the 6th P.M., of the City of David City, Butler County, Nebraska.

Property Address:

*None.*

Parcel Number:

120006931

Council member Bruce Meysenburg made a motion to pass and adopt Resolution No. 21-2024 amending the Future Land Use Map by changing the land use classification from Residential to Highway Commercial for the real estate listed above as requested by Western Oil II, LLC described as follows: A tract of land being part of Lot 7 and 8, David City Land and Lot Company's Suburban Lots, located in the SW ¼ of the SE ¼ of Section 18, Township 15 North, Range 3, East of the 6th P.M., in Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Lot 8, and assuming the south line of said Lot 8 to have a bearing of N 89°32'24" W; thence N 89°32'24" W, 155.00 feet; thence N 00°20'17" W, 348.83 feet; thence S 89°32'24" E, 84.35 feet, parallel with the south line of said Lot 8; thence N 00°24'47" E, 135.82 feet, parallel with the east line of said lot 8; thence N89°58'34" E, 75.33 feet, parallel with the north line of said Lot 8; thence S00°24'47" W, 36.14 feet on the east line of said Lot 8; thence S89°35'50" E, 131.70 feet; thence S 00°32'08" W, 449.25 feet; thence N 89°32'24" W, 130.74 feet on the south line of said Lot 7, to the point of beginning, containing 2.85 acres, more or less, EXCEPT that portion conveyed by Warranty Deed filed as Instrument No 2018-01663 in the Office of the Butler County Clerk/Register of Deeds on December 28, 2018, and EXCEPT that portion conveyed by Warranty Deed filed as Instrument No. 2022-01244 in the Office of the Butler County Clerk/Register of Deeds on August 15, 2022.. Council Member Kevin Woita seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Nay, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 4, Nay: 1, Absent: 1

**RESOLUTION NO. 21-2024**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING THE FUTURE LAND USE MAP; REPEALING ANY RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THIS RESOLUTION IN PAMPHLET FORM.**

**WHEREAS**, the City of David City, Nebraska, a municipal corporation and city of the second class ("**City**") passed Resolution No. 23-2022 on September 28, 2022, adopting the "David City, Nebraska 2040 Comprehensive Plan" ("**Comprehensive Plan**") which includes the City's "Future Land Use Map" showing City's anticipated growth and changes in land use ("**Future Land Use Map**"); and

**WHEREAS**, City desires to amend the Future Land Use Map to change the future land use designation of that certain real property within the City as described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Property**"); and

**WHEREAS**, the Property is currently designated Single Family Residential ("**R-1**"); and

**WHEREAS**, the parcels surrounding the Property to the West and North, separating the Property and Highway 15, are designated Highway Commercial ("**C-1**"); and

**WHEREAS**, in furtherance of and in substantial conformance with the Comprehensive Plan and to create a more uniform future land use plan, City finds it in the best interest of the City, its residents, and the future growth of the City to re-designate the Property from R-1 to C-1; and

**WHEREAS**, sections 4.01 and 11.02 of the David City Zoning Ordinance ("**Zoning Ordinance**") require the Planning Commission of the City of David City, Nebraska ("**Commission**") to hold a duly noticed public hearing on a proposed rezoning and issue a recommendation to City; and

**WHEREAS**, on June 8, 2024, after a duly noticed public hearing and based on the substantial evidence in the record before it, the Commission recommended that the City rezone the Property; and

**WHEREAS**, City desires to change the land use designation of the Property from R-1 to C-1; and

**WHEREAS**, City provided notice of its intent to hold a hearing to consider rezoning the Property from R-1 to C-1 by publishing the same in a legal newspaper in or of general circulation within the City at least ten (10) days prior to said hearing, in compliance with section 19-904 of the Nebraska Revised Statutes; and

**WHEREAS**, City desires to amend the Future Land Use Map to reflect the Property being designated C-1.

**NOW THEREFORE BE IT RESOLVED**, the Mayor and City Council of the City of David City, Nebraska resolve as follows:

1. The City shall amend the Future Land Use Map to reflect the Property hereinafter being designated C-1.
2. Any resolution or section of any resolution passed and approved prior to the passage, approval, and publication or posting of this resolution and in conflict herewith, is hereby repealed.
3. The City Clerk shall publish this resolution in pamphlet form.

Passed and adopted this 24<sup>th</sup> day of July, 2024.

---

Mayor Jessica Miller

---

City Clerk Tami L. Comte

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**EXHIBIT A**  
**Description and Depiction of the Property**

**Legal Description:**

A tract of land located in Lot 8, David City Land and Lot Company's Suburban Lots, in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 18, Township 15 North, Range 3 East of the 6th P.M., Butler County, Nebraska, described as follows:

Beginning at the Southeast corner of said Lot 8; thence N89°32'24"W on an assumed bearing on the South line of said Lot 8, 155.00 feet; thence N00°20'17"W, 348.83 feet; thence S89°32'24"E, 84.35 feet; thence N00°24'47"E, 135.82 feet; thence N89°58'34"E, 75.33 feet, to a point on the East line of said Lot 8; thence S00°24'47"W, 485.25 feet, to the Point of Beginning, EXCEPT a parcel of land located in Lot 8, David City Land and Lot Company Suburban Lots, located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 18, Township 15 North, Range 3 East of the Sixth P.M., Butler County, Nebraska, being described as follows: referring to the Southeast corner of said Lot 8; thence N00°57'58"E (Assumed Bearing) on the East line of said Lot 8, a distance of 348.66 feet to the point of intersection with the Easterly extension of the North line of a tract of land previously described in Filmbook 11-01365 and the point of beginning, thence N88°57'17"W on said Easterly extension, a distance of 75.32 feet; thence N00°57'25"E on the West line of said tract, a distance of 135.76 feet; thence S89°31'04"E on the North line of said tract, a distance of 75.23 feet to the East line of said Lot 8; thence S00°57'58"W on said East line, a distance of 136.52 feet to the point of beginning.

**Parcel Number:** 120008358

**Situs Address:** 498 'O' Street  
David City, Nebraska 68632

**Depiction:**



*The Property is outlined in red.*

6430975.2

Council member Bruce Meysenburg made a motion to pass Ordinance No. 1486 on 2nd reading only: amending the Official Zoning Map by changing the zoning classification from R-1 Single Family Residential to C-1 Highway Commercial as requested by Western Oil II, LLC for the real estate as follows: A tract of land being part of Lot 7 and 8, David City Land and Lot Company's Suburban Lots, located in the SW ¼ of the SE ¼ of Section 18, Township 15 North, Range 3, East of the 6th P.M., in Butler County, Nebraska, described as follows: Beginning at the southeast corner of said Lot 8, and assuming the south line of said Lot 8 to have a bearing of N 89°32'24" W; thence N 89°32'24" W, 155.00 feet; thence N 00°20'17" W, 348.83 feet; thence S 89°32'24" E, 84.35 feet, parallel with the south line of said Lot 8; thence N 00°24'47" E, 135.82 feet, parallel with the east line of said lot 8; thence N89°58'34" E, 75.33 feet, parallel with the north line of said Lot 8; thence S00°24'47" W, 36.14 feet on the east line of said Lot 8; thence S89°35'50" E, 131.70 feet; thence S 00°32'08" W, 449.25 feet; thence N 89°32'24" W, 130.74 feet on the south line of said Lot 7, to the point of beginning, containing 2.85 acres, more or less, EXCEPT that portion conveyed by Warranty Deed filed as Instrument No 2018-01663 in the Office of the Butler County Clerk/Register of Deeds on December 28, 2018, and EXCEPT that portion conveyed by Warranty Deed filed as Instrument No. 2022-01244 in the Office of the Butler County Clerk/Register of Deeds on August 15, 2022. Council Member Kevin Woita seconded the motion. The motion carried.

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

Yea: 4, Nay: 1, Absent: 1

**ORDINANCE NO. 1486**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING THE OFFICIAL ZONING MAP OF DAVID CITY, BUTLER COUNTY, NEBRASKA; REPEALING ANY ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.**

**WHEREAS**, the City of David City, Nebraska, a municipal corporation and city of the second class ("**City**") passed Resolution No. 23-2022 on September 28, 2022, adopting the "David City, Nebraska 2040 Comprehensive Plan" ("**Comprehensive Plan**") which includes City's "Future Land Use Map," as amended by Resolution No. 23-2022 the City passed on September 28, 2022, showing City's anticipated growth and changes in land use (the "**Future Land Use Map**"); and

**WHEREAS**, on November 14, 2007, City passed Ordinance No. 1060 adopting the Official Zoning Map of the City of David City, Nebraska, (together with all subsequent amendments thereto, "**Official Zoning Map**"), pursuant to section 3.02.01 of David City Zoning Ordinance ("**Zoning Ordinance**"), which provides zoning classifications of each parcel within City's zoning jurisdiction; and

**WHEREAS**, City desires to amend the Official Zoning Map to change the zoning designation of that certain real property within the City as described and depicted in **EXHIBIT A**, attached hereto and incorporated herein ("**Property**"); and

**WHEREAS**, the Property is currently zoned Single Family Residential ("**R-1**"); and

**WHEREAS**, the parcels surrounding the Property to the West and North, separating the Property and Highway 15, are zoned Highway Commercial ("**C-1**"); and

**WHEREAS**, in furtherance of and in substantial conformance with the Comprehensive Plan, including but not limited to the Future Land Use Map as amended, and to create a more uniform zoning district, City finds it in the best interest of City, its residents, and future growth to rezone the Property from R-1 to C-1; and

**WHEREAS**, sections 4.01 and 11.02 of the Zoning Ordinance requires the Planning Commission of the City of David City, Nebraska ("**Commission**") to hold a duly noticed public hearing on a proposed rezoning and issue a recommendation to City; and

**WHEREAS**, on June 8, 2024, after a duly noticed public hearing and based on the substantial evidence in the record before it, the Commission recommended that City rezone the Property; and

**WHEREAS**, City desires to change the zoning designation of the Property from R-1 to C-1; and

**WHEREAS**, City provided notice of its intent to hold a hearing to consider rezoning the Property from R-1 to C-1 by publishing the same in a legal newspaper in or of general circulation within the City at least ten (10) days prior to said hearing, in compliance with section 19-904 of the Nebraska Revised Statutes; and

**WHEREAS**, City desires to amend the Official Zoning Map to reflect the Property being zoned C-1.

**NOW THEREFORE BE IT ORDAINED**, the Mayor and City Council of the City of David City, Nebraska ordain as follows:

1. The zoning designation of the Property upon the effective date of this Ordinance is C-1.
2. City shall amend the Official Zoning Map to reflect the Property hereinafter being zoned C-1.
3. 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 herewith, is hereby repealed.
4. The City Clerk shall publish this Ordinance in pamphlet form.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Passed on 2<sup>nd</sup> reading only  
Mayor Jessica Miller

Passed on 2<sup>nd</sup> reading only  
City Clerk Tami L. Comte

**EXHIBIT A**  
**Description and Depiction of the Property**

**Legal Description:**

A tract of land located in Lot 8, David City Land and Lot Company's Suburban Lots, in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 18, Township 15 North, Range 3 East of the 6th P.M., Butler County, Nebraska, described as follows:

Beginning at the Southeast corner of said Lot 8; thence N89°32'24"W on an assumed bearing on the South line of said Lot 8, 155.00 feet; thence N00°20'17"W, 348.83 feet; thence S89°32'24"E, 84.35 feet; thence N00°24'47"E, 135.82 feet; thence N89°58'34"E, 75.33 feet, to a point on the East line of said Lot 8; thence S00°24'47"W, 485.25 feet, to the Point of Beginning, EXCEPT a parcel of land located in Lot 8, David City Land and Lot Company Suburban Lots, located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 18, Township 15 North, Range 3 East of the Sixth P.M., Butler County, Nebraska, being described as follows: referring to the Southeast corner of said Lot 8; thence N00°57'58"E (Assumed Bearing) on the East line of said Lot 8, a distance of 348.66 feet to the point of intersection with the Easterly extension of the North line of a tract of land previously described in Filmbook 11-01365 and the point of beginning, thence N88°57'17"W on said Easterly extension, a distance of 75.32 feet; thence N00°57'25"E on the West line of said tract, a distance of 135.76 feet; thence S89°31'04"E on the North line of said tract, a distance of 75.23 feet to the East line of said Lot 8; thence S00°57'58"W on said East line, a distance of 136.52 feet to the point of beginning.

**Parcel Number:** 120008358

**Situs Address:** 498 'O' Street  
David City, Nebraska 68632

**Depiction:**



*The Property is outlined in red.*

Council member Bruce Meysenburg introduced Ordinance No. 1488 amending Section 10-101 adopting the David City, Nebraska 2040 Comprehensive Plan. Mayor Jessica Miller read Ordinance No. 1488 by title. Council member Keith Marvin made a motion to suspend the statutory ruling requiring that an Ordinance be read on three separate days. Council Member Kevin Woita seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1

Council member Keith Marvin made a motion to pass and adopt Ordinance No. 1488 amending Section 10-101 adopting the David City, Nebraska 2040 Comprehensive Plan on 3rd and Final reading. Council Member Bruce Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1

#### **ORDINANCE NO. 1488**

#### **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING SECTION 10-101 OF THE DAVID CITY MUNICIPAL CODE; AND AUTHORIZING PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.**

**WHEREAS**, section 10-101 of the David City Municipal Code ("**Code**") adopts and incorporates the "Comprehensive Plan for the City of David City, Nebraska," that Olsson Associates prepared in August 2005 ("**2005 Comprehensive Plan**"); and

**WHEREAS**, on September 28, 2022, the City of David City, Nebraska, a municipal corporation and city of the second class ("**City**") passed Resolution No. 23-2022 adopting the "David City, Nebraska 2040 Comprehensive Plan" ("**Current Comprehensive Plan**"); and

**WHEREAS**, the Current Comprehensive Plan, including all amendments thereto, is the City's currently effective comprehensive plan; and

**WHEREAS**, the City desires to amend section 10-101 of the Code to reference the Current Comprehensive Plan and any subsequent amendments thereto.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA** that section 10-101 of the Code is hereby repealed and replaced with the following:

**SECTION 10-101: ADOPTED BY REFERENCE**

To accommodate anticipated long-range future growth, the City of David City, Nebraska, a municipal corporation and city of the second class, hereby adopts and incorporates the "David City, Nebraska 2040 Comprehensive Plan," as adopted on September 28, 2022, together with all appendices and amendments thereto, as if the same were fully set forth herein. The City shall keep one copy of the "David City, Nebraska 2040 Comprehensive Plan," including all appendices and amendments thereto, on file and available for public inspection at the office of the City Clerk.

**BE IT FURTHER ORDAINED** 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 herewith is hereby repealed.

**BE IT FURTHER ORDAINED** that this Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form.

PASSED AND APPROVED THIS 24<sup>th</sup> day of July, 2024

\_\_\_\_\_  
Mayor Jessica Miller

ATTEST:

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

Council member Keith Marvin made a motion to approve the engineering agreement with JEO for 2024 Water Main Improvements North 7th Street from "I" Street to "O" Street. Council Member Kevin Woita seconded the motion. The motion carried.

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

Yea: 5, Nay: 0, Absent: 1



**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of the date signed by the Owner between City of David City, Nebraska ("Owner") and JEO Consulting Group, Inc. ("Engineer").

Owner's project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

2024 Water Main Improvements: North 7<sup>th</sup> Street from I Street to O Street ("Project").

JEO Project Number: 231471.00

Owner and Engineer further agree as follows:

**ARTICLE 1 - SERVICES OF ENGINEER**

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**1.01 Scope**

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

**ARTICLE 2 - OWNER'S RESPONSIBILITIES**

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**2.01 Owner Responsibilities**

A. Owner responsibilities are outlined in Section 3 of Exhibit B.

**ARTICLE 3 - COMPENSATION**

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**3.01 Compensation**

A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.

B. The fee for the Project is:

Project Management	\$ 5,000.00	Lump Sum
Preliminary Design	\$ 55,000.00	Lump Sum
Final Design and Permitting	\$ 35,500.00	Lump Sum
Bidding and Negotiation	\$ 5,500.00	Lump Sum
Construction Administration	\$ 20,500.00	Lump Sum
Post Construction	\$ 5,000.00	Lump Sum
Construction Observation:	\$ 21,000.00*	Hourly [160 Hours Estimated]
Total Estimated Fee:	\$147,500.00	



\*Engineer's estimate of the amount that will become payable are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

When nearing estimated compensation amounts stated herein and it subsequently becomes apparent to Engineer that the total compensation amount estimated will be exceeded, Engineer shall give Owner written notice thereof. Should the Owner determine services shall be reduced or concluded to keep budget close to the estimate, Owner shall notify Engineer and Engineer shall reduce or conclude services accordingly. If Engineer exceeds the total estimated amount before Owner notifies the Engineer, the Engineer shall be paid for all services rendered up to being notified.

- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

**ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS**

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**4.01 Exhibits**

Exhibit A – Scope of Services  
Exhibit B – General Conditions

**4.02 Total Agreement**

- A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: City of David City, Nebraska

Engineer: JEO Consulting Group, Inc.

\_\_\_\_\_

  
\_\_\_\_\_

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

By: Ethan E. Joy, PE

Title: \_\_\_\_\_

Title: Branch Manager

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

Date Signed: 7/19/2024

Address for giving notices:

Address for giving notices:

490 E. Street, P.O. Box 191

JEO Consulting Group, Inc.

David City, NE 68632

1937 N Chestnut Street

\_\_\_\_\_

Wahoo, NE 68066

Exhibit A

**JEO Consulting Group, Inc.**  
**SCOPE OF SERVICES**

**PROJECT DESCRIPTION:**

The City of David City, Nebraska (Owner) owns and operates a water distribution system that serves the businesses/residents of the community. In recent years, segments of the water distribution system have been identified that are no longer reliable and should be replaced. As a result of frequent water main breaks, the city desires to replace the existing water main along North 7<sup>th</sup> Street, from I Street to O Street. Design of water main replacements shall generally include replacement and/or reconnection of water services, connections to intersecting water mains, installation of appurtenances such as hydrants and valves, and site restoration.

The work to be performed by the Engineer shall include the preparation of front-end contract documents, technical specifications, and drawings detailing the necessary work, services, materials, equipment and supplies necessary to design and construct the project. The Engineer will also provide bidding assistance, construction administration, and part-time inspection during the construction of the project.

The improvements will be constructed by a Contractor under a separate construction contract with the Owner, which will be awarded through a formal bidding process. It is anticipated that there will be one (1) contract with a Prime Contractor to complete the work. It is assumed that the project will be funded via local sales tax.

**BASIC SERVICES (LUMP SUM)**

**PROJECT MANAGEMENT:**

- A. Provide project management oversight over all facets and phases of the project. Project management shall include the following services:
  - 1. Coordination of design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors in the plans and specifications as well as ensure a timely project design.
  - 2. Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
  - 3. Provide oversight, monitor staff, and ensure proper staffing levels are maintained to ensure scope of services and schedule are met.
  - 4. Review billed hours by the design team and prepare invoice statements for the Owner.
  - 5. Work with design disciplines to identify potential risks and how to mitigate those risks.

**PRELIMINARY DESIGN PHASE:**

**Topographic Survey:**

- A. Following confirmation by the Owner, topographic survey of the project corridor will be completed. The topographic survey to include:
  - 1. Establish vertical and horizontal control on the State Plane coordinate system near the project areas.

Exhibit A

**JEO Consulting Group, Inc.**  
**SCOPE OF SERVICES**

2. Schedule utility location information (a One-Call utility locate request will be made) and incorporate on the preliminary plans (gas, telephone electric, water, sanitary sewer, communications, etc.).
3. Conduct a topographic survey of the proposed water main route. In some areas survey will only be conducted on the half of the ROW where the main is planned to be constructed.
4. Survey the locations of all physical features along the proposed route (concrete, asphalt, gravel, rock, driveways, sidewalks, trees, utility poles, utility locates, valves, manholes, signs, drainage structures, curb stops, water meter outs, terrain profiles, buildings, trees and landscaping, etc.).
5. Create an electronic drawing illustrating elevations, site features, water, sanitary sewer, stormwater collection and discharge points, electrical service, and other appurtenances in AutoCAD.

30% Design Process:

- A. Attend and facilitate one (1) project Initiation/Kickoff meeting with Owner/Owner's representatives to review the project scope, schedule, and project requirements. Confirm with the Owner and designated staff the proposed route and preferred side of the street for the watermain alignment. **[1 Meeting]**
- B. Develop a preliminary alignment, profile, and typical cross section for North 7<sup>th</sup> Street from I Street to O Street as necessary to establish the water main plan and profile.
- C. Prepare 30% drawings and opinion of probable construction cost for the water main alignment. The 30% drawings to include the following:
  1. Cover Sheet
  2. Symbols Sheet
  3. Water Main Plan Sheets [No Profiles]
  4. Detail Sheet(s)
- D. Conduct an internal 30% QA/QC of the project documents and incorporate necessary revisions.
- E. Provide 30% drawings and opinion of probable construction cost to Owner in advance of the 30% design review meeting.
- F. Attend and facilitate a 30% design review meeting, including plan-in-hand review at the project site, with the Owner. **[1 Meeting]**

60% Design Process:

- A. Revise drawings following receipt of 30% review comments from internal QA/QC and comments from 30% design review meeting and plan-in-hand with Owner.
- B. Prepare 60% drawings, technical specifications, and opinion of probable construction cost for the selected water main alignment. The 60% drawings to include the following:
  1. Cover Sheet
  2. Symbols Sheet
  3. Project Location Sheet
  4. Control Sheet
  5. Water Main Plan and Profile Sheets
  6. Detail Sheet(s)
- C. Conduct an internal 60% QA/QC of the project documents and incorporate necessary revisions.

Exhibit A

**JEO Consulting Group, Inc.**  
**SCOPE OF SERVICES**

- D. Provide 60% drawings, technical specifications, and opinion of probable construction cost to Owner in advance of the 60% design review meeting.
- E. Attend and facilitate a 60% design review meeting with the Owner to review project documents and details. **[1 Meeting]**

*FINAL DESIGN AND PERMITTING PHASE:*

90% Design Process:

- A. Revise drawings following receipt of 60% review comments from internal QA/QC and comments from 60% design review meeting with Owner.
- B. Prepare 90% drawings, technical specifications, and opinion of probable construction cost for the selected water main alignment. The 90% drawings to include the following:
  - 1. Cover Sheet
  - 2. Symbols Sheet
  - 3. Project Location Sheet
  - 4. Control Sheet
  - 5. Water Main Plan and Profile Sheets
  - 6. Detail Sheet(s)
- C. Conduct an internal 90% QA/QC of the project documents and incorporate necessary revisions.
- D. Provide 90% drawings, technical specifications, and opinion of probable construction cost to Owner in advance of the 90% design review meeting.
- E. Attend and facilitate a 90% design review meeting with the Owner to review project documents and details. **[1 Meeting]**

Design Finalization and Permitting:

- A. Revise drawings and technical specifications following receipt of 90% review comments from internal QA/QC and comments from 90% design review meeting with Owner.
- B. Prepare final plans, technical specifications, bidding and contract documents, and opinion of probable construction cost.
- C. Conduct an internal final QA/QC of the project documents and incorporate necessary revisions.
- D. Provide final drawings, specifications, bidding and contract documents, and opinion of probable construction cost to Owner.
- E. Create final drawings and specifications package and sign and seal by engineers and a coordinating professional all registered in the State of Nebraska.
- F. Following confirmation from the Owner, submit final drawings and specifications to NDEE for review, approval, and issuance of construction permits. Owner to pay all review fees.

*BIDDING AND NEGOTIATION PHASE:*

- A. Furnish copies of plans, specifications, and contract documents of the project to prospective bidders, material suppliers, and other interested parties upon their request and payment of the purchase cost established for the documents.
- B. Respond to inquiries from prospective bidders and prepare any addenda required.
- C. Assist the Owner in securing construction bids for the project.
- D. Assist the Owner at the bid opening. **[1 Meeting]**

Exhibit A

**JEO Consulting Group, Inc.**  
**SCOPE OF SERVICES**

- E. Tabulate and analyze construction bids and report on them to the Owner, together with advice and assistance to the Owner in award of construction contract.
- F. Prepare and submit necessary information to the Owner for project award approval.
- G. Prepare contract documents for execution by Contractor and the Owner, and approval by Owner's legal and insurance counsel.

*CONSTRUCTION ADMINISTRATION PHASE:*

The lump sum fee for these services assumes a six [6] month construction schedule that occurs in 2025.

- A. Schedule and conduct a pre-construction meeting. **[1 Meeting]**
- B. Assist the Owner with securing quotes for a geotechnical engineer to complete soil and concrete testing.
- C. Review soil and concrete testing results, as needed. Testing costs to be paid for by Owner.
- D. Review water main testing results provided by the Contractor as required by the contract documents.
- E. Provide interpretation of the plans and specifications, when necessary.
- F. Review shop drawings and related data supplied by the Contractor.
- G. Provide horizontal and vertical control and survey staking for the water main staking shall be limited to three [3] trips.
  - 1. Water main alignment to be staked at 100-foot intervals including stakes for all valves, fittings, and hydrants.
  - 2. No grades shall be staked for the water main.
- H. Review Contractor's payment estimates and provide to Owner for review and approval.
- I. Review change order requests, if necessary, and provide to Owner for review and approval.
- J. Consult with and advise Owner during construction.
- K. Schedule and conduct monthly construction progress meetings. **[4 Meetings]**
- L. Conduct a final inspection of project with the Contractor and Owner.
- M. Compile record drawings and submit to NDEE along with notice of completion.
- N. Recommend to the Owner the acceptance of the project and complete the necessary certificates.

*POST CONSTRUCTION PHASE:*

The lump sum fee for these services assumes the work to occur within 12 months of construction final completion. It is assumed that this work will take place in 2025/2026.

- A. Obtain as-built location and elevation data from Contractor and incorporate into record drawings. No survey verification of Contractor data included.
- B. Provide record drawings reflecting improvements as constructed. Furnish to the Owner three [3] paper copies and one digital copy of the as-built record drawings.
- C. Compile record drawings and submit to NDEE along with notice of completion.
- D. Schedule and facilitate an 11-month warranty walkthrough with the Owner.
- E. Provide a warranty list to the Contractor and make up to two [2] site visits to confirm items are addressed.

Exhibit A

**JEO Consulting Group, Inc.**  
**SCOPE OF SERVICES**

**BASIC SERVICES (HOURLY)**

**CONSTRUCTION OBSERVATION PHASE:**

The estimated hourly fee for these services assumes sixteen [16] weeks of active construction and an average of part-time inspection of 10 hours per week.

- A. JEO will furnish a part-time Resident Project Representative [RPR] to observe construction progress and quality of the work.
- B. The duties and responsibilities of the RPR are described as follows:
  - 1. Review of contractors work for general compliance with the plans and specifications.
  - 2. Complete Construction Observation Reports when on site.
  - 3. Coordinate pay quantities with Contractor and Engineer.
  - 4. Review of materials delivered to the site for specification compliance.
  - 5. Assist the Engineer in providing interpretation of the plans and specifications to the Contractor.
  - 6. Direct Contractor to maintain stormwater best management practices [BMPs] as designed and confirm Contractor's erosion control measures are appropriate for site conditions.
  - 7. Review and coordinate materials testing by assigned testing firm, if applicable.
  - 8. Compile records for use in preparing record drawings.

**MEETINGS INCLUDED WITHIN SCOPE OF SERVICES:**

- A. Project Kickoff Meeting [1 Meeting]
- B. 30% Design Review Meeting and Plan-in-Hand [1 Meeting]
- C. 60% Design Review Meeting [1 Meeting]
- D. 90% Design Review Meeting [1 Meeting]
- E. Bid Opening [1 Meeting]
- F. Preconstruction Meeting [1 Meeting]
- G. Construction Progress Meetings [4 Meetings]

**ESTIMATED TIME FRAME:**

- A. Preliminary Design Phase – 120 days from effective date of agreement.
- B. Final Design Phase – 90 days from Council review of preliminary plans.
- C. Bidding Phase – Estimated 60 days from the Council authorization to bid the project
- D. Construction Phase – Estimated to be 180 days.
- E. Post Construction Phase – 60 days following final completion of the project

**ADDITIONAL SERVICES [NOT INCLUDED, BUT CAN BE INCLUDED UPON REQUEST]:**

- A. WaterCAD modeling of the water system or services to evaluate additional alternatives.
- B. Attendance at any additional meetings not identified above.
- C. Preparation of grant or loan applications in connection with the project.
- D. Davis-Bacon Wage Rate administration review services.
- E. Preparation of environmental assessments, impact studies or similar studies.

**Exhibit A**

**JEO Consulting Group, Inc.  
SCOPE OF SERVICES**

- F. Zoning regulations review or modifications necessary for the proposed improvements included in this project.
- G. Land acquisition services and preparation of easement documents.
- H. Preparation of a Stormwater Pollution Prevention Plan [SWPPP].
- I. Floodplain, Stormwater, USACE 408, or any other permitting, not outlined in the scope of services.
- J. Payment of review and permitting fees.
- K. Any other item not outlined in the scope of services.

**JEO CONSULTING GROUP INC**  **JEO ARCHITECTURE INC**

**1. SCOPE OF SERVICES:** JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the owner for these services at the fee stated in Exhibit A.

**2. ADDITIONAL SERVICES:** JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

**3. OWNER RESPONSIBILITIES:** The owner shall provide all criteria and full information as to the owner's requirements for the project; designate and identify in writing a person to act with authority on the owner's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the owner observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the owner shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the owner shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the owner that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

**4. TIMES FOR RENDERING SERVICES:** JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

**5. INVOICES:** JEO shall submit invoices to the owner monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Owner agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the owner fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the owner, suspend services to the owner under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

**6. STANDARD OF CARE:** The standard of care for all services performed or furnished by JEO under the agreement

shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the owner shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in owner furnished information.

**7. REUSE OF DOCUMENTS:** Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the owner on a future extension of this project, or any other project without JEO's written authorization shall be at the owner's risk and the owner agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

**8. ELECTRONIC FILES:** Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the owner.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The owner may make and retain copies of documents for information and reference in connection with use on the project by the owner.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the owner and JEO.

**9. SUBCONSULTANTS:** JEO may employ consultants as JEO deems necessary to assist in the performance of the services. JEO shall not be required to employ any consultant unacceptable to JEO.

**10. INDEMNIFICATION:** To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other



**JEO CONSULTING GROUP INC**  **JEO ARCHITECTURE INC**

harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

**11. INSURANCE:** JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
  - i. Each Accident: \$500,000
  - ii. Disease, Policy Limit: \$500,000
  - iii. Disease, Each Employee: \$500,000
- c. General Liability
  - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - ii. General Aggregate: \$2,000,000
- d. Auto Liability
  - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

**12. TERMINATION:** This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by owner for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

**13. GOVERNING LAW:** This agreement is to be governed by the law of the state in which the project is located.

**14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES:** The owner and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the owner and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

- a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.
- b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
- c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

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

**16. SEVERABILITY:** Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the owner and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**17. NON-DISCRIMINATION CLAUSE:** Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

**18. E-VERIFY:** JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.

Council member Bruce Meysenburg made a motion to adjourn. Council Member Keith Marvin seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Absent, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Kevin Woita: Yea  
Yea: 5, Nay: 0, Absent: 1



CERTIFICATION OF MINUTES  
July 24, 2024

I, Tami Comte, duly qualified and acting City Clerk for the City of David City, Nebraska, do hereby certify with regard to all proceedings of July 24, 2024; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the minutes of the meeting of the City Council of the City of David City, Nebraska, were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided with advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

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Tami Comte, City Clerk