A G E N D A

City Council Meeting

July 2, 2018 - 6:00 p.m.

Call to Order

"I am required by law to inform the public that a copy of the Open Meetings Act is posted on the bulletin board to your right. This meeting is being recorded. If you wish to speak, come to the podium, state your name and address and speak directly towards the microphone the entire time you are addressing the governing body. Thank you."

PLEDGE OF ALLEGIANCE
ROLL CALL

NEW BUSINESS

1. Discussion/action to approve minutes from the June 18, 2018 City Council Meeting.
2. Accepting the report of new claims against the City and approving disposition of claims set for the period of June 19, 2018 to July 2, 2018.
3. Discussion/action on request for future burial of a dog in a family plot at Wyuka Cemetery.
4. Discussion/action regarding funding options for the Morton James Public Library HVAC project.
5. Discussion regarding the Fiscal Year 2018-2019 Budget and to set future special budget meetings.
6. Discussion/action to approve the Construction Agreement with JMN Construction Inc. for the 2018 Steinhart Park Road Bridge Overlay Project in the amount of $104,765.00 and authorize the Mayor to sign.
7. Discussion/action regarding the report on Department Budget Fiscal Year End Estimates in accordance with the Budget and Financial Policy Item #3.

ADJOURNMENT

REMINDERS: ROBERTS RULES **1. PRESENTATION 2. MOTION 3. DEBATE 4. VOTE**
City Council may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close.

Nebraska City
CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
June 18, 2018

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the William F. Davis Room at City Hall, 1409 Central Avenue, on June 18, 2018. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes. Availability of the agenda was communicated in advance to the media, Mayor and Commissioners of this proceeding and said meeting was open to the public.

Vice President Glover called the meeting to order at 6:07 p.m. The Vice President publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Vice President Gloria Glover then led in the Pledge of Allegiance. Upon roll call the following answered present: Patrick Wehling, Vic Johns and Vice President Gloria Glover. Absent: Paul Davis & Mayor Bequette. The following City Officials were present: City Administrator Grayson Path, City Attorney David Partsch, Police Chief David Lacy, Utilities Director Jeff Kohrs, Library Director Donna Kruse, Construction and Facility Manager Marty Stovall, Paramedic Manager Andrew Snodgrass and City Clerk-Treasurer Randy Dunster.

Commissioner Johns moved to approve the following consent items:
Approve minutes from the June 4, 2018 City Council Meeting.
Approve the Manager Liquor License for James Vollman at Arbor Mart Inc.
Approve the Manager Liquor License for Cory Fletcher at Arbor Links Golf Course.
Approve the application for Electricians Registration to Work for Colsden Electric. Motion seconded by Commissioner Wehling. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried

Treasurer's report was given, as of May 31, 2018, Total Nebraska City funds of $7,983,818.86. Total Cash and Reserve for Nebraska City Utilities of $17,157,528.73. Total City of Nebraska City and Utility funds $25,141,347.59.
Council acknowledged receipt of City Administrator Report. Grayson Path spoke regarding his report.
Council acknowledged receipt of Utility Financial Report for period ending April 2018.
Council acknowledged receipt of Utility Claims for period ending May 2018.

Moved by Commissioner Johns and seconded by Glover to accept the report of new claims against the City and approving disposition of claims set for the period of June 5, 2018 to June 18. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Claims List						
June 18, 2018						
Access Systems Leasing	Contract	247.90		Mercer's Do-It-Best	Equip	146.48
Adkins Signs	Road Marking	700.00		Merchant Services	CC Serv Fees	436.77
American National Bank	Loan	1,117.56		Midwest Turf and Irrig	Rep/Maint	71.13
American Recycling	Trash	389.25		Mullenax Auto Supply	Sup	111.39
Apley, P.	Artist	112.50		Municipal Emergency	Rep/Maint	126.80
Aqua-Chem	Equip	3,107.79		Napa Auto Parts	Rep/Maint	73.97
Arbor Mart, Inc	Fuel	3,027.53		National Arbor Day	Membership	15.00
Auburn Development	Misc	100.00		Nationwide	Inv	13,521.61
Barco Municipal Prod	Road Marking	802.12		Nationwide Trust Cont	Pension	2,146.00
Benefiel Truck Repair	Rep/Maint	206.00		NC Clerk Treasurer	Petty Cash	200.00

Richard D. Bennett, Jr.	Gravel	3,881.04		NC Newspress	Adv	306.38
Bill Walters & Son Shop	Rep/Maint	250.46		NC Utilities	Utilities	12,481.41
Bound Tree Medical	Sup	641.85		NE Dept of Revenue	Sls Tax	5,167.74
Capital Business Sys	Contract	162.64		Nichols, S & P.	Artist	54.19
Card Services	Multi	2,235.92		O'Reilly Auto Parts	Rep/Maint	6.99
Carmichael, A.	Artist	69.53		Odey's Inc.	Ballfield	498.00
Carpenter, S.	Artist	33.00		Otoe County Clerk	Dispatch	4,987.50
Cede & Co.	Int & Prin	107,956.25		Otoe County Treasurer	Bond	41,650.00
Bishop, C.	Rep/Maint	122.10		Page County Engineers	Asphalt	2,284.57
City of NC	Grant	10,500.00		Paper Tiger Shredding	Trash	52.00
Concrete Industries	Contract	1,495.00		Payroll	Payroll	116,122.46
Cook, D.	Refund	25.00		Pepsi-Cola of Lincoln	Bev	2,367.90
DAS State Accounting	Communi	290.00		PNC Equipment	Lease	2,728.00
Data Technologies	Computer	2,922.50		Quality Brands	Bev	153.25
Douglas Tire Co.	Rep/Maint	1,568.43		Ragland, M.	Rep/Maint	3,852.00
Eakes Office Solutions	Rep/Maint	324.67		Rembolt Development	Refnd	200.00
Eastman, L.	Artist	44.63		River View Pest Control	Pst Cntrl	471.00
Edmisten, G.	Travel	59.41		Ruwe, D.	Artist	33.00
EMS Billing Serv	Billing Serv	4,323.06		Schroder, E.	Artist	52.50
ETS	CC Serv Fee	552.23		SENDD	CDBG	26,468.74
Fareway Stores, Inc.	Concessions	612.23		Shell	Fuel	2,519.96
Fey, J.	Artist	51.75		Shelter Home Serv	Rfnd	25.00
Fire Protection Service	Rep/Maint	56.00		Southeast P & H	Rep/Maint	124.00
Galeton Gloves	Sup	332.91		Stouffer, L.	Rep/Maint	71.25
Galls, LLC	Uniforms	283.88		Sysco Lincoln	Concessions	2,567.38
Gatehouse Media NE	Adv	288.12		Tag's One Stop	Fuel	80.60
Gillespie, P.	Artist	48.00		Lumberjack Company	Tree Removal	2,500.00
Grimm's Gardens	Flwr Bskt	1,008.13		Thurman's Bike & Sport	TIF	4,673.31
Helm, J.	Rfnd	25.00		UHC	HRA	2,641.67
Ideal Pure Water	Sup	148.20		Unifirst Corporation	Contrat	191.77
Idependent Distributor	Concessions	448.80		Verizon Wireless	Tele	14.08
JEO Consulting Group	Construction	8,959.76		Viox, A.	Fuel	30.80
Johnny's Cycle	Rep/Maint	142.50		Vock, T.	Rfnd	25.00
K&Z Distributing	Bev	28.00		Wahl, R.	Artist	217.50
KNCB	Clean Up	900.00		Walde, S.	Artist	73.39
Kohtz, K.	Artist	27.00		Walters, A.	Artist	184.47
Lamb, M.	Artist	36.00		Wellsandt, K.	Artist	78.00
Landis Engine Company	Rep/Maint	62.60		West, M.	Fuel	29.12
Lyon, P.	Artist	50.25		Westlake Ace Hardware	Rep/Maint	540.69
Matheson Tri-Gas	Sup	50.14		Windstream,Inc.	Tele	1,626.06
Mead Lumber	Rep/Maint	274.40		Witte, Jessica	Fine Arts	250.00

Moved by Commissioner Wehling and seconded by Glover to approve utilizing Promontory, CDARS Deposit Placement, Insured Cash Sweeps and similar banking products to ensure FDIC coverage to safeguard large deposits. Randy Dunster spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Johns and seconded by Wehling to approve the McCoy Construction contract for the installation of a new City Hall/Fire Station roof in the amount of $243,725.00. Grayson Path spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Johns and seconded by Wehling to approve NCU Electric Work Order #170 in the amount of $37,433.18 to provide electrical service to five new cottages on Arbor Links Golf Course and install new transformers. Jeff Kohrs spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Wehling and seconded by Johns to approve NCU Gas Work Order #220 in the estimated amount of $200,000.00 to replace the existing slow fill CNG Station with a new Fast Fill CNG fill station and storage vessels. Jeff Kohrs spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Johns and seconded by Wehling to approve NCU Water Work Order #396 in the amount of $17,997.95 to replace 500' of 2" Galvanized Water Main on 14th Street and 4th Avenue North. Jeff Kohrs spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Johns and seconded by Glover to approve NCTC request for Lemon Days Events to be held July 26th – 29th. Amy Allgood spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Wehling and seconded by Johns to approve a computer software agreement for inventory and narcotics tracking for EMS and designate Andrew Snodgrass authority to sign the agreement. Andrew Snodgrass spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Glover and seconded by Johns to approve Library digitization project per budget policy, procurement policy and grant and donations policy. Donna Kruse spoke to explain the request. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Moved by Commissioner Wehling and seconded by Johns to approve Construction Management Agreement with SENDD for the CDBG Comprehensive Development Year One of Phase Two Projects. Upon roll call the following voted YES: Wehling, Johns and Glover. Voting NO: None. Motion carried.

Meeting Adjourned at 7:05 P.M.

AFFIDAVIT

I, the undersigned City Clerk for the City of Nebraska City, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Board of Commissioners, that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

_____

Randy A. Dunster, City Clerk-Treasurer

CITY OF NEBRASKA CITY

1409 Central Avenue
Nebraska City, NE 68410-2223
Phone: 402-873-5515
Fax: 402-873-5685

Agenda Information Support Sheet

To: **Mayor and Commissioners**
Council Meeting: July 3, 2018
Agenda Item: #3 Cemetery dog burial issue
Submitted By: David Partsch, City Attorney

A. Synopsis of Issue [1]:

a. Diana Yearsley made a request to the Cemetery Advisory Board to use a plot in their family plot to bury her dog, Tiffany, when the dog dies, adjacent to her own lot. The Cemetery Advisory Board voted 3-1, with two abstentions, to allow the burial. The Cemetery Advisory Board then informed Mrs. Yearsley that the motion failed since a majority of the quorum did not vote in favor. Mrs. Yearsley is now coming to the Council for its consideration.

B. Options:

a. Allow animals to be buried in separate cemetery plots at Wyuka by sending the item back to the Cemetery Advisory Board for a revision of its Rules and Regulations to specifically address animals.
b. Enforce the Rules and Regs as currently written and do not allow animals to be buried in separate cemetery plots at Wyuka.

C. Fiscal Note:

a. None – allowing animals to be buried in cemetery plots would potentially lead to the cemetery plots being used up quicker, meaning the cemetery would be filled and run out of space sooner than if separate animal burial plots are not allowed.

D. Recommendation:

a. Enforce the Rules and Regs and do not allow animals to be buried in separate cemetery plots at Wyuka.
   i. *Recommended Motion:*
      1. I move to deny the request of Diana Yearsley to bury a dog at Wyuka Cemetery.

E. Background – review of City Code and of Wyuka Cemetery Rules & Regulations:

a. City Code: The Code does not specifically address items allowed to be buried at the cemetery; however, a fair reading of the Code is that it is implied burial at the cemetery is for deceased persons only. For example, Section 10-12 provides, "Burial lots in the city cemetery shall not be held and used for speculation and no lot owner or proprietor shall permit interment in or upon any lot held by him for compensation. Owners of grave spaces may consent to burial of persons thereon according to rules established by the cemetery board."
b. Rules and Regulations: Wyuka Cemetery's Rules and Regulations allow for burial of "immediate family" which is defined as: "a spouse, son, daughter, brother, sister, parent, grandparent or direct descendant of said owner, or a spouse of any of them." Further, at section IV.3. "All lots shall be used for the burial of the dead and will be used for no other purpose."

****

Department Heads: **Submit this form to Dave Partsch and Grayson Path by 5:00 pm of the day the Agenda meeting is held.**

[1] The Cemetery Advisory Board is not bound by Robert's Rules of Order, meaning it can require a majority vote of the full Board, a majority vote of a quorum of the Board present, or a majority vote of those present and voting.

NEBRASKA CITY
Where Great Ideas Grow

City of Nebraska City
1409 Central Avenue
Nebraska City, NE 68410-2223
HOME OF ARBOR DAY Phone: 402-873-5515 Fax: 402-873-5685

PUBLIC REQUEST FOR COUNCIL AGENDA OR INFORMATION ITEM

*Your request will be reviewed and possibly scheduled for a future meeting, or forwarded to **City Staff** for appropriate action**

Name: Diana D. Yearsley
Address: 1200 So. 47th St. Lincoln, NE 68510
Phone #: (402) 488-4698 Cell (402) 890-9230
Email Address: diana.yearsley@yahoo.com

CC: Police Dept.: ___ Street Dept.: ___ Park Dept.: ___ Other: X

Item Title: Wyuka Cemetery

Explanation of Request:
Permission to bury Tiffany (upon death) Yearsley behind Eva M. Yearsley (died May 2, 2018) in family lot. Adjacent to Diana's lot (upon my death).

Action Requested of Council:
To have the 4 Yearsley's buried in their respective lots "united" in death/heaven.

Will this item require the expenditure of funds? Yes: ___ No: X Estimate $ ___

Council meetings are held on the 1st & 3rd Mondays of every month. All requests for information or inclusion on a Council Meeting Agenda must be submitted by noon on the Thursday preceding the Council meeting. Once a request is received, staff will review it and determine if it requires Mayor/Council action, or if the item can be handled by staff.
***You will be notified as to how your request will be handled as soon as possible.**

For staff use only: Action Required.

DRAFT

MINUTES OF THE
WYUKA CEMETERY ADVISORY BOARD MEETING
Wednesday June 13, 2018
Wyuka Cemetery

A meeting of the Wyuka Cemetery Advisory Board Meeting was called to order by Chairman Duane Arends at 9:00 A.M. The following Advisory Board members were present for roll call: Lynn Pursel, Jerry Herzog, Dorothy Royal, Bertha Sammons, Roxie Barker and Duane Arends. Absent: Tom Hemphill. Jim Teten (Cemetery Foreman), Marty Stovall (Construction and Facilities Manager), and Diana Yearsley (Agenda Item) were also present.

Barker moved to approve the minutes from the March 14, 2018 meeting. Royal seconded. A roll call vote was taken. Voting Yes: Barker, Herzog, Royal, Sammons, Pursel, and Arends. Voting No: None. Motion carried.

NEW BUSINESS

Book sales were discussed.

Jim gave his foreman's report. It was brought to the board's attention the request from Diana Yearsley to bury her pet dog in a vacant space owned by her. Yearsley provided a brief background of the impact the pet has had on her and her family. Yearsley's request included the pet be interred in a casket and follow the regular interment procedure all at the cost of the requestor. The board discussed the matter showing some concerns of future projection of spacing needed if they were to allow pets being interred and that if they were to allow this particular case that future cases come before the board initial prior to approval. Barker moved to recommend to the City Council to approve the pet be buried in the vacant spot for this particular case only. Seconded by Royal. A roll call vote was taken. Voting Yes: Barker, Royal, and Sammons. Voting No: Arends. Voting Abstain: Herzog and Pursel. Motion did not carry. Yearsley has the option to appeal to the City Council.

Other items discussed in Jim's Foreman's Report were tree removals and planting, operating status, and overview of the Memorial day weekend at the cemetery.

Pursel moved to adjourn. Barker seconded.
Meeting ended at 9:26 A.M.

_____
Crystaphena Balquier, Secretary

RULES AND REGULATIONS

WYUKA CEMETERY

NEBRASKA CITY, NEBRASKA

For the mutual protection of every plot purchaser these rules and regulations are hereby adopted as the rules and regulations of the Wyuka Cemetery, and all property owners and visitors with the Cemetery, and all plots sold shall be subject to said rules and regulations, and subject, further, to such rules and regulations; amendments or alterations as shall be adopted by the Cemetery Board from time to time; and the reference to these rules and regulations in the certificate of ownership to plots shall have the same force and effect as it sets forth in full therein.

I. DEFINITIONS

1. PLOT OR BURIAL SPACE DEFINED. The terms "plot" or "burial space", shall be used interchangeably, and shall apply with like effect to one, or more than one, adjoining graves.

2. LOT DEFINED. A lot has from four to eight graves, usually eight.

3. MEMORIAL DEFINED. The term "memorial" shall include a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use.

4. MONUMENT DEFINED. The term "monument" shall include a tombstone or memorial of granite, or other approved stone, which shall extend above the surface of the ground.

II. GENERAL SUPERVISION OF CEMETERY

1. THE CEMETERY SUPERINTENDENT is responsible to the Board for the general management of the grounds and current business transacted from day to day, under these regulations. The superintendent is hereby empowered to enforce all rules and regulations, and to exclude from the property of the Cemetery any person violating the same. The superintendent shall have charge of the grounds and buildings, at all times; shall have supervision and control of all persons in the Cemetery, including the conduct of funerals, traffic, employees, plot owners and visitors.

2. ADMISSION TO CEMETERY. The Cemetery Board reserves the right to refuse the use of the Cemetery facilities at any time to any person or

persons whom the management may deem objectionable to the best interest of the Cemetery.

3. CASKETS NOT TO BE DISTURBED. Once a casket containing a body is given into the charge of the Cemetery Superintendent for burial by a funeral director, no one shall be permitted to open the casket without the consent of the legal representatives of the deceased, or without a court order.

III. INTERMENTS AND DISINTERMENTS GENERALLY

1. SUBJECT TO LAWS. Besides being subject to these rules and regulations, all interments, disinterments and removals are subject to the orders and laws of the properly constituted authorities of the city, county and state.

2. TIME AND CHARGES. All interments, disinterments and removals must be made at the time and in the manner and upon such charges as fixed by the Cemetery Board. Charges for the Cemetery services must be paid at the time of issuance of order of interment or disinterment.

3. HOLIDAYS. No interments, disinterments, removals, or interment service shall be permitted on Sunday, or any of the following holidays: NEW YEAR'S DAY, January 1st; ARBOR DAY, last Friday in April; MEMORIAL DAY, last Monday in May; INDEPENDENCE DAY, July 4th; LABOR DAY, first Monday in September; VETERAN'S DAY, November 11th; THANKSGIVING, fourth Thursday and the following Friday in November; or CHRISTMAS, December 25. These days are official holidays for City employees.

4. NOTICE. Twenty-four hours' notice prior to any interment and to at least a one week notice prior to any disinterment or removal is required. When the day of interment follows a Sunday or any other legal holiday forty-eight hours notice prior to any such interment shall be communicated to the Superintendent of the Cemetery.

5. REQUEST FOR INTERMENT. Request for interment must be made with the office of the Superintendent of the Cemetery.

6. AUTHORIZATION FOR BURIAL. That no written consents be required for the burial of the immediate family of the record owner of a lot, with relationship to be established to the satisfaction of the superintendent.

The immediate family of any one of said owners shall include a spouse, son, daughter, brother, sister, parent, grandparent or direct descendant of said owner, or a spouse of any of them. If the person authorizing burial is not an owner of record, his ownership may be established by including in his consent a statement showing his ownership by devise or descent, with the names and address of other owners. No other person may be interred in any plot without the written consent of all those owners of the plot. Ownership may be established for said purpose by an affidavit filed with the secretary of the Cemetery Board.

7. LOCATION OF INTERMENT SPACE. When instructions regarding the location of any interment space in a plot cannot be obtained, or are indefinite, or when for any reason the interment space cannot be opened where specified, the Superintendent may, in his discretion open it in such location in the plot as he deems best and proper, so as not to delay the funeral; and the Cemetery shall not be liable in damages for any error so made.

8. ORDERS GIVEN BY TELEPHONE. The Cemetery shall not be held responsible for any order given by telephone, or for any mistake occurring from the want of precise and proper instructions as to the particular space, size and location in a plot where interment is desired.

9. ERRORS MAY BE CORRECTED. The Cemetery Board reserves, and shall have, the right to correct any errors that may be made by either in making interments, disinterments, or removals, or in the description, transfer or conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the Cemetery Board, or, in the sole discretion of the Cemetery Board, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property the Cemetery Board reserves, and shall have, the right to remove and/or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed thereof.

10. DELAYS IN INTERMENTS CAUSED BY PROTESTS. The Cemetery shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made, or where the rules and regulations have not been complied with. The Cemetery Board shall be under no duty to recognize any protests of interments unless they be in writing and filed in the office of the Secretary of the Cemetery Board.

11. NO INTERMENT PERMITTED UNLESS PROPERTY PAID FOR. No interment shall be permitted, or memorial placed in or on any property not fully paid for, except as provided for under the free burial plan in the ordinances of the City of Nebraska City.

12. INTERMENT OF MORE THAN ONE BODY. Not more than one body or the remains of more than one body, shall be interred in one grave, or vault, except by written consent of the Cemetery Board. This request must be in writing from the family stating the need for the request. When burial is by cremation, the family of the decedents shall be allowed to use one grave space for the burial of cremated remains of two persons if those two persons were related to each other as husband and wife or parent and child. Graves already containing cremated remains cannot be used for burial of a vault and casket.

13. INTERMENT GENERAL.

    A. Under normal conditions the body to be buried will be properly embalmed by a licensed Mortician. In unusual cases or in time of emergency, when embalming does not seem advisable, the burial permit will so state and include the signature of the proper authority authorizing burial without embalming

    B. For sanitary reasons, burials, other than in approved Mausoleums, will be in the ground and at a depth sufficient to cover the casket with a minimum of four feet of earth. Permanent containers or vaults made of concrete or fiberglass are required for caskets at interments except ashes burials and baby burials (up to age six months).

IV. LOTS

1. BASIS OF SALE. Lots or graves are sold to the public on the basis of individual plots. Prices vary in different sections and the Superintendent or his staff, will be glad to show the plots available for sale.

2. RESALE OR TRANSFER. For a Transfer of Title and/or Consent for burial, a form should be obtained from the Secretary of the Cemetery Board. After completing the form and signing it before a notary it must be presented at a Board meeting for approval, and then properly recorded. Transfers of property are permitted only to immediate heirs or sold back to the City and at a consideration no greater than that originally paid.

3. All lots shall be held and used for burial of the dead and will be used for no other purpose.

4. FUTURE CARE. All lots sold include perpetual care in the cost of the lot. This future care shall include such services as cutting grass, trimming shrubs and reasonable repair, which repair shall be determined by the Superintendent or the Board, but shall not include replacement of monuments.

5. PURCHASE OF GRAVES. Persons desiring to purchase a lot or graves, should visit the Cemetery where the Superintendent, or an attendant on duty, will show the spaces available and explain the regulations of the section in which the lots are located. When a plot has been selected, payment shall be made to the Superintendent, and the payment with the receipt will be taken to the City Clerk who will then record it in the office of the county registrar of deeds. Upon payment, a request may be made for interment.

V. DISINTERMENTS AND REMOVALS

1. MAY OBTAIN LARGER PLOT. A body, or cremated remains, may be removed from its original plot to a larger or better plot in the Cemetery, when there has been an exchange or purchase for that purpose, provided a state permit has been issued.

2. REMOVAL. Any removal must be done by a vault company.

3. DESCENT OR RIGHT OF INTERMENT. If no interment has been made in a plot which has been transferred by deed or certificate of ownership to an individual owner by the Cemetery, or if all the bodies have been lawfully removed therefrom, in the absence of the specific disposition thereof by the owner's last will and testament, the whole of said plot, except the one grave, which must be reserved to the surviving husband or wife of the owner, shall upon the death of said owner, descend in regular line of succession to the heirs at law of the owner.

VI. SUBDIVISION OF PLOTS

MAY NOT SUBDIVIDE PLOTS. The subdivision of plots is not allowed, ~~[redacted] shall be buried in any [illegible] all parties interested in such plot and of the cemetery board; provided, however, to relative of any record owner may be buried in said plot as provided in these rules or in the laws of the state.~~

VII. CONTROL OF WORK BY ASSOCIATION

1. WORK TO BE DONE BY CEMETERY BOARD. All grading, landscape work and improvements of any kind, and all care of plots shall be done, and all trees and shrubs and herbage of any kind shall be planted, trimmed, cut or removed, and all openings and closing of plots, and all interments, disinterments and removals shall be made only by the Cemetery employees, or authorized personnel.

2. BOARD MUST DIRECT AND MAY REMOVE IMPROVEMENTS. All improvements or alterations to individual property in the Cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the Cemetery Board; and should they be made without their written consent, they shall have the right to remove, alter or change such improvements or alterations at the expense of the plot owner; or, in any event, if at any time, in their judgment, they become unsightly to the eye.

VIII DECORATION OF PLOTS

1. FLORAL REGULATIONS. Cemetery employees shall have the authority to remove all floral designs, whether real or artificial, flowers, weeds, trees, shrubs, plants or herbage of any kind, from the Cemetery as soon as, in the judgment of the Board, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standards maintained. The Cemetery Board reserves the right to regulate the method of decorating plots so that a uniform beauty can be maintained. The Cemetery Board reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs or plants or herbage of any kind, unless the Superintendent gives his consent.

2. URNS, ETC., SUBJECT TO APPROVAL. All fittings, adornments, urns and inscriptions shall be under the control of, and subject to the approval or rejection by the Cemetery Board.

3. FLAG HOLDERS. Only flag holders provided by such organizations as the VFW, American Legion, or firemen will be allowed.

4. ARTIFICIAL FLOWERS, GRAVE BLANKETS AND WREATHS. Artificial flowers may be placed on the graves from November 15th to April 1st, and from five days prior to Memorial Day (observed) to seven days after. Artificial flowers may be displayed in authorized vases and on the monuments (providing they do not touch the ground) year around. Grave blankets will only be permitted from November 15th to April 1st, when the grass is dormant.

5. MEMORIAL DAY GRAVE DECORATIONS. Memorial Day decorations may be placed on the graves five days prior to Memorial Day (observed) until seven days after. Wreaths may be displayed on the monument or on a metal tripod stand for this period.

6. ORNAMENTAL DEVICES. The placing of hearts, crosses, shepherds crooks, trellises, or any other such device used for the purpose of hanging or displaying floral arrangements, artificial flowers, or other decorations is prohibited, as they do not conform to the standard of a dignified landscape and the accessible maintenance of the Cemetery. Any such devices placed in the Cemetery will be removed by the Cemetery employees.

7. DECORATION CLEANUP. All winter grave decorations must be removed from the graves prior to April 1st. Cemetery employees will remove any unclaimed decorations on that date. All Memorial Day decorations must be removed by the Monday following Memorial Day. All unclaimed flowers and decorations will be removed by Cemetery employees after that date.

8. LOST OR DAMAGED DECORATIONS. The Cemetery shall not be responsible for floral pieces, baskets or frames in which or to which such floral pieces are attached, beyond the acceptance of such floral pieces for funeral services held in the Cemetery. The Cemetery shall not be responsible for lost, misplaced or broken flower vases.

   The Cemetery shall take reasonable precautions to protect plot owners, and the property rights of the plot owners within the Cemetery, from loss or damage; but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, thieves, vandals, and unavoidable accidents, other than as herein provided.

IX. ROADWAY AND REPLATTING

1. RIGHT TO REPLAT, REGRADE, AND USE PROPERTY. The right to enlarge, reduce and/or change the boundaries or grading of the Cemetery or a of a section or sections, from time to time, including the right to modify and/or change the locations of or remove or regrade road, drives, and/or walks, or any part thereof, is hereby expressly reserved. The right to lay, maintain and operate, or alter or change pipe lines, and/or gutters for sprinkling systems, irrigation, drainage, etc., is also expressly reserved, as well as is the right to use the cemetery property, not sold to individual plot owners, for cemetery purposes. The Cemetery reserves to itself, and to those lawfully entitled thereto, a perpetual right of ingress and egress over plots for the purpose of passage to and from other plots.

2. NO RIGHT GRANTED IN ALLEYWAYS. No easement or right of interment is granted to any plot owner in any road, drive, alley or walk within the Cemetery, but such road, drive, alley or walk may be used as a means of access to the Cemetery or buildings as long as the Cemetery Board devotes it to that purpose.

X. CONDUCT OF PERSONS WITHIN THE CEMETERY

1. MUST USE WALKS. Persons within the Cemetery grounds shall use only the avenues, walks, alleys and roads, and any person injured while walking on the grass, except that be the only way to reach his plot, or while on any portion of the Cemetery other than the avenues, walks, alleys, or roads, shall in no way hold the Cemetery liable for injuries sustained.

2. TRESPASSERS ON CEMETERY PLOTS. Only the plot owner and his relatives shall have the right to be on the Cemetery plot. Any other person thereon shall be considered as a trespasser, and the Cemetery shall owe no duty to said trespasser to keep the property, or the memorial thereon, in a reasonably safe condition.

3. CHILDREN. Children under fifteen years of age shall not be permitted within the Cemetery, or its buildings, unless accompanied by proper persons to take care of them.

4. FLOWERS, ETC. All persons are prohibited from gathering flowers, either wild or cultivated, or breaking trees, shrubbery or plants, or feeding or disturbing the birds or other animal life.

5. REFRESHMENTS. No person shall be permitted to have refreshments within the Cemetery.

6. LOITERING ON GROUNDS. Strangers shall not be permitted to sit or loiter on any of the grounds, graves or monuments in the Cemetery, or in any of the buildings.

7. AUTOMOBILES. Automobiles shall not be driven through the grounds at a greater speed than fifteen miles per hour, and must always be kept on the right hand side of the Cemetery roadway.

8. FIREARMS. No firearms shall be permitted within the Cemetery except for military services.

9. NOTICES AND ADVERTISEMENTS. No signs or notices or advertisements of any kind shall be allowed in the Cemetery, unless placed by the Cemetery Board.

10. DOGS. Dogs shall not be allowed on the Cemetery grounds or in any of the buildings.

11. HOURS GROUNDS AND OFFICE OPEN. The Cemetery grounds shall be open from sunrise to sunset. Inquiries may be left on the answering machine in the Cemetery office twenty-four hours a day..

12. IMPROPRIETIES. It is of the utmost importance that there should be strict observance of all proprieties of the Cemetery whether embraced in these rules or not, as no improprieties shall be allowed and the Superintendent shall have the power to prevent improper assemblages.

XI. PROTECTION AGAINST LOSS

WHEN CEMETERY NOT RESPONSIBLE. The Cemetery shall take reasonable precaution to protect plot owners, and the property rights of the plot owners, within the Cemetery, from loss or damage; but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially, from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

XII. RULES FOR MEMORIAL WORK

1. PRODUCERS AND RETAIL DEALERS.

   A. Retail dealers must agree to use only first grade stone from producers, and must guarantee the memorial to be executed in first grade workmanship.

   B. Workmen employed in placing or erecting monuments and other structures, or bringing in materials, shall, as to the Cemetery operate as independent contractors, and must be under the general supervision of the Superintendent of the Cemetery.

   C. Persons engaged in erecting monuments are prohibited from scattering their material over adjoining lots, or from blocking avenues or pathways, or from leaving their material on the grounds longer than is absolutely necessary. They must do as little injury to the grass, trees, and shrubs as possible, and must remove all debris and restore the ground and sod to its original condition.

   D. Damage done to lots, walks, drives, trees, shrubs, and other property, by dealers or contractors, or their agents, shall be repaired by the Cemetery Board; and the cost of such repairs shall be charged to the dealer or contractor, or to his principal.

I. Only one head stone or monument for each grave space shall be allowed when burial is by cremation.

J. A two year maximum time limit from the time of burial will be allowed for a temporary marker.

3. DESIGN AND FINISH

A. The Cemetery Board shall have authority to reject any plan or design for any memorial which, on account of size, design, inscription, kind or quality of stone is in the opinion of the Cemetery board unsuited to the lot on which it is to be placed.

B. The Cemetery Board reserves the right to stop all work of any nature, whenever, in its opinion, proper preparations therefore have not been made or when tools and machinery are insufficient or defective; or when work is being executed in such a manner as to threaten life or property; or when the monument dealer has been guilty of misrepresentation; or when any reasonable request on the part of the Cemetery Board is disregarded; or when work is not being executed according to specifications; or when any person employed on the work violates any rule of the Cemetery.

C. The completed work is subject to the approval of the Cemetery Board, and, if unsatisfactory, the Cemetery Board may request its removal.

D. The name or inscription on each monument, vault or marker must correspond with the name and record in the office of the Cemetery, and no changes shall be made thereon except upon the request of the proper parties and by permission of the Cemetery Board.

E. The coloring, painting, enameling, lacquering or bronzing of letters or other parts of stone or bronze work is prohibited , except with prior approval of the Cemetery Board.

4. MATERIALS

A. No artificial stone of any description shall be permitted.

B. The use of bronze is approved for doors and windows, grilles of mausoleums or other mausoleum fixtures, and statuary, also for tables when attached to monuments or markers of natural stone provided the bronze has been cast from an alloy containing not less than eight-five percent copper nor more than five percent lead. Suppliers shall be required to certify as to the analysis of the

bronze. No other metals are approved for such use unless they are substantially non-corrosive and are of proved permanency.

5. MAUSOLEUMS AND TOMBS

A. Mausoleums or tombs, either wholly or partially above ground, shall be constructed only in lots so designed and shall be built of first grade material similar in all respects to stone used in other memorials within the Cemetery

B. Plans, specifications and locations in the lot shall be subject to the approval of the Cemetery Board. A building permit must be obtained from the City Building Inspector before any construction is started.

C. All parts of the mausoleum or tomb above ground shall be of natural stones.

D. When an interment is made in a private mausoleum, the casket must be metal lined, and the crypt hermetically sealed.

E. Footings for mausoleums must be constructed by a monument company.

6. MISCELLANEOUS

A. Should any memorial, mausoleum or tomb become unsightly, dilapidated, or a menace to visitors, the Cemetery Board shall have the right either to correct the condition or to remove the same, at the expense of the owner.

B. No monument or marker shall be removed from the Cemetery, unless the written order of the plot owner be presented Any questionable case will be presented to the Cemetery Board for a decision.

XIII. MODIFICATIONS AND AMENDMENTS

EXCEPTIONS AND MODIFICATIONS. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Cemetery Board, therefore, reserves the right without notice, to make exceptions, suspensions or modifications in any of these rules and regulations when, in its judgment, the same appear advisable, and such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such rule.

XIV. SCHEDULE OF CHARGES

1. A SCHEDULE OF CHARGES will be posted in the Cemetery Office and will govern the Superintendent in the assessment and collection of charges for lots sold and services rendered by the Cemetery.

2. CREDIT will not be extended to individuals and payment must be arranged for prior to interment.

3. FUNERAL DIRECTORS. All mortuaries are required to pay all charges at or before the time of a funeral, with the exception of local mortuaries. Local mortuaries will be required to pay all charges upon billing by the City Clerk/Treasurer at the end of each month. If such statement is not paid by the 15th of the month, that mortuary will be immediately placed upon Cash Only status for the remainder of the month. If non-payment or late payment occurs more than twice, that mortuary will be on a Cash Only status for six months. Replacement on the Billing List will be at the discretion of the Cemetery Foreman and the Cemetery Board.

XV. RECORDS

RECORDS OF THE CEMETERY are kept in the Superintendent's office at the Cemetery and at the office of the City Clerk. Inquires can be made at either place and proper directions will be given as to where the desired information can be found.

CITY OF NEBRASKA CITY

1409 Central Avenue
Nebraska City, NE 68410-2223
Phone: 402-873-5515
Fax: 402-873-5685

Agenda Information Support Sheet

To: Mayor and Commissioners

Council Meeting: **July 2, 2018**
Agenda Item: #4
Submitted By: **Grayson Path, City Administrator**
Dave Partsch, City Attorney
Donna Kruse, Library Director

A. Synopsis of Issue:

a. City Staff have been pursuing funding sources for the Library HVAC project.
b. Due to complications with the USDA loan process, the City should visit alternative options.
c. Tonight, City Staff presents three options for "solid" funding to complete the Library HVAC project. "Non-solid" funding will be our continued efforts to pursue grants, donations, and other opportunities. So far to date, we have not had any substantial success to report.
d. The total project, with engineering (not including the engineering that the City is covering in the FY17/18 budget, but just the portion over construction in FY18/19) is about $720,000.00 – current engineer estimate. Per the KPE Agreement, they will complete design in September for bids to go out in October – December, and construction to take place in the Spring 2019. We will have an updated engineer's estimate sometime in September after design completion.
e. The City has three known options for funding the HVAC project.
f. Attorney John Trecek is present tonight to provide information on two of these options.

B. Options:

a. Traditional Loan via local banks.
    i. We have reached out to local banks on a 15-year loan term and have received estimates at interest rates around 4.75% - 6%.
b. Ballot Bond
    i. As this is repairs to existing infrastructure by way of installing equipment, a bond for this project would need to be on the November 2018 election ballot, which has a September 1, 2018 deadline.
c. Municipal Facility Corporation
    i. The City can set up a separate non-profit corporation which sole purpose under the IRS is to facilitate funding of projects such as this.

C. Fiscal Note:

a. N/A

D. Recommendation:

a. Discuss with John Trecek and Dave Partsch regarding the pros and cons of each item.
    i. If the City Council chooses Ballot Bond (Option b above), City Staff would need to know immediately, because the process is much less efficient than either Option a or Option c, and would take urgent actions by staff and bond counsel. A determination of choosing between Option a or Option c could wait until a future Council meeting, if more time for a decision is desired.

E. Background:

a. The USDA Loan will end up following the same process as Option b given the City owns the Library. USDA just made us aware of this the week of June 17th. The USDA Loan route would be the same as Option b, just with added USDA requirements. Therefore, we have removed that as an option, unless the City Council requests otherwise.

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Department Heads: **Submit this form to Dave Partsch and Grayson Path by 5:00 pm of the day the Agenda meeting is held.**

CITY OF NEBRASKA CITY

1409 Central Avenue
Nebraska City, NE 68410-2223
Phone: 402-873-5515
Fax: 402-873-5685

Agenda Information Support Sheet

To: **Mayor and Commissioners**

Council Meeting: **July 2, 2018**
Agenda Item: #5
Submitted By: **Grayson Path, City Administrator**

A. Synopsis of Issue:

a. The First Draft of the FY18/19 Budget was given to the City Council the week of June 24th to begin reviewing in preparation for future budget meetings.
b. This agenda item is dedicated to setting meetings to hear City Department budget and CIP requests, as has been done the last few years.
c. Last year, the City originally scheduled three 4-5 hour meetings, but due to time and schedule conflicts, the Council ended up having two 6 hour meetings.
d. Recommended that the City Council look to have these meetings sometime starting the week of July 15th. This will give the Council two full weeks to go through the budgets on their own and develop questions to ask of each department.
e. After these departmental meetings, the City Council will set further meetings throughout the end of July and all of August to continue working on the budget.
f. The Budget must be finalized between August 20th (when the final valuation is given by the County Assessor) and August 31st (by City Code) with the final public hearing in early September prior to the September 20th due date to the State. Otherwise, between now and August 31st, the City Council can meet as often or as little as they wish to complete the budget.
g. Some important presentations for the council to expect to hear:
    i. City Department Presentations – July
    ii. NCU Budget – August
    iii. Airport Budget – July
    iv. NCTC Report – August
h. The City Administrator will be gone July 9th – 12th.

B. Options:

a. The City Council should plan on 12 hours to get through all of the department budget and CIP requests.
b. Recommended options would be July 17th – July 27th.

C. Fiscal Note:

a. N/A

D. Recommendation:

a. Set two or three dates during the time period of July 17th – July 27th for staff to post as special meetings. See the Background for two separate scenarios.

E. Background:

a. **Scenario one**, performed last year:
b. Tuesday, July 18, 2017

i. Budget Codes and Statutes 7:00 am – 7:30 am
ii. Budget Revenue Discussion 7:30 am – 9:00 am
iii. Administration and Attorney 9:00 am – 9:45 am
iv. Library Department 9:45 am – 10:30 am
v. Building and Inspection 10:30 am – 11:00 pm
vi. Wildwood Historic House 11:00 am – 11:45 am
vii. Cemetery Department 11:45 am – 12:30 pm

c. Wednesday, July 19, 2017

i. Recreation Department 7:00 am – 7:15 am
ii. Pool Department 7:15 am – 8:00 am
iii. Parks Department 8:00 am – 8:45 am
iv. Golf Department 8:45 am – 9:30 am
v. Fire Department 9:30 am – 10:15 am
vi. EMS/Rescue Department 10:15 am – 11:00 am
vii. Police Department 11:00 am – 11:45 am
viii. Public Properties 11:45 am – 12:30 am
ix. Street Department 12:30 am – 1:15 pm

d. **Scenario two**, originally scheduled for last year, but changed due to schedule conflicts:

e. Tuesday, July 18, 2017

i. Budget Codes and Statutes 8:00 am – 8:30 am
ii. Budget Revenue Discussion 8:30 am – 10:00 am
iii. Administration and Attorney 10:00 am – 10:45 am
iv. Library Department 10:45 am – 11:30 am
v. Building and Inspection 11:30 am – 12:00 pm

f. Wednesday, July 19, 2017

i. Recreation Department 8:00 am – 8:15 am
ii. Pool Department 8:15 am – 9:00 am
iii. Parks Department 9:00 am – 9:45 am
iv. Golf Department 9:45 am – 10:30 am
v. Wildwood Historic House 10:30 am – 11:15 am
vi. Cemetery Department 11:15 am – 12:00 pm

g. Thursday, July 20, 2017

i. Fire Department 8:00 am – 8:45 am
ii. EMS/Rescue Department 8:45 am – 9:30 am
iii. Police Department 9:30 am – 10:15 am
iv. Public Properties 10:15 am – 11:00 am
v. Street Department 11:00 am – 12:00 pm

****

Department Heads: Submit this form to Dave Partsch and Grayson Path by 5:00 pm of the day the Agenda meeting is held.

CITY OF NEBRASKA CITY

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Agenda Information Support Sheet

To: **Mayor and Commissioners**

Council Meeting: **July 2, 2018**
Agenda Item: #6
Submitted By: **Grayson Path, City Administrator**
Dave Partsch, City Attorney
Marty Stovall, Construction and Facility Manager

A. Synopsis of Issue:

a. On June 4, 2018, the City Council awarded a bid in the amount of $104,765.00 for the Steinhart Park Road Timber Bridge Project to JMN Construction Inc. of Valley, NE.
b. City Staff and JEO Consulting Group, Inc. (the engineer on the project) have prepared the necessary agreements for approval tonight.
c. In addition to other special provisions regarding specific work items on the project, the agreements consist of:
   i. Construction Agreement (attached below)
   ii. Performance Bond (attached below)
   iii. Payment Bond (attached below)
   iv. General Conditions (available at City Hall – too big for packet)
   v. Supplemental Conditions (available with General Conditions)
   vi. Specifications (available with General Conditions)
   vii. Drawings (available with Engineer)
d. These documents were all a part of the original bid documents with no known changes. They also match those of the CDBG Kearney Hill Project (minus some edits in Supplemental Conditions, Specifications, and Drawings per this specific project). They have been reviewed and approved by City Staff and Engineer for Council approval.
e. Request City Council approval of Contract and authorize the Mayor to sign.

B. Options:

a. Approve the Construction Agreement with JMN Construction, Inc. for the Steinhart Park Road Timber Bridge Overlay Project in the amount of $104,765.00 and authorize the Mayor to sign.
b. Request edits to the agreement and/or reject the agreement.

C. Fiscal Note:

a.	JEO Consulting Group, Inc. Task Order 18-1	$23,000.00
b.	JMN Construction Inc. Construction Agreement	$104,765.00
c.	Total contractual expense	$127,765.00
d.	Available funds in Street Department Highway Allocation, STP and HBP Funds)	$127,765.00 plus needed contingencies as they arise (via

D. Recommendation:

a. Approve the Construction Agreement with JMN Construction, Inc. for the Steinhart Park Road Timber Bridge Overlay Project in the amount of $104,765.00 and authorize the Mayor to sign.

E. Background:

a. Construction Agreement and overall Contract Book (which contains General Conditions, Specifications, etc.) are the standard Engineers Joint Contract Documents Committee (EJCDC) product which the City has used successfully in the past.
    i. The agreements are standard language that the City has seen before. Specifically the project is not to start until August 1st (contractor request) but must be done by September 1st to avoid liquidated damages. JEO will serve as RPR on site as needed.
b. Project is to provide asphalt overlay of Steinhart Park Road Timber Bridge to address the deck issues (ruts, wear, gouges, safety concerns, etc.). This project of studying the bridge to determine the best means of addressing these issues began early last year when the County first approached the City to give back ownership of this bridge – to the best of our knowledge, an error was made in listing the County as owner when the bridge was built (by the City) 15-20 years ago. The City took back ownership on February 19, 2018 (the agenda sheets are available upon request). JEO was immediately hired to design needed repairs.
c. After research conducted by JEO and City Staff, given the original manufacturer called for a 2" asphalt overlay to avoid the wear and tear we are seeing today, an overlay was determined to be the most cost-effective approach of addressing the issues on the deck. The alternative was a nearly $300k-$500k total deck replacement, which also added much time to the bridge being out of service. The City Council decided that the most effective and efficient solution was to go with the original manufacturer suggestion and place down an asphalt overlay.

****

Department Heads: **Submit this form to Dave Partsch and Grayson Path by 5:00 pm of the day the Agenda meeting is held.**

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between **City of Nebraska City** ("Owner") and **JMN Construction, LLC** ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Bridge and approach repairs at the Steinhart Park Road Timber Arch Bridge and asphalt overlay of the bridge and approaches.**

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2018 Steinhart Park Road Bridge Overlay; Nebraska City, Nebraska; JEO Project No. 170950.00**

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by JEO Consulting Group, Inc.

3.02 The Owner has retained JEO Consulting Group, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days and Dates*

A. Contractor shall not commence work prior to **June 25, 2018.** The start date for the Work will be **August 1, 2018** and the Work will be substantially completed and completed and ready for final payment, in accordance with Paragraph 15.06 of the General Conditions, within **21 calendar days** after the date when the Contract Times commence to run and on or before **September 1, 2018**.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the

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actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Liquidated damages for failing to timely attain completion in appropriate number of calendar days. Contractor shall pay Owner $**598.66** for each day that the project is not completed.

The above dollar amount is based on the following formula:

Liquidated Damages Formula

$$LD = \frac{R \times C}{T}$$

where: LD = Liquidated damages per calendar day (rounded to the nearest dollar)
C = Original contract amount (includes all work completed and unfinished)
T = Original number of calendar days specified in the contract
R = 0.12 for calendar day contracts

4.04 **[Deleted]**

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

~~A. For all Work other than Unit Price Work, a lump sum of: $_____.~~

~~All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.~~

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Item No.	Description	Quantity	Unit	Unit Price	Total
GROUP A – (BITUMINOUS ITEMS)					
1	Mobilization	1	LS		$10,000.00
2	Asphaltic Concrete, Type SPR	93	TON	$185.00	$17,205.00
3	Milling Concrete for Inlays	2	EA	$7,500.00	$15,000.00
4	Temporary Traffic Control	1	LS		$3,500.00
5	Remove and Reset Guardrail	4	EA	$0.00	$0.00
TOTAL GROUP A					$45,705.00

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Item No.	Description	Quantity	Unit	Unit Price	Total
GROUP B – (BRIDGE ITEMS)					
1	Preparation of Bridge at Sta. 10+74.00	1	LS		$16,500.00
2	Bridge Approach Repair	2	SY	$1,200.00	$2,400.00
3	Crack Epoxy Injection	50	LF	$50.00	$2,500.00
4	Timber Crack Repair	420	LF	$35.00	$14,700.00
5	Asphalt Plug Joint	56	LF	$410.00	$22,960.00
TOTAL GROUP B					$59,060.00
TOTAL GROUPS A & B					$104,765.00

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) **$104,765.00**.

~~D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.~~

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the **1st Monday** of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments

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previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 125 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment, and final payment will be subject to Paragraph 6.03.A.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of 12 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such

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Information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 8, inclusive).
2. Performance bond (pages 1 to 2 inclusive).
3. Payment bond (pages 1 to 2, inclusive).
4. Other bonds.
   a. _____ (pages _____ to _____, inclusive).
5. General Conditions (pages 1 to 65, inclusive).
6. Supplementary Conditions (pages 1 to 10, inclusive).
7. Specifications as listed in the table of contents of the Project Manual.
8. Drawings (not attached but incorporated by reference) consisting of 8 sheets with each sheet bearing the following general title: **"2018 Steinhart Park Road Bridge Overlay for the City of Nebraska City, Nebraska"**.
9. Addenda (numbers None to None, inclusive).
10. Exhibits to this Agreement (enumerated as follows):
    a. Contractor's Bid (pages _____ to _____, inclusive).
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.

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c. Change Orders.

d. Field Orders.

12. **Equipment Assessment Certification.**

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of

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Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

B. **If Owner is a public entity in the State the Project is located, then Contractor shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the State of the Project is located. Contractor shall require the same of each subcontractor.**

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on June 4, 2018 (which is the Effective Date of the Contract).

OWNER: CITY OF NEBRASKA CITY	CONTRACTOR: JMN Construction, LLC
_____	_____ (Sign)
By: Bryan Bequette	By: James Nachreiner (print)
Title: Mayor	Title: President
	(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)
Address for giving notices:	Address for giving notices:
1409 Central Avenue	314 W. Reichmuth Road
Nebraska City, NE 68410	Valley, NE 68064
	License No.: _____ *(where applicable)*

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EQUIPMENT ASSESSMENT CERTIFICATION

BY REQUIREMENT OF NEBRASKA STATE STATUTE 77-1323, THE FOLLOWING INFORMATION MUST BE FURNISHED BY ALL CONTRACTORS AND SUBCONTRACTORS UTILIZING ANY EQUIPMENT ON ANY AND ALL PUBLIC IMPROVEMENT CONTRACTS.

I certify to the best of my knowledge and belief, all the information on this form is correct. All equipment to be used on JEO Project No. 170950.00, except that acquired since the assessment date, has been assessed for taxation for the current year in DOUGLAS County.

Name of Company: JMN CONSTRUCTION LLC

Authorized Official: CATHERINE M NACHREINER
(Print Name)

(Signature)

Title: Co-Owner

Date: 6/12/2018

ORIGINAL BOND 1 OF 3

PERFORMANCE BOND

CONTRACTOR:

JMN Construction LLC
314 W Reichmuth Road
Valley, NE 68064

SURETY *(name and address of principal place of business)*:

Inland Insurance Company
P O Box 80468
Lincoln, NE 68501

OWNER:

City of Nebraska City
1409 Central Ave Nebraska City, NE 68410

CONSTRUCTION CONTRACT

Effective Date of the Agreement: 6/4/2018
Amount: One Hundred Four Thousand Seven Hundred Sixty-five And No/100 ($104,765.00)
Description: 2018 Steinhart Park Road Bridge Overlay, JEO Project No. 170950.00

BOND

Bond Number: 136160
Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*: 6/11/2018
Amount: One Hundred Four Thousand Seven Hundred Sixty-five And No/100 ($104,765.00)
Modifications to this Bond Form: [x] None [ ] See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL	SURETY
JMN Construction LLC	Inland Insurance Company
_____ *(seal)*	_____ *(seal)*
Contractor's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature	Signature *(attach power of attorney)*
_____	Thomas L. King
Print Name	Print Name
_____	Attorney-in-Fact
Title	Title
Attest: _____	Attest: _____
Signature	Signature
_____	witness
Title	Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
   3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
   3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
   3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
   5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
   5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
   5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
   5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
      5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
      5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
   7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
   7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
   7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
14. Definitions
   14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
   14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
   14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
   14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
   14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
16. Modifications to this Bond are as follows:

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PAYMENT BOND

CONTRACTOR:
JMN Construction LLC
314 W Reichmuth Road
Valley, NE 68064
OWNER:

SURETY *(name and address of principal place of business)*:
Inland Insurance Company
P O Box 80468
Lincoln, NE 68501

City of Nebraska City
1409 Central Ave Nebraska City, NE 68410

CONSTRUCTION CONTRACT
Effective Date of the Agreement: 6/4/2018
Amount: One Hundred Four Thousand Seven Hundred Sixty-five And No/100 ($104,765.00)
Description: 2018 Steinhart Park Road Bridge Overlay, JEO Project No. 170950.00

BOND
Bond Number: 136160
Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*: 6/11/2018
Amount: One Hundred Four Thousand Seven Hundred Sixty-five And No/100 ($104,765.00)
Modifications to this Bond Form: [x] None [ ] See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

JMN Construction LLC
(seal)
Contractor's Name and Corporate Seal

By: _____
Signature

_____
Print Name

Co-Owner
Title

Attest: _____
Signature

Pres/Owner
Title

SURETY

Inland Insurance Company
(seal)
Surety's Name and Corporate Seal

By: _____
Signature *(attach power of attorney)*

Thomas L. King
Print Name

Attorney-in-Fact
Title

Attest: _____
Signature

witness
Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.

4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.

5. The Surety's obligations to a Claimant under this Bond shall arise after the following:

   5.1 Claimants who do not have a direct contract with the Contractor,
      5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
      5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
   5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.

7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

   7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
   7.2 Pay or arrange for payment of any undisputed amounts.
   7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

13. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. **Definitions**

   16.1 **Claim:** A written statement by the Claimant including at a minimum:
      1. The name of the Claimant;
      2. The name of the person for whom the labor was done, or materials or equipment furnished;
      3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
      4. A brief description of the labor, materials, or equipment furnished;
      5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
      6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
      7. The total amount of previous payments received by the Claimant; and
      8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
   16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
   16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
   16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
   16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

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INLAND INSURANCE COMPANY

Lincoln, Nebraska

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That the **INLAND INSURANCE COMPANY**, a corporation of the State of Nebraska having its principal office in the City of Lincoln, Nebraska, pursuant to the following Bylaw, which was adopted by the Board of Directors of the said Company on July 23, 1981, to wit:

"Article V-Section 6. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The President or any Vice President, acting with any Secretary or Assistant Secretary, shall have the authority to appoint Resident Vice Presidents and Attorneys-In-Fact, with the power and authority to sign, execute, acknowledge and deliver on its behalf, as Surety: Any and all undertakings of suretyship and to affix thereto the corporate seal of the corporation. The President or any Vice President, acting with any Secretary or Assistant Secretary, shall also have the authority to remove and revoke the authority of any such appointee at any time."

does hereby make, constitute and appoint

Robert T. Cirone or James M. King or Tamala J. Hurlbut
or Jacob J. Buss or Thomas L. King, Lincoln, Nebraska

its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety:
Any and all undertakings of suretyship

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Lincoln, Nebraska, in their own persons.

The following Resolution was adopted at the Regular Meeting of the Board of Directors of the **INLAND INSURANCE COMPANY**, held on July 23, 1981:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Article V-Section 6 of the Company Bylaws: and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, **INLAND INSURANCE COMPANY** has caused these presents to be signed by its President and its corporate seal to be hereunto affixed this 16th day of February, 20 18.

INLAND INSURANCE COMPANY

Carol J. Clark — Secretary/Treasurer

By Curtis L. Hartter — President

CORPORATE SEAL — INLAND INSURANCE COMPANY — LINCOLN, NEBRASKA

State of Nebraska }
County of } ss. Lancaster

On this 16th day of February, 20 18, before me personally came Curtis L. Hartter, to me known, who being by me duly sworn, did depose and say that (s)he resides in the County of Lancaster, State of Nebraska; that (s)he is the President of the **INLAND INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that (s)he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that (s)he signed (his) (her) name by like order; and that Bylaw, Article V-Section 6, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

Tara Martin — Notary Public

GENERAL NOTARY - State of Nebraska
TARA MARTIN
My Comm. Exp. February 16, 2022

My Commission Expires February 16, 2022.

I, Philip C. Abel, Director of **INLAND INSURANCE COMPANY**, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said **INLAND INSURANCE COMPANY**, which is still in full force and effect.

Signed and sealed at the City of Lincoln, Nebraska this 11th day of June, 2018.

Director

CORPORATE SEAL — INLAND INSURANCE COMPANY — LINCOLN, NEBRASKA

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JMNCONS-01 JULIE

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/07/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Julie Hildreth	
Quinn Insurance Inc 11815 M Street, Suite 200 Omaha, NE 68137	PHONE (A/C, No, Ext): (402) 894-7496	FAX (A/C, No):
	E-MAIL ADDRESS: jhildreth@quinninsurance.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Bitco	20095
INSURED	INSURER B :	
JMN Construction, LLC 314 W Reichmeth Road Valley, NE 68064	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		CLP3662726	01/01/2018	01/01/2019	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO			CAP3662726	01/01/2018	01/01/2019	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			CUP2814284	01/01/2018	01/01/2019	EACH OCCURRENCE	$ 2,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 2,000,000
	DED X RETENTION $ 10,000							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			WC3662725	01/01/2018	01/01/2019	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
2018 Steinhart Park Road Bridge Overlay; Nebraska City, Nebraska; JEO Project No. 170950.00
City of Nebraska City and JEO Consulting Group Inc are additional insured on general liability as per written contract.

CERTIFICATE HOLDER

City of Nebraska City
1409 Central Ave
Nebraska City, NE 68410

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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NOTICE TO PROCEED

Owner:	**City of Nebraska City**	Owner's Contract No.:	
Contractor:	**JMN Construction, LLC**	Contractor's Project No.:	
Engineer:	**JEO Consulting Group, Inc.**	Engineer's Project No.:	**170950.00**
Project:	**2018 Steinhart Park Road Bridge Overlay**	Contract Name:	**2018 Steinhart Park Road Bridge Overlay**
		Effective Date of Contract:	**July 2, 2018**

TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on **July 2, 2018**.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, The Contractor shall not commence work prior to **July 2, 2018.** The start date for the Work will be **August 1, 2018** and the Work will be substantially completed and completed and ready for final payment, in accordance with Paragraph 15.06 of the General Conditions, within **21** calendar days after the date when the Contract Times commence to run and on or before **September 1, 2018**.

Before starting any Work at the Site, Contractor must comply with the following:
[Note any access limitations, security procedures, or other restrictions]

Owner**:** **CITY OF NEBRASKA CITY**

Authorized Signature

By: **Bryan Bequette**

Title: **Mayor**

Date Issued:

Copy: Engineer

CITY OF NEBRASKA CITY

1409 Central Avenue
Nebraska City, NE 68410-2223
Phone: 402-873-5515
Fax: 402-873-5685

Agenda Information Support Sheet

To: **Mayor and Commissioners**

Council Meeting: **July 2, 2018**
Agenda Item: #7
Submitted By: **Grayson Path, City Administrator**
Marty Stovall, Construction and Facility Manager
Donna Kruse, Library Director
Scooter Edmisten, Recreation Director

A. Synopsis of Issue:

a. The City is putting together its FY18/19 budget, which includes estimating Year End Estimates (YEE) for each department for FY17/18.
b. Per the Budget and Financial Policy, Item #3:
   i. "The total of expenditures of each City department, including NCU departments, as separately budgeted in the fiscal year according to the Annual Appropriation Bill, shall, beginning in June, be compared to the department budget and a specific report must be made to the Council at its next regular meeting, if the total expenditures are expected to exceed the related department budget."
c. According to our current YEE figures, the following departments are expected to go over budget by the given amount:
   i. Library $20,913.00
   ii. Parks $1,515.00
   iii. Golf $8,632.00
   iv. Public Properties $69,310.00
   v. Note: The above figures are calculated by removing Grant, Donation, and Endowment totals as those are not restricted funds.
   vi. Note: The above figures are estimates for June – September (4 months).
   vii. Note: Golf Course revenue is tracking lower than budget as well, but using available figures which are through June 1st, given this department is heavily seasonal, these figures are not good enough to be brought forward to the City Council.
d. Library
   i. The $20,913.00 is strictly driven by the Library HVAC project. The City Council has already authorized the use of other funds in the April 2, 2018 City Council meeting.
   ii. In short, the City is tapping in to available funds within the Library budget, the available authority in the Growth Fund Transfer, and available authority in the Police Department.
   iii. Those figures were re-examined at the June 18th City Council Meeting and were found to still be available.
e. Public Properties
   i. The $69,310.00 is strictly driven by the City Hall Roof Project. The City Council has already authorized the use of other funds in the April 18, 2018 City Council meeting.
   ii. In short, the City is tapping in to available funds within the Public Properties budget, the available funds in the Administration Department (personnel costs), and available funds in the Fire Department Budget as all three of these departments are benefited by the project.
   iii. Those estimates have not changed since the July 18th meeting.
f. Parks Department

i. The $1,515.00 is being driven in combination by an increase in seasonal hours to tackle the work early given our early warm up this year (temperature increased quickly this year), utilities (using what we have spent as of June 1st and adding what was spent last year June – September), Equipment Repairs (had various breakdowns in mowers that needed to be addressed to continue operations), and Ballfield Improvements (partnering with Ballfield Association dollars to make several upgrades to Press Box, Bleachers, Sod, infield, etc.).

ii. Given the Department's overall budget is $242,579 (not including Donations, Grants, and the CDBG Match for restroom and equipment which were CIPs), the Department is still confident that they may still yet shave down some costs to eliminate this $1,515 over budget estimate. This is 0.6% of the budget. The Utilities are arguably the biggest unknown.

iii. If however costs are not able to be shaved, funds are being estimated to be available in the Pool Budget. At this time, we are estimating about $13,285.00 below budget for the Pool this year due to changes in staff rotation and scheduling as well as fewer supplies needing to be purchased this year than expected. Pool revenue is also on track.

g. Golf Department

i. The $8,631.00 is being driven in combination by 1) a lightning strike that destroyed part of the irrigation system but was below deductible limits, 2) unforeseen major repairs to the golf carts including new batteries, repair of broken parts, etc., 3) improvements to the Pro Shop that the Department is still expecting to receive donations to reimburse the City for, 4) a need to perform some heavy over-seeding in parts of the course to restore some failing grass to maintain the look and experience of the course, and 5) utilities (same estimation process as done in Parks).

ii. Staff will also note that revenues are tracking a little lower than what we expected, but June 1st data is not satisfactory in Staff's opinion as to what the end result will be. Therefore at this time, even though the figures are tracking lower by year end, we will report on this during the budget meetings to provide updates.

iii. Staff are planning to host some events in the near future, some of which will include opportunities to provide donations to help reimburse the expense for the improvements at the Pro Shop. Staff will continue to carefully monitor their seasonal employee hours, utilities, and overall dig in to their individual line items to try and bring this overage down by the end of the year. But at this time, staff is hesitant to state that they will indeed be able to make cuts (unless of course directed by the Council) in order to try and maintain a certain level of quality at the course.

iv. If however costs are not able to be shaved, funds are being estimated to be available in the Pool Budget. At this time, we are estimating about $13,285.00 below budget for the Pool this year due to changes in staff rotation and scheduling as well as fewer supplies needing to be purchased this year than expected. Pool revenue is also on track.

B. Options:

a. Discuss this further with Commissioner Wehling and Staff.

C. Fiscal Note:

a. See the synopsis.

D. Recommendation:

a. Discuss this further with Commissioner Wehling and Staff.

E. Background:

a. See Synopsis.

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Department Heads: **Submit this form to Dave Partsch and Grayson Path by 5:00 pm of the day the Agenda meeting is held.**