



CITY OF SEWARD
City Council
Regular Meeting
Agenda

Tuesday, December 19, 2023

7:00 PM

Municipal Building Council Chambers

NOTICE IS HEREBY GIVEN that a meeting of the City Council of the City of Seward, Nebraska will be held at 7:00 PM on Tuesday, December 19, 2023, in the Council Chambers, 142 N 7th Street, Seward, Nebraska in which the meeting will be open to the public. The Mayor and City Council reserve the right to adjourn into Closed Session as per Section 84-1410 of the Nebraska Revised Statutes. An Agenda for such meeting, kept continually current, is available at the Office of the City Clerk, 537 Main Street, Seward, Nebraska, during normal business hours. Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's Office at 402.643.2928 no later than 3:30 PM on the Friday preceding the Council Meeting.

City financial claims and related invoices will be available for Council member review, audit and voluntary signatures at the meeting location beginning 30 minutes prior to the scheduled meeting time.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

DISCLOSURE OF OPEN MEETINGS ACT & OTHER NOTIFICATIONS

This is an Open Meeting of the Seward Nebraska Governing Body. The City of Seward abides by the Nebraska Open Meetings Act in conducting business. A copy of the Nebraska Open Meetings Act is displayed on the north wall of this meeting room facility as required. Disclosure of meeting recording processes is posted in the Meeting Room. A participant sign-in sheet is available for use by any Citizen addressing the Council. Presenters shall approach the podium, state their name & address for the Clerk's record and are asked to limit remarks to five minutes. All remarks shall be directed to the Mayor who shall determine by whom any appropriate response shall be made. The City of Seward reserves the right to adjust the order of items on this Agenda if necessary and may elect to take action on any of the items listed.

ROLL CALL

COMMENDATION FOR OFFICER PILCHER FOR LIFE-SAVING EVENT

CONSENT AGENDA

1. City Codes Director Report

OPEN Property Maintenance Code Violation Report

					Updated 12-13-2023
Property Address	Violation Type	Deadline	Owner Information	Delivery Type	Status
2023					
824 Hillcrest	Trash	12/6/2023	Patrick Meyer	Phone Call	CSO Arena made contact with the property owner. He stated there was some miscommunication between him and the trash company. CSO Arena updated on 12-6-2023 the trash has been removed.
1603 Eastridge Ave	Bed bug Infestation	1/8/2024	James Wallace	Certified letter	Infestation was reported by a realtor who hired Orkin and they confirmed the infestation. Property is up for sale. James resides in Lincoln currently.
416 North 1st	Trash	11/29/2023	Sandy Nuttman		CSO made contact with the tenant and informed him has had until the end of the day to get the trash in a receptical. The tenant said he would get the trash in a receptical and have it removed on Saturday. As of 11-29-2023 in the morning, the trash was not in a receptical. CSO Arena will make contract again.
1130 N 6th Ave	Leaves, Grass, Weeds		George Knisley		CSO Arena inspected the property. He stated it the grass/weeds were maintained, and the amount of leaves were not abnormal. No contact was made to the homeowner.
546 North Ave	Landscaping height in sight triangle	11/6/2023	Samantha Fitzpatrick	Phone Call	CSO Arena made contact with the landowner. She stated she has contacted Andrew Schluter to address the issue. As of 11-6-2023 the issue as been resolved.
149 N 1st	Grass/Weeds	9/19/2023	Steve Butler/Tison Dixon		
429 S Columbia	Weeds	7/8/2023	Christopher Yates 8630 Oakmont Dr Lincoln, NE 68526	Certified letter, Posted notice on property	Certified Letter mailed to last known address. City has mowed previously and invoice went uncollected and turned over to collections. CSO Arena will post 5 day mowing nuisance letter.
437 S 6th Street	Weeds, trash, litter	7/4/2023	Verlin Miller	In Person to tenant/Certified Mail	CSO Arena spoke with the tenants. Mr. Miller spoke with CSO Arena in response to the letter. The propoerty was mowed and cleared of weeds and brush, debris was removed.
406 N 7th St	Weeds	7/4/2023	Wess & Shannon Robotham	Posted/Certified Mail	CSO Arena posted the notice of violations
545 N 6th	Weeds	7/20/2023	Mark Smith	Posted/Certified Mail	Codes Dir. Dworak verified site was mowed.

OPEN Property Maintenance Code Violation Report

		7/4/2023			Joe Smith (son) called, Mark is ill so Joe will mow and clear brush this week by Thursday 7-13 CSO Arena posted the notice of violations
937 Elm St	Weeds and Litter	7/4/2023	Kelvin and Theresa Bick	In Person/Certified Mail	Sherdon called the office needing an extension, CSO Arena will inspect the property Tuesday 7-11 for progress. CSO Arena made contact with Kelvin, property owner, and informed him of the violations.
923 Elm St	Weeds and Litter	7/4/2023	Sherdon Bick	Posted/Certified Mail	CSO Arena made contact with the son Kelvin who resides at the residence.
530 N 5th St	Trash, litter, junk, weeds	7/11/2023	Jeremy & Nicole Martin	Phone Call/Posted/Certified Mail	CSO Arena verified site was cleaned and mowed
		7/4/2023			Jeremy called the office and requested an extension until Tuesday 7-11, CSO Arena will verify completion Tuesday
					CSO Arena made contact via phone with Jeremy Martin. He is aware of the situation. He is out of town till the 3rd.
434 S 2nd	Junk in the yard, travel trailers with doors open and windows knocked out	12/7/2023	Stephen Storjohn	Becky Paulsen vist to our office	Becky Paulsen, County Zoning, Stopped by to let us know Steve reached out to her for help to clean up his property. One car was removed, a second car will be removed week of 12-11. After the car is removed a dumpster will be brought in and they will concentrate on clean up of the right-of-way. Becky has reached out to local organizations for labor help to with the clean up.
		8/8/2023		Posted/Certified Mail	CSO Arena cited Storjohn. Storjohn missed his court date. He was arrested are released. Hearing date of September 20th was set. 9-11-23 received a phone call from Chief Peters that the County Attorney will not be prosecuting Storjohn any longer. As of October 9, 2023, CSO Arena has sent all documentation regarding the Storjohn Property to City Attorney Hoffschneider for possible prosecution.
		7/11/2023			Staff met with City Attorney Hoffschneider Tuesday 7-11. Wishes to wait to see outcome of the August 8 hearing. CSO Arena and an SPD Officer will issue a nuisance citation every Firday.

OPEN Property Maintenance Code Violation Report

		6/20/2023			Staff met with the County Attorney to begin prosecution of a nuisance violation and to begin abatement. County Attorney suggested we meet with the City Attorney to start civil proceedings. Meeting Tuesday 7-11.
					CSO Arena made contact in person regarding the vehicle in the ROW and the items in the yard. 6-15-23 Notice and orders was hand delivered and sent certified mail to remove junk items, storage container, and clear off the sidewalk. Notice and orders deadline was 6-20-23 at 11:00 a.m. No progress has been made. 6-21-23 Storjohn was cited by CSO Arena and towed the camper that was in the ROW.
1288 Cottonwood	Dogs/Junk mowers, mattresses	7/7/2023	James Anderson	In Person	CSO Arena made contact with the owner. It was explained their daughter comes to visit and brings 2 dogs. The currently have 4 with one very old dog. The owner has until the 7th to clean up the junk lawn mowers and mattresses cleaned up
317 S 3rd St	Grass/Weeds	6/16/2023	Cottonwood Rentals	Phone	CSO Arena will make contact with the owner. A contractor has been using that lot for staging and there is currently rock and rebar laying in the grass. She has asked said contractor to remove it so her mowing company can come in and take care of the grass/weed.
746 N 4th	Grass/Weeds	6/9/2023	Emma Krause	Phone	COS Arena made contact with Reed Krause. He lives in North Platte and will be contracting a local company to mow. He has until 6-9-23. Reed Krause stated it will be mowed today 6-9-23. 6-13-23 verified it was mowed
1115 N Columbia	Protective treatment, decayed siding, soffits and facsias, decayed roof	5/30/2023	Lorri Canning 1115 N Columbia Seward NE 68434	Certified mail/Left on Front door	CSO Arena made contact via phone with the homeowner stating he left the letter on her front door, to read it, and then call the Building & Zoning Department with any questions A letter dated 5-23-31 refusing an inspection was received. A second notice was sent 6-9-23 for the structural issues and a notice to abate for the grass and weeds. 6-13-23 was the deadline for the abatement of grass. No progress has been made

OPEN Property Maintenance Code Violation Report

1048 N 1st	Busted garage door, deck, trees, shrubs		Erich Helge 912 Country Club Dr Seward NE 68434	In Person	CSO Arena made 2nd contact Tuesday May 9th, property owner was out of town. Hot tub and trees will be removed weekend of May 13th. No comment on damaged garage door. CSO Shannon Arena contacted the property owner. Owner said he was working on it and would have it cleaned up weekend of May 6th. 6-7-23 some progress has been made. We received another complaint on 6-19. He will have till the 21st to to get it done.
530 N 5th St	Trash, Junk left at property		Jeremy & Nicole Martin	Phone Call	Shannon Arena, CSO made contact. The owner said he would clean it up over the weekend. Officer Arena, checked back on Monday and there was small things. Everything is now cleaned up.
716 N 7th St	Fire damage, weeds, vehicles, decayed roof, decayed cellar entrance	4/10/2023	Dennis & Willa Taylor	Mail/In Person by PD	5-2-23 Exterior fire damage has been repaired and clean up in the yard continues. Cellar door is still in the works.
					4-6-23 Willa Taylor delivered a work timeline for repair of the structure. Exterior wall fire damage repair has been weathertightened, Roof is being replaced week of 4-10-23, the cellar door enclosure is being ordered, Fast Freddy Plumbing will be repairing the plumbing issues, the excess vehicles have been removed from the property and clean up remains on going.
					Police Chief Peters and Building Director Dworak met with Dennis and Willa Taylor and discussed the situation. A 60 day notice for yard clean up and construction action plan was delivered. Upon follow up inspection, vehicles have been removed, a full dumpster was in the driveway and clean up had begun
716 N 7th	Vehicles, weeds	1/26/2023	Dennis & Willa Taylor	Letter	Shannon Arena+A9:F31, CS+F6:F31O+A1:F37 has verified the vehicles, weeds, and the water service has not been turned back on

CURRENT YEAR: November 2023

Permits	Quantity	Permit Fee	Valuation
NEW CONST.	0	\$ -	\$ -
REMODEL/ADDIT.	5	\$ 1,439.95	\$ 517,010.00
ACCESSORY	8	\$ 175.12	\$ 29,192.03
RELOCATE	6	\$ 941.00	\$ 345,496.68
ELECTRIC			
PLUMBING	6	\$ 350.00	\$ -
MECHANICAL	6	\$ 900.00	\$ -
SEWER TAP	0	\$ -	\$ -
TEMP. WATER	0	\$ -	\$ -
WATER TAP	0	\$ -	\$ -
TEMP. ELEC.	0	\$ -	\$ -
ELECTRIC SER.	0	\$ -	\$ -
TOTALS	31	\$ 3,806.07	\$ 891,698.71

LAST YEAR: November 2022

Permits	Qty.	Permit Fee	Valuation
NEW CONST.	1	\$ 2,153.90	\$ 300,277.24
REMODEL/ADDIT.	16	\$ 1,464.91	\$ 362,254.12
ACCESSORY	20	\$ 670.10	\$ 84,374.55
RELOCATE	277	\$ 17,515.00	\$ 4,765,089.83
ELECTRIC			
PLUMBING	5	\$ 975.00	\$ -
MECHANICAL	3	\$ 1,284.00	\$ -
SEWER TAP	1	\$ 250.00	\$ -
WATER TAP	1	\$ 838.00	\$ -
TEMP. ELEC.	1	\$ 50.00	\$ -
ELECTRIC SER.	1	\$ 200.00	\$ -
TOTALS	326	\$ 25,400.91	\$ 5,511,995.74

YEAR TO DATE January to December 2023

Permits	Quantity	Permit Fee	Valuation
NEW CONST.	22	\$ 48,386.42	\$23,926,774.03
REMODEL/ADDIT.	175	\$ 21,867.24	\$ 5,855,268.51
ACCESSORY	143	\$ 15,921.78	\$ 722,108.30
RELOCATE	420	\$ 25,637.00	\$ 8,441,195.52
ELECTRIC			
PLUMBING	139	\$ 14,505.00	\$ -
MECHANICAL	119	\$ 22,588.00	\$ -
SEWER TAP	21	\$ 5,250.00	\$ -
TEMP. WATER	4	\$ 480.00	\$ -
WATER TAP	21	\$ 21,919.00	\$ -
TEMP. ELEC.	18	\$ 900.00	\$ -
ELECTRIC SER.	21	\$ 4,300.00	\$ -
TOTALS	1103	\$ 181,754.44	\$38,945,346.36

YEAR TO DATE January to December 2022

Permits	Qty.	Permit Fee	Valuation
NEW CONST.	20	\$ 53,795.54	\$ 10,687,757.90
REMODEL/ADDIT.	142	\$ 89,005.38	\$ 57,359,096.72
ACCESSORY	167	\$ 21,597.81	\$ 2,968,591.16
RELOCATE	1188	\$ 67,204.50	\$ 18,649,081.15
ELECTRIC			
PLUMBING	137	\$ 15,472.00	\$ -
MECHANICAL	74	\$ 11,134.00	\$ -
SEWER TAP	17	\$ 4,750.00	\$ -
WATER TAP	17	\$ 18,870.25	\$ -
TEMP. ELEC.	11	\$ 1,000.00	\$ -
ELECTRIC SER.	19	\$ 7,830.00	\$ -
TOTALS	1792	\$ 290,659.48	\$ 89,664,526.93

2. City Treasurer Report
3. Claims & Payables Reports

CLAIMS LIST
12-19-23

COUNCIL MEETING

Abbreviations: BE, Benefits; BU, Building Upkeep; CI, Capital Improvements; DO, Donations; EQ, Equipment; EX, Expense; FA, Fixed Asset; GS, Gas; GU, Ground Upkeep; IT, Technology; IV, Inventory; MA, Maintenance; MC, Miscellaneous; MH, Merchandise; MI, Mileage; ML, Meals; MS, Memberships; OI, Oil; OP, Operations; PO, Postage; PU, Publications; RE, Repairs; RI, Reimbursement; SA, Salaries, SE, Services; SL, Sales; ST, Sales Tax; SU, Supplies; TG, Training; TO, Tools; TR, Transfer; UN, Uniforms; UT, Utilities.

AKRS Equipment Inc	RE	1,479.83
All Copy Products Inc	MA	37.61
Allegiant Utility Service	FA	276.95
Amazon Business	SU	589.60
Anderson Auto Group	FA	50,802.67
Aqua-Chem Inc	MA	674.70
AT&T	SE	80.08
AV Diesel Repair	RE	827.82
Badger Meter	SE	233.75
Baker & Taylor	SU	2,791.20
Bern's Body Shop	RE	2,329.16
Bizco Technologies	MS	743.11
Black Diamond Auto Detail	SE	130.00
Black Hills Energy	UT	1,621.60
Border States Industries	TO	854.01
C.W. Wolf LLC	CI	1,250.00
Capital Business-Cheyenne	MA	255.11
Cerny Dan	UN	119.73
City Seward Library Petty	PO	198.84
City Seward Merchant Serv	SE	2,818.30
City Seward Payroll Accou	SA	208,928.75
City Seward Perpetual Fd	SL	750.00
Constellation Newenergy	UT	597.21
Cornhusker Press	SU	104.78
Cuttin It Close Lawncare	GU	420.00
Dale's Inc	MC	10.00
Danko Emergency Equipment	EQ	423.63
Data Source Technology &	RE	195.00
Dutton-Lainson Co	IV	1,653.14
Dworak Tim	TG	281.00
Eakes Office Solutions	SU	34.78
Farmers Coop Seward	GS	5,659.14
Fastenal Company	SU	656.24
First Wireless Inc	EQ	3,172.74
Firstar Fiber Inc	SE	831.48
Gehring Construction	CI	9,405.00
Gerhold Concrete Co Inc	OP	610.69
Gnan Paul	MC	600.00
Gomez Johnny	SE	200.00

Grafix Shoppe	UN	185.93
Graham Tire	RE	556.00
Great Plains Communicatio	SE	490.00
Gunn Donna	SE	170.00
H W Wilson Company	SU	228.50
Hartman Farms Inc	CI	156,687.70
Helmlink Printing/Grph Inc	SU	375.00
Hireright LLC	SE	106.10
Hobson Automotive & Tire	SE	440.00
Home Depot Pro	SU	168.56
Humanities Nebraska	SE	75.00
Husker Auto Group LLC	FA	41,991.00
Husker Electric Supply Co	IV	1,364.41
Hydraulic Equipment	RE	20.00
Interstate All Battery Ce	SU	67.50
JEO Consulting Group	SE	1,653.75
Jones Automotive	FA	4,269.09
Last Mile Network Consult	IT	90.00
Lee's Refrigeration	BU	486.00
Matheson Tri-Gas Inc	OP	375.43
Menards North	BU	114.98
Mid-American Benefits Inc	BE	719.01
Midwest Auto Parts	RE	423.74
Midwest Laboratories Inc	OP	2,395.77
Municipal Supply Omaha	RE	1,009.70
Nebraska Equipment Inc	RE	17.10
Nebraska Fire Marshal	MS	120.00
Nebraska Law Enforcement	SE	10.00
Nebraska Nursery & Landsc	TG	205.00
Nebraska Pub Pow-Desmoine	UT	464,522.18
Nebraska Treasurer	OP	2.44
Nifco Mechanical Systems	BU	200.00
Norris Public Power Distr	UT	1,037.79
One Billing Solutions LLC	SE	2,504.13
One Call Concepts Inc	SE	181.28
One Source Background Che	SE	19.00
O'Reilly Automotive Inc	SU	153.01
Overdrive Inc	MS	1,000.00
Pac 'N' Save Discount Foo	ML	3,055.91
Paper Tiger Shredding	SE	70.00
Payne Sherri	MI	20.96
Police Chiefs Assoc Of Ne	MS	100.00
Sapp Brothers Petroleum I	GS	9,942.32
Schemmer Architects Engin	CI	40,193.53
Seward Co Chamber/Develop	SE	211.35
Seward County Clerk/Reg D	PU	4.50
Seward County EMA	SU	6.00
Seward County Independent	PU	603.76
Seward County Treasurer	SE	23,507.08
Seward Lumber & Home Cent	SU	399.18

Seward Public Schools	MC		812.64
Seward Wind LLC	UT		37,391.00
Sparetime Lounge & Grill	ML		950.00
Sports Express	SU		589.85
St P J Supply Inc	EQ		149.50
State Fire Marshal Train	TG		550.00
The Sprinkler Guy	CI		6,587.00
Tractor Supply	SU		651.81
Transunion Risk	MC		75.00
Truck Center Companies	RE		91.68
Ty's Outdoor Power & Serv	RE		106.56
U S Postal Service	PO		310.00
Verizon Wireless	SE		223.09
Visa - Pinnacle Bank			1,254.10
Alex Kava Books	SU	63.90	
Nextlink Internet	SE	115.00	
Sam's Club	SU	899.91	
Walmart	SU	77.06	
Yearbook	SU	66.25	
Zoom	MS	31.98	
Voehl Cindy	MI		13.10
Wesco Distribution Inc	IV		3,379.80
Whitson Inc	SU		25.00
Windstream Nebraska Inc	SE		1,799.24
York Equipment	RE		229.99
	CLAIMS TOTAL		\$1,120,386.70

4. Police Department Report



City of Seward
Police Department
Chief Brian W. Peters

Monthly Statistics
_____ 20 _____

Service Calls	
Accidents	
Arrests	
Citations	
Warnings	
Parking Tickets	

Does not include red tag warnings, yellow tag warnings or verbal warnings

5. Draft Minutes of December 5, 2023, City Council Meeting

December 5, 2023

The Seward City Council met at 7:00 p.m. on Tuesday, December 5, 2023, with Mayor Joshua Eickmeier presiding and City Clerk Derek Bargmann recording the proceedings. Upon roll call, the following Councilmembers were present: Megan Kahler, Jessica Kolterman, John Singleton, Matt Stryson, Tatum Tonniges, Rich Wergin, Jonathon Wilken. Councilmembers Absent: Karl Miller. Other officials present: City Attorney Kelly Hoffschneider, City Engineer Mike Oneby, Executive Director of Wellness Center Joel Brase, Water/Wastewater Director Brandon Koll, and Police Sergeant Allison Sommerfeld.

Notice of the meeting was given in advance thereof, and Mayor Eickmeier announced that a copy of the Open Meetings Act and tonight's agenda is posted in the meeting room and is accessible to members of the public. Mayor Eickmeier led those in attendance in the Pledge of Allegiance.

ELECTION OF COUNCIL PRESIDENT

Councilmember Kolterman nominated Karl Miller, who indicated prior to the meeting that he would accept a nomination, seconded by Councilmember Tonniges. Councilmember Singleton nominated Matt Stryson, who declined the nomination. With no other nominations placed, a vote was held to confirm Councilmember Miller to serve as President for 2024.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Miller. Motion carried.

CONSENT AGENDA CONSIDERATION ITEMS

The following Consent Agenda items were approved in one single motion made by Councilmember Singleton, seconded by Councilmember Stryson.

1. Claims & Payables Report (totaling \$638,101.55)
2. Draft Minutes of November 7, 2023, City Council Meeting.
3. Reappoint Dan Brumm to Assistant Fire Chief of the Seward Volunteer Fire Department for a 2-Year Term

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Miller. Motion carried.

ADMINISTRATIVE ITEMS

1. AUTHORIZATION FOR MAYOR TO SIGN ALL DOCUMENTS RELATED TO THE CITY OF SEWARD'S CERTIFICATE OF COMPLIANCE AND 2024 MAINTENANCE AGREEMENT WITH THE NEBRASKA DEPARTMENT OF TRANSPORTATION

Councilmember Stryson moved, seconded by Councilmember Singleton, to authorize the City of Seward's Certificate of Compliance and 2024 Maintenance Agreement with the Nebraska Department of Transportation.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Miller. Motion carried.

2. CONSIDERATION OF A CHANGE ORDER (#1) TO A CONTRACT WITH GEHRING CONSTRUCTION & READY MIX CO., INC. FOR THE IZAAK WALTON-HWY 15 INTERSECTION IMPROVEMENTS PROJECT IN THE AMOUNT OF \$75,432.00

City Engineer Oneby provided a brief update on the project, which will expect final completion to occur in Spring 2024. The proposed change order would authorize the replacement of a flap gate to the storm sewer structure at the intersection, due to the existing gate no longer functioning properly as well as the installation of temporary pavement to allow access during the winter months.

Councilmember Wergin moved, seconded by Councilmember Stryson, to approve change order #1 to the Izaak Walton-Hwy 15 Intersection Improvements project for \$75,432.00 as presented.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Miller. Motion carried.

3. CONSIDERATION AND APPROVAL OF BID DOCUMENTS FOR THE 6TH STREET, ASH TO LINCOLN WATER MAIN REPLACEMENT PROJECT AND AUTHORIZE THE CITY TO SEEK CONSTRUCTION BIDS

Mr. Oneby noted the proposed project was previously budgeted with the plan design set now ready for construction bidding. Previously \$1.7 million was budgeted for the project, but with rising costs, it is expected the work will exceed \$2.1 million; therefore, an alternate bid item allows for the splitting of the project to remain on budget. The alternate bid would allow for a portion of the project, from Roberts to Lincoln Street, to be done in future years as the Hwy 15 project progresses into that area. The bid date is proposed for January 11, 2024 with Council consideration at the January 16th meeting. The Ash-South Street portion is expected to be complete by April 1, 2024.

December 5, 2023

Councilmember Stryson moved, seconded by Councilmember Tonniges, to approve the bid documents for the 6th Street, Ash to Lincoln Water Main Replacement Project and authorize the City to seek construction bids.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

4. CONSIDERATION OF AN ORDINANCE TO REVISE CITY CODE CHAPTER 12-1.1: AGING SERVICES COMMISSION, ADJUSTING LENGTH OF TERM AND REMOVING TERM LIMITS

City Clerk Bargmann indicated that the Aging Services Commission recommended a review of the length of terms and term limits. Upon review, Administration determined there were no stipulations to continue with the two-year length of terms and two-term limit. As such, it is recommended that term limits be removed and the term length be extended to four years, to align with other boards and commissions of the City.

Councilmember Wergin introduced Ordinance No. 2023-26. Councilmember Kolterman moved, seconded by Councilmember Stryson, to dispense with the statutory rule.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

Councilmember Wergin moved, seconded by Councilmember Tonniges that the minutes of the proceedings of the Mayor and Council of the City of Seward, Seward County, Nebraska in the matter of passing: **Ordinance No. 2023-26, AN ORDINANCE OF THE CITY OF SEWARD, NEBRASKA, AMENDING CHAPTER 12, ARTICLE I, OF THE SEWARD MUNICIPAL CODE RELATING TO THE TERM LENGTH AND TERM LIMITS OF THE AGING SERVICES COMMISSION; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.**

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

Councilmember Kahler moved, seconded by Councilmember Singleton that all ordinances be added to the permanent record.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

5. UPDATE ON THE WELLNESS CENTER

A. CONSIDERATION OF CHANGE ORDER #1 WITH SAMPSON CONSTRUCTION FOR THE SEWARD WELLNESS CENTER CONSTRUCTION PROJECT IN THE AMOUNT OF \$29,434.00

Executive Director Joel Brase noted that upon review of the planned locker room facilities, it is expected that plastic lockers will be the superior option to metal lockers; therefore, the change order will implement the revision.

Councilmember Wergin moved, seconded by Councilmember Tonniges, to approve change order #1 with Sampson Construction for the Wellness Center Construction Project as presented.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

CITY ADMINISTRATOR'S REPORT

Councilmember Wergin moved, seconded by Councilmember Stryson, that the City Administrator's report of December 5, 2023, be accepted.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

MOTION TO ADJOURN

Councilmember Singleton moved, seconded by Councilmember Wergin, that the December 5, 2023, City Council Meeting be adjourned.

Aye: Kahler, Kolterman, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Miller. Motion carried.

Adjourned approximately 7:27 p.m.

December 5, 2023

THE CITY OF SEWARD, NEBRASKA

Joshua Eickmeier, Mayor

Derek Bargmann
City Clerk

PUBLIC HEARINGS

1. Public Hearing - 7:00 PM - Presentation and Discussion of Functioning and Progress of the Seward Economic Development Plan - City Administrator Butcher

**CITIZENS ADVISORY REVIEW COMMITTEE
FOR THE LB 840 ECONOMIC DEVELOPMENT PLAN
SEMI-ANNUAL REVIEW REPORT**

To: The Seward City Council
From: Citizens Advisory Review Committee - LB 840 Economic Development Plan
Date: December 15, 2023
Re: Semi-annual review report required by the Economic Development Plan

The Citizens Advisory Review Committee (CARC) is a committee of registered voters appointed by the Mayor (and affirmed by the City Council) to review the Economic Development Plan (the Plan) established under LB 840. The CARC mainly reviews the actions taken by the LB 840 Application Review Board (ARB). The ARB is the committee that has the authority to spend the LB 840 funds.

The CARC met on August 9, 2023, to review the functioning and progress of the Plan. The meeting consisted of discussions about the following:

1. An LB 840 Activity Report was distributed to the CARC in advance of the meeting. The City Administrator walked the CARC through recent activity from January 1, 2022 thru July 31, 2023. The CARC had no questions or concerns.
2. A copy of the general ledger reports including a report of all transactions from 1/1/22 to 7/31/23 was distributed prior to the meeting. The CARC felt all transactions listed in the financial reports appeared to be appropriate.
3. The City Administrator also noted that the program would come due for a reauthorization vote by the citizens of Seward in the fall of 2023.

The CARC notes that it does not audit nor does it verify the numbers submitted to it in the general ledger reports. It is our understanding that these accounts are audited during the annual overall audit that is done on the city's financial records.

2. Public Hearing - 7:00 PM - Consideration of a Text Amendment to the City of Seward Unified Land Development Ordinance (ULDO), Chapter 410, Article 32: Supplemental Development Regulations, Section 8: Fence Regulations - Building/Zoning & Code Enf. Director Dworak

§ 410-32.8. Fence regulations.¹

A. Location restriction.

- (1) Unless otherwise provided by this chapter or other sections of the Seward Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
- (2) No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of 30 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.²

D. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage.

E. Effect on adjacent properties and drainage. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

F. Fence construction on utility easements. Any fence erected on a tract of land subject to an easement for the construction, maintenance, operation, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

G. Residential fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

- (1) Height. The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet.
- (2) Setbacks. All residential fences in front yards shall be a minimum of two feet behind adjacent sidewalks.
- (3) Materials. Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize

1. Editor's Note: See also Ch. 225, Building Construction, Art. XIII, Fence Regulations.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

standard building lumber only. Barbed-wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:

- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
- (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
- (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
- (4) Barbed wire shall not be used in the construction of any fence outside of the I-2 General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an Industrial District, provided that the bottom strand of the barbed wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Seward.

A. Consideration of an Ordinance to Amend ULDO Chapter 410, Article 32, Section
8

ORDINANCE NO. 2023-27

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 410 ZONING AND SUBDIVISION, ARTICLE 32 SUPPLEMENTAL DEVELOPMENT REGULATIONS TO AMEND FENCE REGULATIONS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

That Chapter 410 of the Municipal Code of the City of Seward is hereby amended as follows:

Section 1. That §410-32.8 be amended as follows:

§410-32.8 Fence Regulations.

A. Location restriction.

- (1) Unless otherwise provided by this chapter or other sections of the Seward Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
- (2) No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of 24 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.

D. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage.

E. Effect on adjacent properties and drainage. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

F. Fence construction on utility easements. Any fence erected on a tract of land subject to an easement for the construction, maintenance, operation, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

G. Residential fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

- (1) Height. The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet. The maximum height for any fence in the required front yard shall be four feet.
- (2) Setbacks. All residential fences shall be a minimum of two feet behind adjacent sidewalks and one foot behind adjacent alleys.
- (3) Materials. Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

EXCEPTION: Fences surrounding public utilities may have barbed wire provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of the ground measured from the outer face of such fence.

H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:

- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
- (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
- (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
- (4) Barbed wire fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any barbed wire fence or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning

District, or fences surrounding public utilities, city, county and state maintenance facilities, or airports may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence .

- (5) Electrified fences are not permitted within the jurisdiction of the City of Seward.

I. Agricultural Fences. Fences constructed in agricultural and rural residential districts are subject to the following special conditions:

- (1) Height. The maximum height of a fence for any permitted use in agricultural and rural residential districts shall be six feet.
- (2) Setbacks. All fences shall be located outside the dedicated right-of-way.
- (3) Barbed wire may be used to control ranging livestock, when surrounding public utilities, or when surrounding city, county, and state maintenance facilities.
- (4) Electrified fences may be used to control ranging livestock.

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PUBLICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this _____ day of _____, 2023

CITY OF SEWARD, NEBRASKA

Joshua Eickmeier, Mayor

ATTEST: _____
Derek Bargmann
City Clerk

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 410-32.8 **Fence regulations.**

A. Location restriction.

- (1) Unless otherwise provided by this chapter or other sections of the Seward Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
- (2) No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of ~~30~~ 24 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.

D. Facing. The finished surfaces of any fence shall face toward adjacent properties and street frontage.

E. Effect on adjacent properties and drainage. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

F. Fence construction on utility easements. Any fence erected on a tract of land subject to an easement for the construction, maintenance, operation, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

G. Residential fences. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions:

- (1) Height. The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet. The maximum height for any fence in the required front yard shall be four feet.
- (2) Setbacks. All residential fences ~~in front yards~~ shall be a minimum of two feet behind adjacent sidewalks and one foot behind adjacent alleys.
- (3) Materials. Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

EXCEPTION: Fences surrounding public utilities may have barbed wire provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of

the ground measured from the outer face of such fence.

- H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:
- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
 - (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
 - (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
 - (4) ~~Barbed wire fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any barbed wire fence or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning District, or fences surrounding public utilities, city, county and state maintenance facilities, or airports may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence shall not be used in the construction of any fence outside of the I-2 General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an Industrial District, provided that the bottom strand of the barbed wire shall be at least six feet above ground level.~~
 - (5) Electrified fences are not permitted within the jurisdiction of the City of Seward.

I. Agricultural Fences. Fences constructed in agricultural and rural residential districts are subject to the following special provisions:

- (1) Height. The maximum height of a fence for any permitted use in agricultural and rural residential districts shall be six feet.
- (2) Setbacks: All fences shall be located outside the dedicated right-of-way.
- (3) Barbed wire may be used to control ranging livestock, when surrounding public utilities, city, county, and state maintenance facilities, or airports.
- (4) Electrified fences may be used to control ranging livestock.

APPLICATION TYPE

FINAL ACTION?

DEVELOPER/OWNER

ULDO Amendment

PC HEARING DATE

RELATED APPLICATIONS

PROPERTY ADDRESS, ZONING DISTRICT/USE

December 11, 2023

BRIEF SUMMARY OF REQUEST

Review of a City of Seward Unified Land Development Ordinance (ULDO) Text Amendment to Article 32 Supplemental Development Regulations, § 410-32.8 Fence Regulations and corresponding City Code and Images.

APPLICATION CONTACT

Tim Dworak

City of Seward - Building and Zoning

ANALYSIS

Attached are copies of the proposed amendment red line changes as well as the existing amendment for comparison.

This amendment change is based on a requirement of Black Hills Energy to add barbed wire to the top of a 6 foot chain-link fence for protection of a new facility installed in the Seward Rail Campus and review of barbed wire usage within the City of Seward and its Extraterritorial Jurisdiction. While reviewing the fence code we took the opportunity to clean up city code and assure zoning code and city code are in uniformity.

The notice of this Public Hearing was posted in the Seward County Independent.

Prepared by

Tim Dworak

City of Seward Building - Zoning – Code Enforcement Director

ADMINISTRATIVE ITEMS

1. Items Related to City Code Fence Regulations - Building/Zoning & Code Enf.
Director Dworak
 - A. Consideration of an Ordinance to Amend City Code, Chapter 225: Building Construction, Article 13: Fence Regulations, Section 1: General Requirements

ORDINANCE NO. 2023-28

AN ORDINANCE TO REPEAL AND REPLACE THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 225 BUILDING CONSTRUCTION, ARTICLE 13 FENCE REGULATIONS; TO AMEND FENCE REGULATIONS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT, TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

SECTION 1. That 225-13 be amended as follows:

§ 225-13-1 **General Requirements.**

Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction and placement of fences:

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No fence shall be constructed in such a manner to be of such design as to be hazardous or dangerous to persons or animals; specifically, the use of barbed wire and electrical fences in residential districts is prohibited. Exception: In residential districts barbed wire may be used on the top of fences surrounding public utilities; in the I-2 General Industrial Zoning District barbed wire may be used on top of fences; in commercial and other industrial districts barbed wire may be used on top of fences surrounding public utilities, city, county, and state maintenance facilities, or airports, in agricultural and rural residential districts barbed wire may be used on top of fences when surrounding city, county, and state maintenance facilities, or airports, provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of the ground measured from the outer face of such fence; and in agricultural and rural residential districts barbed wire and electric fences may be used to control ranging livestock.
- C. No fence shall be constructed on a public right-of-way unless approved by the City Council.
- D. All fences constructed shall conform to the construction standards of the 2018 International Building Code.
- E. No fence shall be constructed or moved until a building permit shall have been procured from the Building Inspector's office and the appropriate fee paid. Exception: Fence permits are not required within the Agricultural and Rural Residential District when controlling ranging livestock.
- F. It is recommended that the owner have a survey completed, locating the property lines and any easements of record where the fence is to be installed. It is the owner's responsibility to know where his/her property lines are located.

G. Before digging or excavating, the owner or contractor shall contact Diggers Hotline.

H. Access shall be allowed and provided for the maintenance of all existing utility lines, poles, wires, transformers, or manholes.

§ 225-13.2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

FENCE

Any vertical structure, other than a building or plant material, which is for the purpose of the obstruction of visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

§ 225-13.3 Location.

Please refer to the illustrated drawing at the end of this Article **XIII**, incorporated herein by reference.

A. Residential districts.

(1) Front yard: a fence not more than 48 inches in height and not more than 24 inches within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

(2) Corner lot second frontage (street side yard): a fence not more than 24 inches in height within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

B. Commercial/Industrial districts.

(1) Fences shall be located and constructed as per landscaping/screening requirements for the district.

(2) Sidewalks/Alleys: A fence shall not be constructed within two feet of any public sidewalk or within one foot of any alley.

§ 225-13.4 Fences within easements.

A. Any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer, gas line, electric line, cable television or telephone line or other utility poles, wires or cables shall be constructed of such material and so designed as to be readily removable, as determined by the Building Inspector and appropriate departments or utilities. Such fences shall be subject to removal by the City/utility or may be contracted by the City/utility for removal whenever necessary for the construction, maintenance or replacement of any utility line or apparatus. Fences shall be removed or replaced at the expense of the owner of the premises. Replacement shall be the responsibility of the owner of the premises.

B. In the event that an existing fence violates the public right-of-way or an easement and the City deems it necessary to remove the fence for

reasons of street or utility work, said fence shall be removed at the property owner's expense. Replacement shall be the responsibility of the owner of the premises.

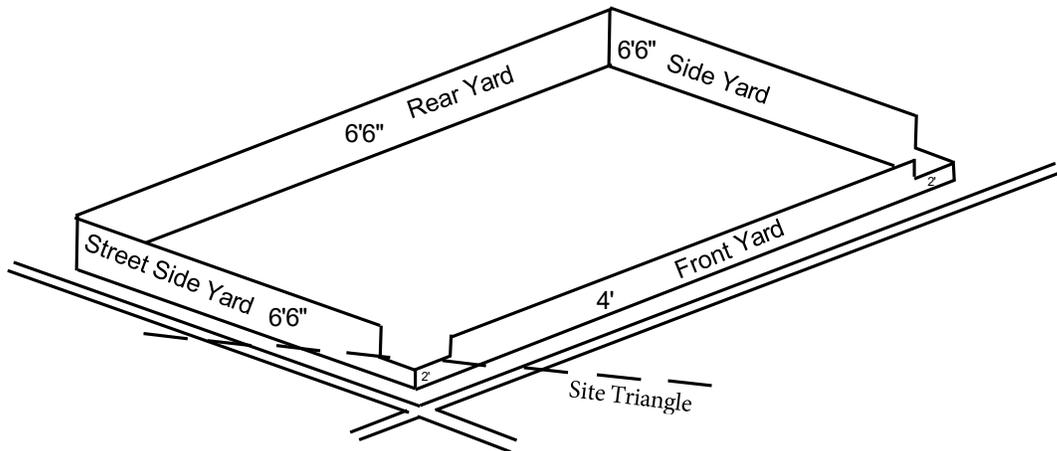
§ 225-13.5 **Construction requirements.**

- A. All fences shall be constructed of wood, metal, plastic, fiberglass or masonry materials, shall be structurally sound, shall have a neat and finished appearance and shall be straight and true.
- B. Fences shall be so constructed so as to have the finished side facing adjacent properties and street frontages.
- C. Fences shall not be constructed within two feet of any public sidewalk or within one foot of any alley.
- D. Fences must be maintained in good repair. The Building Inspector may order any dilapidated, listing, dangerous, unsound or nonconforming fence to be repaired or removed.

§ 225-13.6 **Permit fees.**

Permit fees shall be paid upon application for a fence permit and shall be assessed as per the fee schedule adopted under Article **II**, Building Permits, of this chapter. The minimum fee shall be \$25.

Permitted Height of Fences



- All fences are with in property lines.
- 2 foot minimum for fences adjacent to sidewalks.
- 1 foot minimum for fences adjacent to alleys.

SECTION 2. REPEAL. All remaining ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PULBICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this _____ day of _____, 2023

CITY OF SEWARD, NEBRASKA

Joshua Eickmeier, Mayor

ATTEST: _____
Derek Bargmann
City Clerk

§ 225-13.1. General requirements.

Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction and placement of fences:

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No fence shall be constructed in such a manner to be of such design as to be hazardous or dangerous to persons or animals; specifically, the use of barbed wire and electrical fences in residential districts is prohibited. Exception: Barbed wire may be used on the top of fences on public grounds; barbed wire and electric fences may be used within the Transitional Use District controlling the confinement of livestock.
- C. No fence shall be constructed on a public right-of-way unless approved by the City Council.
- D. All fences constructed shall conform to the construction standards of the 2012 International Building Code.
- E. No fence shall be constructed or moved until a building permit shall have been procured from the Building Inspector's office and the appropriate fee paid. Exception: Fence permits are not required within the Transitional Use District controlling the confinement of livestock.
- F. It is recommended that the owner have a survey completed, locating the property lines and any easements of record where the fence is to be installed. It is the owner's responsibility to know where his/her property lines are located.
- G. Before digging or excavating, the owner or contractor shall contact Diggers Hotline.
- H. Access shall be allowed and provided for the maintenance of all existing utility lines, poles, wires, transformers or manholes.

§ 225-13.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

FENCE — Any vertical structure, other than a building or plant material, which is for the purpose of the obstruction of visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

§ 225-13.3. Location.

Please refer to the illustrated drawing at the end of this Article XIII, incorporated herein by reference.

- A. Residential districts.
 - (1) Front yard: a fence not more than 48 inches in height and not more than 30

inches within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

- (2) Corner lot second frontage (street side yard): a fence not more than 30 inches in height within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

B. Commercial/Industrial districts.

- (1) Fences shall be located and constructed as per landscaping/screening requirements for the district.
- (2) Sidewalks/Alleys: A fence shall not be constructed within two feet of any public sidewalk or within one foot of any alley.

§ 225-13.4. Fences within easements.

- A. Any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer, gas line, electric line, cable television or telephone line or other utility poles, wires or cables shall be constructed of such material and so designed as to be readily removable, as determined by the Building Inspector and appropriate departments or utilities. Such fences shall be subject to removal by the City/utility or may be contracted by the City/utility for removal whenever necessary for the construction, maintenance or replacement of any utility line or apparatus. Fences shall be removed or replaced at the expense of the owner of the premises. Replacement shall be the responsibility of the owner of the premises.
- B. In the event that an existing fence violates the public right-of-way or an easement and the City deems it necessary to remove the fence for reasons of street or utility work, said fence shall be removed at the property owner's expense. Replacement shall be the responsibility of the owner of the premises.

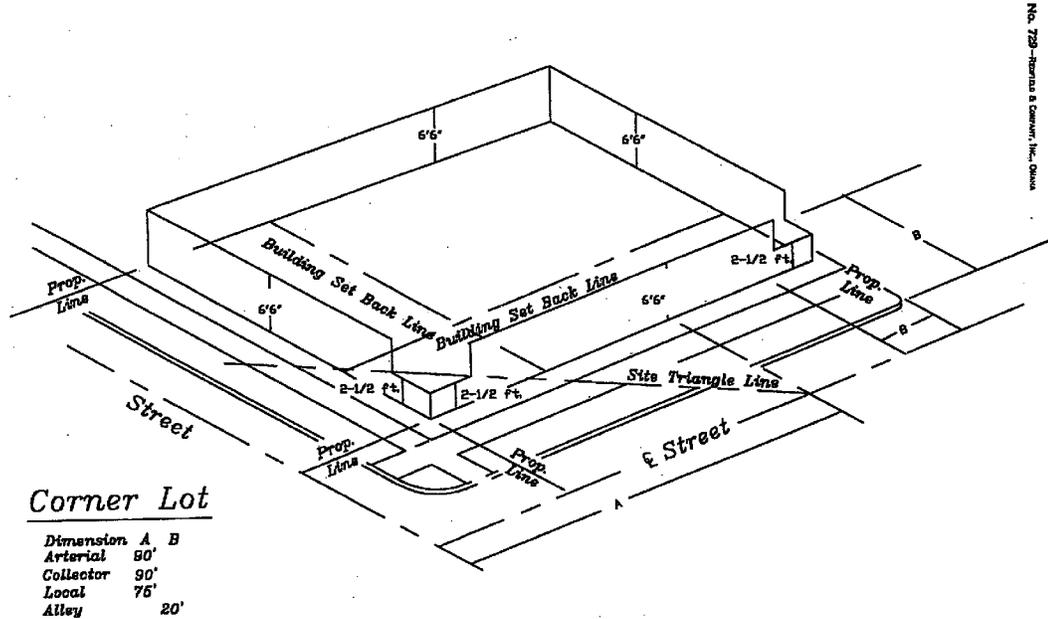
§ 225-13.5. Construction requirements.

- A. All fences shall be constructed of wood, metal, plastic, fiberglass or masonry materials, shall be structurally sound, shall have a neat and finished appearance and shall be straight and true.
- B. Fences shall be so constructed so as to have the finished side facing adjacent properties and street frontages.
- C. Fences shall not be constructed within two feet of any public sidewalk or within one foot of any alley.
- D. Fences must be maintained in good repair. The Building Inspector may order any dilapidated, listing, dangerous, unsound or nonconforming fence to be repaired or removed.

§ 225-13.6. Permit fees.

Permit fees shall be paid upon application for a fence permit and shall be assessed as per the fee schedule adopted under Article II, Building Permits, of this chapter. The minimum fee shall be \$25.

Permitted Heights of Fences,



The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 225-13.1 General requirements.

Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction and placement of fences:

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No fence shall be constructed in such a manner to be of such design as to be hazardous or dangerous to persons or animals; specifically, the use of barbed wire and electrical fences in residential districts is prohibited. Exception: In residential districts Bbarbed wire may be used on the top of fences surrounding public utilities on public grounds; in the I-2 General Industrial Zoning District barbed wire fences may be used on top of fences; in commercial and other industrial districts barbed wire may be used on top of fences surrounding public utilities, city, county, and state maintenance facilities, or airports; in agricultural and rural residential districts barbed wire may be used on top of fences when surrounding city, county, and state maintenance facilities, or airports, provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of the ground measured from the outer face of such fence; and in agricultural and rural residential districts barbed wire and electric fences may be used within the Transitional Use District to controlling the confinement of ranging livestock.
- C. No fence shall be constructed on a public right-of-way unless approved by the City Council.
- D. All fences constructed shall conform to the construction standards of the ~~2012~~ 2018 International Building Code.
- E. No fence shall be constructed or moved until a building permit shall have been procured from the Building Inspector's office and the appropriate fee paid. Exception: Fence permits are not required within the Agricultural and Rural Residential District~~Transitional Use District~~ when controlling ~~the~~ confinement of ranging livestock.
- F. It is recommended that the owner have a survey completed, locating the property lines and any easements of record where the fence is to be installed. It is the owner's responsibility to know where his/her property lines are located.
- G. Before digging or excavating, the owner or contractor shall contact Diggers Hotline.
- H. Access shall be allowed and provided for the maintenance of all existing utility lines, poles, wires, transformers or manholes.

§ 225-13.2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

FENCE

Any vertical structure, other than a building or plant material, which is for the purpose of the obstruction of visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

§ 225-13.3 **Location.**

Please refer to the illustrated drawing at the end of this Article **XIII**, incorporated herein by reference.

A. Residential districts.

- (1) Front yard: a fence not more than 48 inches in height and not more than ~~30~~ 24 inches within the sight triangle on a corner lot or the sight triangle adjacent to an alley.
- (2) Corner lot second frontage (street side yard): a fence not more than ~~30~~ 24 inches in height within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

B. Commercial/Industrial districts.

- (1) Fences shall be located and constructed as per landscaping/screening requirements for the district.
- (2) Sidewalks/Alleys: A fence shall not be constructed within two feet of any public sidewalk or within one foot of any alley.

§ 225-13.4 **Fences within easements.**

- A. Any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water, sanitary or storm sewer, gas line, electric line, cable television or telephone line or other utility poles, wires or cables shall be constructed of such material and so designed as to be readily removable, as determined by the Building Inspector and appropriate departments or utilities. Such fences shall be subject to removal by the City/utility or may be contracted by the City/utility for removal whenever necessary for the construction, maintenance or replacement of any utility line or apparatus. Fences shall be removed or replaced at the expense of the owner of the premises. Replacement shall be the responsibility of the owner of the premises.
- B. In the event that an existing fence violates the public right-of-way or an easement and the City deems it necessary to remove the fence for reasons of street or utility work, said fence shall be removed at the property owner's expense. Replacement shall be the responsibility of the owner of the premises.

§ 225-13.5 **Construction requirements.**

- A. All fences shall be constructed of wood, metal, plastic, fiberglass or masonry materials, shall be structurally sound, shall have a neat and finished appearance and shall be straight and true.
- B. Fences shall be so constructed so as to have the finished side facing adjacent properties and street frontages.
- C. Fences shall not be constructed within two feet of any public sidewalk or within one foot of any alley.
- D. Fences must be maintained in good repair. The Building Inspector may order any dilapidated, listing, dangerous, unsound or nonconforming fence to be repaired or removed.

§ 225-13.6 **Permit fees.**

Permit fees shall be paid upon application for a fence permit and shall be assessed as per the fee schedule adopted under Article **II**, Building Permits, of this chapter. The minimum fee shall be \$25.

[Image]

B. Consideration of an Ordinance to Amend City Code, Chapter 290: Offenses, Article 8: Obstructions, Section 2: Prohibited Fences

ORDINANCE NO. 2023-29

AN ORDINANCE TO REPEAL AND REPLACE THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 290 OFFENSES, ARTICLE 8 OBSTRUCTIONS, SECTION 2 PROHIBITED FENCES; TO AMEND REQUIREMENTS FOR PROHIBITED FENCES; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT, TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

SECTION 1. That 290-8.2 be amended as follows:

§ 290-8.2 Prohibited Fences.

It shall be unlawful for any person to erect or cause to be erected, or maintain any barbed wire or any barbed wire strung along or upon any fences as a barrier with the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning District, or fences surrounding public utilities, city, county, and state maintenance facilities, or airports, it may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any fence, the wire, or wires of which are electrified at any location with the jurisdictional control of the city. Provided, however, that in any area zoned agricultural or rural residential, barbed wire and electrical fences may be used to control ranging livestock.

SECTION 2. REPEAL. All remaining ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PULBICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this _____ day of _____, 2023

CITY OF SEWARD, NEBRASKA

Joshua Eickmeier, Mayor

ATTEST: _____
Derek Bargmann
City Clerk

§ 290-8.2. Prohibited fences.¹

It shall be unlawful for any person to erect, or cause to be erected, and maintain any barbed wire or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley.

1. Editor's Note: See also Ch. 225, Building Construction, Art. XIII; and Ch. 410, Zoning and Subdivision, § 410-32.8.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 290-8.2 Prohibited fences.

It shall be unlawful for any person to erect, or cause to be erected, ~~and~~ or maintain any barbed wire or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning District, or on fences surrounding public utilities, city, county and state maintenance facilities, or airports it may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any fence, the wire, or wires of which are electrified at any location with the jurisdictional control of the city. Provided, however, that in any area zoned agricultural or rural residential, barbed wire and electric fences may be used to control ranging livestock. ~~or electric fence within the corporate limits, where such fence abuts a public sidewalk, street or alley.~~

2. Consideration of a Change Order (#3) to a Contract with Gehring Construction & Ready Mix Co., Inc. for the E Seward Street Improvements Project in the Amount of \$75,285.00 - City Engineer Oneby



Gehring Construction & Ready Mix Co., Inc.

Mailing Address: 5424 West Meadow Dr.
Columbus, NE. 68601

Toll Free 1-800-658-4056 Fax 402-564-4478

www.gehringconcrete.com

Columbus Plant: 4979 Howard Blvd, 402-564-2841

Humphrey Plant: 400-5th Ave, 402-923-1080



Change Order Request #3, Dec 4th, 2023

To: City of Seward Nebraska

Attn: Michael Oneby

Project: East Seward Street Improvements, SEH No. SEWAC 160685

Owner: City of Seward NE.

Add the following items to Group A, B, and C work as follows;

DESCRIPTION	QTY	UNIT	UNIT PRICE	INCREASE
Group A Paving				
Saw Pavement for extra pavement replacement areas, East Seward & Evergreen	272	LF	12.00	3264.00
Top Dirt for backfill	120	CY	23.00	2760.00
Install River Rock Landscaping	1	LS	6100.00	6100.00
Group B Storm Sewer & Utilities				
12" Fire Hydrant Extensions	4	EA	889.00	3556.00
18" Fire Hydrant Extensions	2	EA	1054.00	2108.00
14" Valve Box Extensions	7	EA	142.00	994.00
18" Valve Box Extensions	6	EA	184.00	1104.00
2" Water Service Install	1	LS	7375.00	7375.00
*15" RCP, to Storm Box, Hwy 34 and Evergreen	40	LF	93.70	3748.00
*15" RCP, Hwy 34 and Prairie Flower	100	LF	93.70	9370.00
15" RCP FES, Hwy 34 and Prairie Flower	2	EA	1014.00	2028.00
Storm Inlet Box with Grate, Hwy 34 and Prairie Flower	2	EA	5685.00	11,370.00
Cut Casing for Water Main Lowering	1	LS	1575.00	1575.00
Water Main Lowering, going from 8" to 10" pipe size	1	LS	1993.00	1993.00
8" x 6" MJ Tee for Hydrant	1	EA	996.00	996.00
24" Round Equivalent RCP, Cross and Sons	40	LF	114.50	4580.00
24" Round Equivalent RCP FES, Cross and Sons	2	EA	1278.00	2556.00
10" Sanitary Sewer Concrete Encasement for 10" SS and 24" SS Crossing	1	LS	2582.00	2582.00
NDOT Curb Inlet Lid, Evergreen	1	EA	2972.00	2972.00

Group C Lighting				
Materials, equipment, & labor for 3 service locations and a 4 th location installed pull box and left wire per utility request.	1	LS	4254.00	4254.00
Total CO #3 Request				\$75,285.00

*These items could be added into existing contract qtys.

Gehring Construction & Ready Mix Co. Accepted for City of Seward

Sincerely, Stephen Anderson Name

Title Sales Manager Title

Date 12/4/23 Date



Office of the City Engineer
147 North 7th Street

Memo

To: Greg Butcher, City Administrator

From: Mike Oneby, P.E., City Engineer

cc: Bob Miers, Street Superintendent; Derek Bargmann, City Clerk

Date: Date

Re: East Seward Road Improvements – Change Order No. 3.

Change Order 3 is a compilation of multiple changes to the project during construction. In this memo, the changes have been divided into 11 items. Costs for the 11 items are broken out below with brief descriptions.

Item 1: Storm Drainage at the intersection of Prairie Flower Rd and Hwy 15.

After the project was awarded, NDOT rejected the storm drainage elements within the Hwy 34 Right of Way as designed (included in the plan set), and insisted the design utilize standard NDOT curb and flume details.

Item	Qty	Unit	Unit Price	Extended Price
Storm Inlet Box with Grate and Frame	2	EA	5,685.00	11,370.00
15" Reinforced Concrete Pipe (RCP)	100	LF	93.70	9,370.00
15" RCP flared end section (FES)	2	EA	1,014.00	2,028.00
Task Subtotal				22,768.00

Item 2: Storm Drainage at the intersection of Evergreen and Hwy 15.

With the addition of a 10-in water main extension through the Prairie View Development (CO No. 2), the Valley View detention pond inlet structure was within the 10-ft separation required by NDEE. The structure was moved north, in the path of an existing curb inlet box outlet pipe. The outlet pipe was rebuilt and realigned, discharging through the wing wall of the inlet structure.

Item	Qty	Unit	Unit Price	Extended Price
15" Reinforced Concrete Pipe (RCP)	40	LF	93.70	3,748.00

Item 3: Curb Inlet Box Cover replacement.

Replaced a cracked unarmored concrete cover (unidentified cause, negligence not determined) with an armored cover. Curb inlet was within the project's limits of construction.

Item	Qty	Unit	Unit Price	Extended Price
15 ft NDOT Curb Inlet Cover	1	EA	2,972.00	2,972.00

Item 4: Water Main depth correction

Discrepancy in project documents between design depth of water main (varies 6.3 to 7.2 ft) and length of hydrants and valves boxes (5.5 ft depth). Typical water main depth is 5.5 ft, providing a soil cover of roughly 5 feet for frost protection.

Item	Qty	Unit	Unit Price	Extended Price
12" Fire Hydrant Extension	4	EA	889.00	3,556.00
18" Fire Hydrant Extension	2	EA	1,054.00	2,108.00
14" Valve Box Extension	7	EA	142.00	994.00
18" Valve Box Extension	6	EA	184.00	1,104.00
Task Subtotal				7,762.00

Item 5: Water Main loop change in size.

A loop is used where the water main is dropped for a short distance below a new storm sewer using a series of 45° bends. Shown as an 8-in water main in the project, the actual water main diameter is 10-in. Removal of casing around the existing 10-in water main (required by NDOT for passage beneath Hwy 34) was not identified in the project.

Item	Qty	Unit	Unit Price	Extended Price
Water main loop change is size	1	LS	1,993.00	1,993.00
Demolition (remove casing)	1	LS	1,575.00	1,575.00
Task Subtotal				3,568.00

Item 6: Hydrant Replacement

Pipe fitting for installation of hydrant (eighth of eight).

Item	Qty	Unit	Unit Price	Extended Price
8" x 6" Mechanical Joint Tee	1	EA	996.00	996.00

Item 7: LDS Church service line relocation.

Unknown at design, the LDS Church water service was connected to the distribution system via a hydrant leader for a hydrant on Evergreen. That hydrant, in the path of the bike trail spur, was removed and replaced in the project. The 2-in water service was relocated to the proper water main along East Seward.

Item	Qty	Unit	Unit Price	Extended Price
2" water service line, bored	1	LS	7,375.00	7,375.00

Item 8: Sanitary Sewer realignment

Due to several design issues, the 24-in sanitary was realigned during construction, with the first leg moved north to the opposite side of the existing 8-in sanitary serving Valley View and Prairie View. The change in alignment required replacement of the culvert beneath the driveway for Cross & Sons and forced a crossing of the two sanitary lines. The lower line (8-in) was encased in concrete, providing a footing to support the crossing 24-in pipe.

Item	Qty	Unit	Unit Price	Extended Price
24" Reinforced Concrete Pipe (RCP)	40	LF	114.50	4,580.00
24" RCP flared end section (FES)	2	EA	1,278.00	2,556.00
Concrete encasement OF 8" sanitary	1	LS	2,582.00	2,582.00
Task Subtotal				9,718.00

Item 9: Street Lighting power feed.

Work originally specified to be performed by the Seward Electric Department was, due to workload, transferred to the Contractor. Also reflects a change in design on how power is fed to street lights.

Item	Qty	Unit	Unit Price	Extended Price
Service disconnects and pull box	1	LS	4,254.00	4,254.00

Item 10: Landscaping - restoration of residential front yards in the Right of Way.

Replacement of basic landscaping removed in the road project, notably in the path of the temporary road. Topsoil was salvaged per specifications, but the quantity was inadequate for the full project. Landscape rock was not included in the project.

Item	Qty	Unit	Unit Price	Extended Price
Topsoil for backfill	120	CY	23.00	2,760.00
River Rock	1	LS	6,100.00	6,100.00
Task Subtotal				8,860.00

Item 11: Saw cut pavement.

Line item omitted from bid form. Existing pavement sawn for removal.

Item	Qty	Unit	Unit Price	Extended Price
Saw Pavement	272	LF	12.00	3,264.00

Summary Table for Change Order No. 3

Item	Description	Price
1.	Storm Drainage at the intersection of Prairie Flower Rd and Hwy 15	22,768.00
2.	Storm Drainage at the intersection of Evergreen and Hwy 15	3,748.00
3.	Curb Inlet Box Cover replacement	2,972.00
4.	Water Main depth correction	7,762.00
5.	Water Main loop change in size	3,568.00
6.	Hydrant Replacement	996.00
7.	LDS Church water service line relocation	7,375.00
8.	Sanitary Sewer realignment	9,718.00
9.	Street Lighting power feed	4,254.00
10.	Landscaping - restoration of residential front yards in the Right of Way	8,860.00
11.	Saw cut pavement	3,264.00
	Total	75,285.00

3. Consideration of a Resolution Authorizing the Mayor to Sign and Designate City Engineer Oneby as City Street Superintendent for Purposes of the Annual Year-End NDOT Certification (Replaces Julie Ogden-JEO Consulting) - City Administrator Butcher

Do not recreate or revise this document. Revisions and recreations will not be accepted. **Failure to complete and return the necessary documents per instructions will result in your municipality not receiving an Incentive Payment for Calendar Year 2023.** Documents include the **original** Signing Resolution, Year-End Certification(s), and a copy of documentation of the appointment(s) of the City Street Superintendent(s). These must be received at the NDOT **by December 31, 2023.**

RESOLUTION
SIGNING OF THE
YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT
2023

Resolution No. 2023-22

Whereas: State of Nebraska Statutes, sections 39-2302, and 39-2511 through 39-2515 details the requirements that must be met in order for a municipality to qualify for an annual Incentive Payment; and

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each incorporated municipality must annually certify (by December 31st of each year) the appointment(s) of the City Street Superintendent(s) to the NDOT using the Year-End Certification of City Street Superintendent form; and

Whereas: The NDOT requires that each certification shall also include a copy of the documentation of the city street superintendent's appointment, i.e., meeting minutes; showing the appointment of the City Street Superintendent by their name as it appears on their License (if applicable), their License Number (if applicable), and Class of License (if applicable), and type of appointment, i.e., employed, contract (consultant, or interlocal agreement with another incorporated municipality and/or county), and the beginning date of the appointment; and

Whereas: The NDOT also requires that such Year-End Certification of City Street Superintendent form shall be signed by the Mayor or Village Board Chairperson and shall include a copy a resolution of the governing body authorizing the signing of the Year-End Certification of City Street Superintendent form by the Mayor or Village Board Chairperson.

Be it resolved that the Mayor Village Board Chairperson of _____
(Check one box) (Print Name of Municipality)
is hereby authorized to sign the attached Year-End Certification of City Street Superintendent completed form(s).

Adopted this _____ day of _____, 20____ at _____, Nebraska.
(Date) (Month)

City Council/Village Board Members

City Council/Village Board Member _____
Moved the adoption of said resolution
Member _____ Seconded the Motion
Roll Call _____ Yes _____ No _____ Abstained _____ Absent _____
Resolution adopted, signed, and billed as adopted.

Attest:

(Signature of Clerk)

Do not recreate or revise this document. Revisions and recreations will not be accepted. Copying this form is acceptable; see (3) below. Failure to complete and return the necessary documents per instructions will result in your municipality not receiving an Incentive Payment for Calendar Year 2023. Documents include the original Signing Resolution, Year-End Certification(s), and a copy of documentation of the appointment(s) of the City Street Superintendent(s). These must be received at the NDOT by December 31, 2023.

Year-End Certification of City Street Superintendent For Determining Incentive Payment in Calendar Year 2023

Separate forms may be needed to account for the entire year, see (3) below

This Form Covers the Following Period: _____, 2023 to _____, 2023
(Month) (Day) (Month) (Day)

*(1)(a) The municipality of _____ certifies that: _____
(Print name of City or Village) (Print name of Superintendent as it appears on license card if applicable)
was the appointed City Street Superintendent during the above period. **IF A NAME IS NOT ENTERED ABOVE (NO APPOINTED CITY STREET SUPERINTENDENT FOR THIS PERIOD), SKIP TO (2) BELOW.**

(b) the superintending services of the above listed individual were provided by: (Check one box)

- Employment with this Municipality
- Contract (consultant) with this Municipality
- Contract (interlocal agreement) between this Municipality and the following listed Municipality(ies) and/or County(ies)

(c) and the above listed individual assisted in the following: Reference Neb. Rev. Stat. §39-2512

1. Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units,
2. Developing an annual program for design, construction, and maintenance,
3. Developing an annual budget based on programmed projects and activities,
4. Submitting such plans, programs, and budgets to the local governing body for approval; and
5. Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets,

(d) the above listed individual also served as (Check all boxes that apply) city engineer village engineer
public works director city manager city administrator street commissioner

(e) If the above listed individual is a Licensed City Street Superintendent, enter their Superintendent's License Number S- _____ and Class of License _____, and/or
(A or B)

(f) If the above listed individual is a Licensed Engineer in Nebraska, enter their Engineer's License Number E- _____

(2) _____
Signature of Mayor Village Board Chairperson
(Check one box)

*(3) If during the calendar year your municipality (a) did not have an appointed City Street Superintendent for any portion(s) of the year; or (b) had one or more appointed City Street Superintendent(s) that were not licensed for any portion(s) of the year; or (c) had one or more appointed licensed City Street Superintendent(s) for any portion(s) of the year, please complete a separate Year-End Certification form for each period. **Copy this form as needed to account for these separate periods.**

(4) The payment amount will be computed based on (a) your most recent Federal Census as certified by the Tax Commissioner; (b) the number of full calendar months served by the appointed City Street Superintendent who is licensed or exempted from licensure under the Superintendents Act; (c) class of license, A or B if applicable; and (d) if the appointed City Street Superintendent assisted with the required duties in (1)(c) above. Reference Neb. Rev. Stat. §§39-2302 and 39-2511 through 39-2515.

(5) Failure to return by December 31, 2023, the Year-End Certification(s), Signing Resolution, and a copy of documentation of the appointment(s) of the superintendent(s) per the instructions will result in your municipality not receiving an Incentive Payment.



Return the completed original resolution and certification(s), and a copy of the documentation of appointment(s) by December 31, 2023 to:

Highway Local Liaison Coordinator
Boards-Liaison Services Section
Local Assistance Division
Nebraska Department of Transportation
PO Box 94759
Lincoln NE 68509-4759

Attach Documentation of the City Street Superintendent(s) Appointment(s) for 2023 here:

For most municipalities this information may be found in the November or December 2022 or the January 2023 meetings minutes. Some may involve mayoral appointments, or interlocal agreement (relinquishment of funds). Call 402-479-4436 if you have any questions about what to submit for documentation.

4. Item/Update Related to the Wellness Center - City Administrator Butcher
 - A. Consideration of an Ordinance Authorizing a Municipal Improvement Bond in the Principal Amount of Not-To-Exceed \$9,800,000.00 to Provide Financing for a Portion of the Cost of the Seward Wellness Center

ORDINANCE NO. 2023-30

AN ORDINANCE AUTHORIZING A MUNICIPAL IMPROVEMENT BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$9,800,000) TO PROVIDE FINANCING FOR A PORTION OF THE COSTS OF THE SEWARD WELLNESS CENTER TO BE OWNED BY THE CITY; PRESCRIBING THE TERMS AND FORM OF SUCH BOND; PROVIDING FOR PAYMENT OF THE INTEREST ON AND PRINCIPAL OF SUCH BOND; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET OR ELECTRONIC FORM; AND RELATED MATTERS

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

Section 1. The Mayor and Council (the “**Council**”) of the City of Seward, Nebraska (the “**City**”) hereby find and determine as follows:

- (a) The City imposes a sales and use tax in the amount of 1.50% (the “**Sales Tax**”) upon the same transactions within the City on which the State of Nebraska is authorized to impose a tax pursuant to the Local Option Revenue Act (Sections 77-27,142 to 77-27,148, R.R.S. Neb., as amended, the “**Act**”), which does not include a termination date and shall be used for property tax relief purposes.
- (b) An election (the “**Election**”) was duly called and held in conjunction with the Statewide Primary Election on May 10, 2022, pursuant to the Act, to impose an additional one-half of one percent (0.50%) sales and use tax to pay the costs to construct, acquire, improve, furnish, and equip public infrastructure improvements of the City, which shall include a wellness center to be owned by the City (collectively, the “**Project**”), at which Election a majority of all the qualified electors voting on said proposition voted in favor of the levy and collection of the additional 1/2% sales and use tax (the “**0.5% Sales Tax**”; and together with the 1.5% Sales Tax, the “**Tax**”).
- (c) Pursuant to an ordinance passed and approved by the Mayor and Council, the City has imposed the 0.5% Sales Tax applicable to all taxable transactions within the City and continuing for a period of ten years, unless bonds are issued and some or all of the revenues from the 0.5% Sales Tax are pledged for payment of the bonds, in which case the 0.5% Sales Tax shall remain in effect until payment in full of said bonds and any refunding bonds, whichever date is later.
- (d) The City is authorized to issue bonds pursuant to the Act for any municipal purpose, including to provide financing for a portion of the cost of the Project, and to pledge receipts of the Sales Tax and dedicate a portion of its property tax levy authority as provided in Section 77-3442, R.R.S. Neb., as amended, for payment of such bonds.
- (e) All conditions, acts and things required to exist or to be done precedent to the issuance of Tax Supported Municipal Improvement Bonds, Series 2023, (or such other title as determined in a Designation as described below, the “**Bonds**”; or if issued as a single instrument, the “**Bond**”) of the City of Seward, Nebraska, in the aggregate principal amount of not to exceed Nine Million Eight Hundred Thousand Dollars (\$9,800,000) pursuant to the Act to provide financing for a portion of the cost of the Project do exist and have been done as required by law. The City determined it is necessary and appropriate to issue the Bonds to a bank or banks in the form of a drawdown instrument, with the identity of the bank or banks (collectively, the “**Bank**”) and details of such financing to be determined as described herein. The Bond shall provide for a

drawdown structure during construction of the Project for two years and then amortize over a period of twenty years thereafter, with an interest rate which resets from time to time as described in this Ordinance.

Section 2. (a) The Mayor and Council further find and determine that all conditions, acts and things required by law to exist or to be done precedent to issuing the Bonds, pursuant to the Act, do exist and have been done as required by law. The Bonds shall consist of one fully registered Bond without coupons. The Bonds are hereby authorized to be issued to as a single instrument pursuant to terms approved by the Mayor, Finance Director or City Administrator (each, an “**Authorized Officer**”) as described herein and agreed to by the Bank. In connection therewith, an Authorized Officer is hereby authorized to execute a Designation of Final Terms, which may be evidenced by the terms of the Bond as delivered to the Bank (the “**Designation**”) to specify, determine, designate, establish and appoint, as the case may be (i) the maximum drawable principal amount of the Bond, in an amount not to exceed \$9,800,000; (ii) the title (including series designation), dated date, and the final maturity date of the Bond, which shall not be later than December 15, 2045; (iii) the date of original issue of the Bond (the “**Date of Original Issue**”); (iv) the period during which the City may draw principal advances on the Bond (the “**Draw-down Period**”), which shall extend from the Date of Original Issue to December 15, 2025, or such other date determined in the Designation; (v) the rate of interest on the Bond, which shall be reset from time to time by reference to the five-year treasury rate in effect on the measurement date plus 0.75%, with a minimum rate of 3.00% (the “**Applicable Interest Rate**”), as follows: (1) the initial interest rate on the Date of Original Issue shall be equal to the Applicable Interest Rate in effect on the business day immediately before the Date of Original Issue, and (2) on December 15, 2028, December 15, 2033, December 15, 2038 and December 15, 2043 (each, a “**Rate Reset Date**”), the rate of interest on the Bond shall be reset to the Applicable Interest Rate in effect on each such Rate Reset Date; (vi) the dates of payments of principal and interest on the Bond and the terms regarding amortization of the principal of the Bond after the Draw-down Period; (vii) the amounts of the Initial Advance (defined herein) and the amounts, terms and limitations of any and all subsequent Advances, which may be provided in a bond purchase agreement, placement agreement, disbursement agreement, or similar arrangement with the Bank; (viii) the identity of the bank or banks which will be the Bank and registered owner of the Bond; and (ix) all other terms and provisions of the Bond not otherwise specified or fixed by this Ordinance, including but not limited to terms of the Bond as may be required by the Bank which are, in an Authorized Officer’s sole discretion, reasonable and appropriate.

(b) On the Date of Original Issue, an initial advance (the “**Initial Advance**”) will be made in the principal amount of not less than \$50,001 (which amount may be determined in the Designation), by transferring such amount to the City in exchange for the Bond. All subsequent advances (each, an “**Advance**”) will be made, if at all, upon the written request of an Authorized Officer to the Bank, at least five business days prior to the date on which such Advance is to be made; provided, however, the final Advance must occur within Draw-down Period. The Draw-down Period may be adjusted in the Designation as may be determined necessary or appropriate by an Authorized Officer. At the end of the Draw-down Period, the Note shall be amortized during a period of years which extends to the final maturity date of the Bond (the “**Amortization Period**”).

(c) The Bond shall be subject to redemption or prepayment at the option of the City, prior to the stated maturity and prior to the applicable dates principal is due during the Amortization Period, at any time, as a whole, or in part from time to time in such principal amount as the City, in its sole and absolute discretion shall determine, plus the interest accrued on such principal amount to the date fixed for redemption or prepayment. The principal amount of the Bond authorized hereunder may only be advanced once; if any principal is redeemed or prepaid during the Draw-down Period, such principal may not be re-advanced pursuant to a subsequent Advance under the terms of this Ordinance.

If less than all of the principal amount thereof is to be redeemed or paid, the surrender of the Bond shall not be necessary. The records of the City with respect to the outstanding principal amount of the Bond from time to time shall be controlling and determinative.

Notice of redemption of the Bond stating the principal amount to be redeemed shall be given by the Registrar not less than thirty (30) days prior to the date fixed for redemption to the Bank at their most recent addresses appearing upon the books of registry, but failure to mail such notice shall not affect the proceedings for redemption, and the Bank may accept a shorter notice period. Notice of redemption need not be given to the holder of any Bond, whether registered or not, who has waived notice of redemption. Notice of redemption having been given as provided above or notice of redemption having been waived by the owner of the Bond, the Bond so called for redemption shall become due and payable on the designated redemption date. If on or before the said redemption date funds sufficient to pay the Bond so called for redemption at the applicable redemption price and accrued interest to said date have been deposited or caused to have been deposited by the City with the Registrar for the purposes of such payment and notice of redemption thereof has been given or waived as hereinbefore provided, then from and after the date fixed for redemption interest on such Bond so called shall cease to accrue and become payable. If such funds shall not have been so deposited with the Registrar as provided on or before the date fixed for redemption, such call for redemption shall be revoked and the principal amount of the Bond so called for redemption shall continue to be outstanding the same as though they had not been so called, and shall continue to bear interest until paid at such rate as they would have borne had they not been called for redemption, and shall continue to be protected by this Ordinance and entitled to the benefits and security hereof.

Section 3. Interest on the Bond at the respective rates for each maturity shall be payable monthly, quarterly, or semiannually as provided in the Designation (each of such dates an **“Interest Payment Date”**) from the Date of Original Issue or the most recent Interest Payment Date, whichever is later, until maturity or earlier redemption by check or draft mailed by the Registrar or its successor on such Interest Payment Date to the registered owner of each Bond at such registered owner’s address as it appears on the Bond Register maintained by the Registrar or its successor at the close of business on the fifteenth day preceding such Interest Payment Date (the **“Record Date”**) subject to the provisions of the following paragraph; provided, however, the Bank and City may agree on alternative payment methods from time to time. The principal on the Bond and the interest due at maturity or upon redemption prior to maturity is payable in lawful money of the United States of America to the registered owners thereof upon presentation and surrender of such Bond to the Registrar.

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

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

Section 4. The Bond shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and Clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bond and shall cease to be such officer before the delivery of the Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. Notwithstanding such execution, the Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar.

Certificates of authentication on a different Bond need not be signed by the same representative. The executed certificate or authentication on the Bond shall be conclusive evidence that it has been authenticated and delivered under this Ordinance.

Section 5. The Bond shall be in substantially the following form, with such changes as may be approved by an Authorized Officer:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
CITY OF SEWARD, NEBRASKA
TAX SUPPORTED MUNICIPAL IMPROVEMENT BOND, SERIES 2023

<u>Interest Rate</u> As described herein	<u>Maturity Date</u> December 15, 2045	<u>Date of Issue</u> _____, 2023
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REGISTERED OWNER:

PRINCIPAL AMOUNT: SEE SCHEDULE I ATTACHED HERETO

This Bond is issued for the purpose of financing a portion of the costs of a wellness center to be owned by the City of Seward, Nebraska, (the “**City**”) and paying the costs of issuance of this Bond. This Bond is issued under the authority of and in compliance with the laws of the State of Nebraska governing the City, and pursuant to Ordinance No. ____ of the City (the “**Ordinance**”) duly enacted and by proceedings duly had by the Mayor and Council on December 19, 2023. All capitalized terms used in this Bond but not otherwise defined herein shall have the meanings ascribed to them in the Ordinance.

The City hereby acknowledges itself to owe and for value received, hereby promises to pay to the Registered Owner named above or its registered permitted assigns, but only from the sources and other funds hereinafter described in lawful money of the United States of America, on the Maturity Date stated above (or earlier as hereinafter referred to), on the dates herein specified, the aggregate principal amount advanced by the Registered Owner from time to time as shown in the attached Schedule I, together with interest on the unpaid principal balance from time to time outstanding, computed on a three hundred sixty (360) day year with twelve 30-day months, as follows:

The advanced and unpaid principal balance of this Bond shall bear interest from and after the date such principal is advanced at an initial interest rate of ____% per annum and at the Applicable Interest Rate from and after each Rate Reset Date. All interest on this Bond shall be computed on the basis of a three hundred sixty (360) day year with twelve 30-day months.

Commencing on February 15, 2024, and continuing the fifteenth day of each month thereafter during the Draw-down Period, interest-only payments on the advanced and unpaid principal balance of this Bond shall be due and payable.

After the end of the Draw-down Period during the Amortization Period, beginning on June 15, 2026 and continuing on each June 15 and December 15 thereafter, level semiannual installments of principal and interest in the amounts necessary to fully amortize the outstanding principal balance of this Bond based on a 20-year amortization to the Maturity Date shall be due and payable. A final installment representing the entire unpaid principal balance of this Bond, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Maturity Date. An amortization schedule showing the dates and amounts of payments due during the Amortization Period shall be attached hereto by the Registered Owner as Schedule II upon commencement of the Amortization Period, and such schedule shall be transmitted by the Registered Owner to the City immediately after the end of the Draw-down Period.

The Principal Amount and the interest due on this Bond, in the amounts and on the dates provided herein or upon early prepayment or redemption prior to maturity, is payable to the Registered Owner hereof in lawful money of the United States of America by the City Treasurer of the City, as the Bond Registrar and Paying Agent, (the “**Registrar**”) transmitting such payments to the Registered Owner hereof without need for presentation or surrender of this Bond, as provided in the Ordinance.

This Bond is subject to redemption at the option of the City prior to the stated maturity thereof at any time, as a whole, or in part from time to time in such principal amounts as the City, in its sole and absolute discretion, shall determine as provided in the Ordinance.

Notice of redemption of this Bond shall be given to the Registered Owner hereof not less than thirty (30) days prior to the date fixed for redemption, all as more particularly set forth in the Ordinance (hereinafter defined). Notice of redemption having been given as provided in the Ordinance (hereinafter defined), or notice of redemption having been waived, and funds for the payment thereof having been deposited with the Registrar, this Bond shall cease to bear interest from and after the date fixed for redemption.

For the prompt payment of the principal and interest on this bond and the other bonds of the same issue, as described in the Ordinance, the City of Seward, Nebraska, has pledged funds received and to be received from revenues from the City's 1.5% Sales Tax and its 0.5% Sales Tax as defined and described in the Ordinance (together, the "Tax"), with receipts from such Tax to be allocated by the City to payment of principal and interest as the same fall due. In addition, the City has covenanted and agreed in the Ordinance that it shall designate a portion of its property tax authority pursuant to Section 77-3442, R.R.S. Neb., as amended, in such amount as will provide funds which, together with receipts from the Tax as pledged to the payment of such principal and interest and any other money made available and used for such purpose, will be sufficient to make payment of the principal of and interest on this bond as the same fall due. Notwithstanding the foregoing, the pledge of the Tax for the Bond shall not prevent the City from otherwise applying receipts from the Tax in any year so long as sufficient receipts from such fund or from other sources have been set aside for the payment of principal and interest falling due in such year on the Bond. In addition, the City further reserves the right to issue additional bonds payable on par with the Bond equally and ratably secured by a pledge of receipts from the Tax.

This Bond is transferable by the Registered Owner hereof as provided by the Ordinance and subject to the restrictions on transfer specified in the Ordinance and only upon delivery of an Investor Letter, as described in the Ordinance. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes.

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

The City has in the Ordinance designated such Bond as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this Bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of the City, including this Bond, does not exceed any statutory limitation imposed by law.

This Bond shall not be valid or become obligatory for any purpose until it shall have been authenticated by the execution by the Registrar of the Certificate of Authentication endorsed hereon.

The records of the Registered Owner as to the Principal Amount and accrued interest outstanding, the date of the advances of such Principal Amount and payment of principal and interest on the Bond shall be binding upon all parties.

IN WITNESS WHEREOF, the Mayor and Council have caused this Bond to be executed on behalf of the City by the manual or facsimile signatures of its Mayor and Clerk and have caused the City Seal to be impressed or imprinted hereon, all as of the Date of Issue set forth above.

CITY OF SEWARD, NEBRASKA

ATTEST:

By: _____
(Facsimile Signature)
Mayor

By: _____
(Facsimile Signature)
Clerk

[S E A L]

BOND REGISTRAR AND PAYING AGENT'S
CERTIFICATE OF AUTHENTICATION

This Bond is described in the within-mentioned Ordinance.

CITY TREASURER, CITY OF SEWARD,
NEBRASKA, Bond Registrar and Paying Agent

By: _____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints
_____ agent to transfer the within Bond on the books kept by the Paying Agent for the
registration thereof, with full power of substitution in the premises.

Dated: _____

[Signature must be notarized]

SCHEDULE II

ATTACH AMORTIZATION SCHEDULE UPON START OF AMORTIZATION PERIOD

Section 6. The Bond shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Clerk. In case any officer whose signature or facsimile thereof shall appear on the Bond shall cease to be such officer before the delivery of such Bond (including any certificate delivered to the Registrar for issuance upon transfer), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of the Bond. The Bond shall not be valid and binding on the City until authenticated by the Registrar. The Bond shall be delivered to the Registrar for registration and authentication. Upon execution, registration and authentication of the Bond, it shall be delivered to the City Treasurer, who is authorized to deliver the Bond to the Bank upon receipt of (a) the Initial Advance on the Bond, and (b) delivery to the City of an investor letter in substantially the form of Exhibit A hereto, but with such changes as may be approved by an Authorized Officer.

Section 7. The City Treasurer of the City of Seward, Nebraska, is hereby appointed as Bond Registrar and Paying Agent (the "Registrar") for the Bond. The Registrar shall keep the books for the registration and transfer of Bond at its office in Seward, Nebraska. The names and registered addresses of the registered owner or owners of the Bond shall at all times be recorded in such books. The transfer of the Bond may be registered upon the books kept for the registration and registration of transfer of Bond only (i) upon presentation and surrender thereof to the Registrar together with an assignment duly executed by the registered owner or such registered owner's attorney or legal representative in such form as shall be satisfactory to the Registrar, (ii) the City shall consent to such transfer in its discretion and (iii) the assignee is a bank or a qualified institutional buyer as defined in Rule 144A promulgated by the Securities and Exchange Commission and the registered owner has obtained from such proposed transferee and provided to the Registrar, prior to such transfer and assignment, an investor letter in substantially the form of Exhibit A hereto. Upon any such registration of transfer, the City shall execute and the Registrar shall authenticate and deliver in exchange for such Bond at the principal office of the Registrar. The Registrar may impose a charge sufficient to defray all costs and expenses incident to registrations of transfer and exchanges. In each case the Registrar shall require the payment by the owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

The Registrar shall not be required to transfer the Bond for a period of 15 days next preceding any interest or principal payment date or to transfer any Bond for a period of 30 days next preceding any date fixed for redemption. The Registrar shall also be responsible for making the payments of principal and interest as the same fall due upon the Bond from funds provided by the City for such purpose. Payments of interest due upon the Bond prior to maturity or redemption shall be made by the Registrar by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each Bond as of the close of business on the fifteenth day of the month immediately preceding the month in which interest on the Bond is payable, addressed to such owner's registered address as shown on the books of registration as required to be maintained under this Section 7. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with any accrued interest then due, shall be made by the Registrar upon presentation and surrender of the Bond at the office of the Registrar. The City and the Registrar may treat the registered owner of the Bond as the absolute owner of the Bond for purposes of making payment thereon and for all other purposes. All payments on account of interest or principal made to the registered owner of the Bond shall be valid and effectual and shall be a discharge of the City and the Registrar in respect of the liability upon the Bond or claims for interest to the extent of the sum or sums so paid.

Section 8. The Bonds are special obligations of the City payable from and secured as to the payment of principal and interest by a pledge of the Tax, which includes the 0.5% Sales Tax (as described and defined in Section 1 hereof) approved by the voters at the Election. The City hereby pledges the Tax to the payment of the principal of and interest on the Bonds. The City hereby further agrees that it shall dedicate such portion of its property tax levy authority (as provided in Section 77-3442, R.R.S. Neb., as amended) as

is necessary to provide funds which, together with receipts from the Tax as pledged to the payment of the Bonds and any other monies made available and used for such purpose, will be sufficient to pay the principal of and interest on the Bonds as the same fall due (including mandatory sinking fund redemptions). The pledge of the Tax provided for in this Section 8 for the Bonds shall not prevent the City from otherwise applying receipts from the Tax in any year so long as sufficient receipts from such fund have been set aside for the payment of principal and interest falling due in such year on the Bonds. In addition, the City further reserves the right to issue additional bonds payable on par with the Bonds equally and ratably secured by a pledge of receipts from the Tax. The City reserves the right to provide for payment of principal and interest on the Bond from the further issuance of bonds or other methods of financing.

Section 9. The Clerk shall make and certify one or more complete transcripts of the proceedings had and done by the City precedent to the issuance of said Bond, one of which transcripts shall be delivered to the purchaser of the Bond.

Section 10. The City hereby covenants and agrees that it will make no use of the proceeds of the Bond which would cause the Bond to be an arbitrage bond within the meaning of Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and further covenants to comply with said Sections 103(b)(2) and 148 and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to payment and reporting of rebates, if applicable. The City hereby covenants to take all action necessary to preserve the tax-exempt status of the interest on the Bond for federal income tax purposes under the Code with respect to taxpayers generally. The City further agrees that it will not take any actions which would cause the Bond to constitute a “private activity bond” within the meaning of Section 141 of the Code. The City hereby designates the Bond as its “qualified tax-exempt obligation” pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue bonds or other obligations aggregating in principal amount more than \$10,000,000 during the calendar year in which the Bond is issued (taking into consideration the exception for current refunding issues). The Mayor is hereby authorized to make, or cause to be made, any and all certifications deemed necessary in connection with the designation of the Bond as a “qualified tax-exempt obligation.”

Section 11. The City’s obligation under this Ordinance shall be fully discharged and satisfied as to the Bond authorized and issued hereunder, and said Bond shall no longer be deemed outstanding hereunder when payment of the principal of such Bond plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided by depositing with the Registrar or in escrow with a national or state bank having trust powers, in trust solely for such payment (i) sufficient moneys to make such payment or (ii) direct general obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America or obligations of an agency of the United States of America (herein referred to as “**Government Obligations**”), in such amount and maturing as to principal and interest at such times, as will insure the availability of sufficient moneys to make such payment, and such Bond shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance; provided that, with respect to any Bond called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given. If moneys shall have been deposited in accordance with the terms hereof with the Registrar as escrow agent in trust for that purpose sufficient to pay the principal of such Bond, together with all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, as the case may be, all liability of the City for such payment shall forthwith cease, determine and be completely discharged, and such Bond shall no longer be considered outstanding.

Section 12. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Council hereby (a) authorizes and directs the Authorized Officers, the City Attorney and all other officers, officials, employees and agents of the City to carry out or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any of them, in consultation with

bond counsel, shall consider necessary, advisable, desirable or appropriate in connection with this Ordinance and issuance, sale and delivery of the Bond, including without limitation and whenever appropriate the execution and delivery thereof and of all other related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs the Mayor the right, power and authority to exercise his own independent judgment and absolute discretion in (i) determining and finalizing the terms, provisions, form and contents of any purchase agreement, placement agreement, disbursement agreement or similar agreement with the Bank related to advances of principal on the Bond and other matters determined appropriate, (ii) determining and finalizing all other terms and provisions to be carried by the Bond not specifically set forth in this Ordinance, and (iii) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Bond. The execution and delivery by the Mayor or by any such other officers, officials, employees or agents of the City of any such documents, instruments, certifications and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Ordinance, shall constitute conclusive evidence of both the City's and their approval of the terms, provisions and contents thereof and all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the actions so taken.

Section 13. All documents, agreements, certificates, and instruments related to the Bond shall be valid, binding, and enforceable against the City when executed and delivered by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by electronic signatures laws, including any relevant provisions of the Uniform Commercial Code, in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each document, agreement, certificate, and instrument related to the Bond may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same document, agreement, certificate, or instrument, as applicable.

Section 14. If any one or more of the provisions of this Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed severable from the remaining provisions of this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bond and the owners of the Bond shall retain all the rights and benefits accorded to them under this Ordinance and under any applicable provisions of law.

Section 15. All ordinances, resolutions or orders, or parts thereof in conflict with the provisions of this Ordinance are to be extent of such conflict hereby repealed.

Section 16. This ordinance is hereby determined to be a measure necessary to carry out the contractual obligations of the City relating to the Project and shall be in force and effect as provided in Section 17 of this Ordinance.

Section 17. The Mayor and Council hereby determine that an emergency exists for the City in connection with meeting the City's contractual obligations with respect to the Project, and in order to achieve lower borrowing costs by issuing the Bond on or prior to December 31, 2023, it is necessary that this Ordinance take effect and have immediate operation from and after proclamation by the Mayor, immediately upon its publication in pamphlet or electronic form. Upon such proclamation of emergency by the Mayor, this Ordinance shall be in force and take effect from and after its passage, approval and publication in pamphlet or electronic form as provided by law.

PASSED AND APPROVED this 19th day of December, 2023.

ATTEST:

Mayor

City Clerk

[SEAL]

EXHIBIT A
FORM OF INVESTOR LETTER

_____, 2023

City of Seward, Nebraska
Seward, Nebraska

Gilmore & Bell, P.C.
Omaha, Nebraska

Re: \$ _____ maximum drawable amount of Tax Supported Municipal
Improvement Bond, Series 2023, dated _____, 2023

Ladies and Gentlemen:

The undersigned, _____, as purchaser (the “Purchaser”) of the above-referenced bond (the “Bond”) issued by the City of Seward, Nebraska, (the “City”) pursuant to and on the terms set forth in Ordinance No. ____ of the City passed by the City Council on _____, 2023, and the Designation of Final Rates and Terms dated _____, 2023, and executed by officials of the City (together, the “Ordinance”), hereby represents and warrants to you that:

1. Capitalized terms used herein and not otherwise defined are used with the meanings given such terms in the Ordinance.

2. The Purchaser has duly authorized, by all necessary action, the purchase of the Bond and the right to receive the payments of principal of and interest on the Bond pursuant to the terms and provisions of the Ordinance (the “Payments”).

3. The Purchaser is a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”). The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Bond, the Payments, and the Ordinance. The Purchaser is able to bear the economic risks of that investment, including a complete loss of such investment.

4. The Purchaser understands that the obligations of the City to make the Payments under the Ordinance and the Bond are payable from the sources described in the Ordinance.

5. The Purchaser acknowledges that it has either been supplied with or has been given access to information, including financial statements and other financial information, which it has asked for and the Purchaser has had the opportunity to ask questions and receive answers from appropriate officers of the City concerning the City, the Bond, the Payments, the Ordinance and the security therefor, so that the Purchaser has been able to evaluate the risks and merits of purchasing the Bond and make its decision to purchase the Bond on the terms set forth in the Ordinance.

6. The Purchaser made its own inquiry and analysis with respect to the Ordinance, the Bond, the Payments, and the security therefor, and other factors affecting the security and payment of such payments set forth in the Ordinance. The Purchaser is aware that the business of the City involves certain economic variables and risks that could adversely affect the security for the payments to be made by the City to the Purchaser under the terms of the Ordinance and the Bond. The Purchaser has examined the legal

documents relating to the Bond and the Ordinance, including the proposed legal opinion to be delivered by Gilmore & Bell, P.C. as to the validity of and tax status of interest on the Bond.

7. The Purchaser understands that the Bond (including the right to receive the Payments under the terms of the Ordinance) (a) is not being registered or otherwise qualified for sale under the securities laws and regulations of any state, (b) will not be listed on any securities exchange, (c) does not and will not carry a credit rating from any credit rating service and (d) will be delivered in a form which may not be readily marketable.

8. The Purchaser understands that the Bond (including the right to the Payments under the terms of the Ordinance) has not been registered under the Securities Act in reliance upon certain exemptions from registration. The Purchaser represents to you that it is purchasing the Bond for investment for its own account and not with a view toward resale or the distribution thereof, in that it does not now intend to resell or otherwise dispose of the Bond or any part of its interest in the Bond, provided, however, that the Purchaser may enter into a participation agreement with regard to the Bond with another bank. The Purchaser agrees not to sell, transfer or otherwise dispose of the Bond or all or any part of its interest in the Bond or the Ordinance unless the transferee executes a letter of representation in substantially the form of this letter and such sale, transfer or other disposition is in compliance with applicable securities laws and the provisions of the Ordinance.

9. The Purchaser agrees to indemnify and hold harmless the City with respect to any claim asserted against the City that is based upon the Purchaser's sale, transfer or other disposition of the Bond or all or any part of the Purchaser's interests in the Bond or the Ordinance in violation of the provisions hereof or of the Ordinance, other than any claim that is based upon the gross negligence or willful misconduct of the City.

10. The Purchaser has executed and delivered this letter in connection with issuance of the Bond as an inducement to the City to cause the issuance of the Bond and the execution and delivery thereof to the Purchaser.

Only the addressees hereof may rely upon this letter.

By: _____
Authorized Officer

CERTIFICATE AS TO PUBLICATION
IN PAMPHLET FORM

The undersigned City Clerk of the City of Seward, Nebraska hereby certifies that the attached is a true and correct copy of Ordinance No. ____ as passed by the Mayor and Council on December 19, 2023, and as published in pamphlet form on December 20, 2023.

City Clerk

(SEAL)

**PROCLAMATION OF EMERGENCY
AND
EFFECTIVENESS OF ORDINANCE**

The undersigned, Mayor of the City of Seward, Nebraska, hereby proclaims, based upon determination by the Mayor and City Council at a meeting held on December 19, 2023, that an emergency exists, that Ordinance No. ____, passed and approved on said date, shall take effect upon this Proclamation immediately as of the time of first publication in pamphlet form by the posting of this Proclamation. The title of such Ordinance No. ____ is as follows:

AN ORDINANCE AUTHORIZING A MUNICIPAL IMPROVEMENT BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$9,800,000) TO PROVIDE FINANCING FOR A PORTION OF THE COSTS OF THE SEWARD WELLNESS CENTER TO BE OWNED BY THE CITY; PRESCRIBING THE TERMS AND FORM OF SUCH BOND; PROVIDING FOR PAYMENT OF THE INTEREST ON AND PRINCIPAL OF SUCH BOND; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET OR ELECTRONIC FORM; AND RELATED MATTERS

Said Ordinance was published in pamphlet form on December 20, 2023, and has been posted in full in three public of the most public places in the City. Copies of said Ordinance are available for inspection and distribution at the Office of the City Clerk, in the City of Seward, Nebraska.

Mayor

[SEAL]

City Clerk

Post this proclamation in 3 public places.

CITY ADMINISTRATOR'S REPORT

CITY ADMINISTRATORS REPORT – 12/19/23

- Monitoring a number of street projects on East Seward (construction), design on East Hillcrest, and drainage near Park Street & Bradford Street (construction).
- Water Tower project underway, working on final paint design.
- Assisted with Civic Center items and issues, working with Commission on Building Renovation. Attended sixth formal design meeting for Phase I with Clark Enersen. Reviewed lighting fixtures and updated budget information. Met with the genealogical society along with members of the Civic Center Commission to discuss future useage.
- Reviewed additional DTR items and worked with applicants on needed documents.
- Continued to work with RDG Planning to complete blight study.
- Working with Wellness Center Executive Director Brase on numerous items and follow ups. Working on final bonding documentation.
- Finalizing items related to closeout of 2019 Flood FEMA items.
- Reviewed potential lease documents for a Seward Community Golf Course restaurant, net with Golf team to review.
- Met on a number of personnel issues.
- Met with Bond Counsel Mike Rogers, Tim Moll, Kelly Hoffschneider, and Kurth Brasher on Wellness Center final financing, leases, and agreements.
- Met with Legion Baseball parents group on updates to the program.
- Met with Brock Anderson on a private funding drive to make turf improvements to baseball/softball fields.
- Discussed potential Strategic Planning opportunities with NPPD as well as Dr. Fields and Dr. Dominy from Seward Public Schools.

The departments are working on the following projects to name a few:

Police Department

- Unit 3 is being decommissioned this week.
- Suicide Prevention Coalition.
- Meet with Bizco on funding in-car/body-worn camera solution.
- Command staff meeting.
- Anti-bias training.

City Clerk/Human Resources/City Hall

- Preparing for the 12/19 Personnel, Finance and Audit Committee meeting.
- Updating the key closet: confirming all keys are current and renumbering system.
- Starting review of the bid policy for expected updates.
- Collecting burnsite, refuse hauler and tobacco license renewals for 2024.

Water/Wastewater Department

- Clarifier and trickling filters cleaning at WWTP.
- Finish jetting alley between 6th & 7th and Seward & Main St.
- Finish concreting the alley between 6th & 7th.
- Fixing tamper meter issues.
- Fix manhole on 10th & Bradford hit by G.E.

Parks and Rec/Cemetery/Golf/Pool

- Legion baseball meeting on Monday.
- Service equipment.
- Removing and trimming trees in the parks and golf course.

- Mulching leaves in the cemeteries.

Civic Center

- Regular meetings.
- Art appraisers are here Thursday.
- Renovation meeting here Thursday.

Electric Department

- Follow up of Allo installations and Windstream.
- Switch out 34.5 kv line for Tree trimming contractor.
- Work on Hughes Bros. new service.
- Work on metering.

Street Department

- Stump grinding and backfilling.
- Cold mix patch work.
- Fall street sweeping.

Library

- Office arrangement with new shelving from Seward Library Foundation.
- Baker to CASTL in Lincoln.
- Gutter and light work on exterior of library still need completed, from 2022 hail damage
- Material ordering.

Building Inspection/Planning Department

- Fence code amendment 12/11 for Planning Commission.
- Checking on timeframe with engineer for an engineer stamped plan for Café on the Square.
- Finalize Redwood Plat for January Planning Commission meeting.

Engineering

- Subgrade construction for Izaak Walton & Hwy 15 intersection.
- Street light boring, removal of soil stockpile and Change Order No. 3 for East Seward Street.
- Pave sidewalks and winterize Bradford St.
- Solicit contractors and advertise Hwy 15 Water Main.
- Advanced communication skills for training.

Finance Dept.

- Payroll week.
- Claims.
- November balancing.
- Work on franchise fees.

Seward Wellness Center

- Utilities continue to be installed on site. Rebar will be delivered.
- Visit to Kinetic in Lincoln.
- Oversight of the construction site/process.
- Work on grant application to Nebraska DED.
- Work with Eakes on furniture/appliances.
- Work with Scorevision on software costs for TVs/Scoreboards.

**FUTURE REQUESTS FOR COUNCIL AGENDA ITEMS OR ADMINISTRATIVE
ACTION
ANNOUNCEMENT OF UPCOMING EVENTS
STRATEGY SESSION**

1. Strategy Session with City Attorney Hoffschneider Regarding Real Estate Interests at the Seward Rail Campus - City Attorney Hoffschneider

MOTION TO ADJOURN

I, Derek Bargmann, the duly appointed qualified and acting City Clerk of the City of Seward, Nebraska, hereby certify that the foregoing Notice of Meeting and Agenda for such meeting has been posted in the following places: Seward City Hall, Seward Municipal Building, Seward County Courthouse, Seward Memorial Library and CityofSewardNE.gov

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City.

Derek Bargmann, City Clerk

Date