

FARGO CITY COMMISSION AGENDA
Monday, March 25, 2019 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, March 11, 2019).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Receive and file an Ordinance Repealing and Re-enacting Article 17-02, 17-04 and 17-05 and Enacting Articles 17-06 through 17-16 of Chapter 17 of the Fargo Municipal Code Relating to Sewers and Sewerage.
- 2. 2nd reading and final adoption of an Ordinance Repealing and Re-Establishing a Conditional Overlay District On Certain Parcels of Land Lying in Schatz Fourth Addition; 1st reading 3/11/19.
- 3. Applications for property tax exemptions for improvements made to buildings:
 - a. Stacy A. Lieser, 1706 14th Street South (5 year).
 - b. American Federal Bank, 215 5th Street North (5 year).
 - c. Bruce Thompson, 910 7th Street North (5 year).
 - d. Erik Berg, 1110 3rd Avenue North, Unit 701W (5 year).
- 4. Applications for Games of Chance:
 - a. Fargo Rotary Club for a raffle on 5/22/19.
 - b. Kappa Alpha Theta-Gamma Nu for a raffle on 4/17/19.
 - c. Fargo Post 2 Baseball Club for a calendar raffle from 7/1/19 to 8/30/19.
 - d. Homeward Animal Shelter for a raffle on 4/11/19.
- 5. Bid award for Outdoor Warning Sirens (RFP19017).
- 6. Lot split and sale of excess land located at 2 6th Avenue North with the condition that the buyer will remove the existing gate well, storm sewer and fill in the existing pond.
- 7. Final Balancing Change Order No. 4 for an increase of \$373.00 for Project No. TR-17-B1.
- 8. Contract Amendment No. 6 with Houston Engineering Inc. in the amount of \$42,700.00 for Project No. FM-14-13.
- 9. Right of Way permit for storm sewer reconstruction with payment to BNSF in the amount of \$3,700.00 for Project No. UR-19-A1.
- 10. Maintenance Agreement (Public Right of Way) with Border States Paving.

- Page 21.
1. Purchase Agreement with Jeffrey L. Johnson and Marsha E. Johnson, Trustees of the Jeffrey L. Johnson Living Trust and Marsha E. Johnson and Jeffrey L. Johnson Trustees of the Marsha E. Johnson Living Trust for property located at 747 Royal Oaks Drive North (Project No. FM-19-B).
 12. Bid award for 2019 Flood Emergency Traffic Control Contractor Assistance – City Wide.
 13. Bid award for Project No. PR-19-A1.
 14. Bid advertisement for Project Nos. SL-19-A and UR-19-A.
 15. Task Order No.1 with Houston Engineering Inc. to provide Flood Survey Assistance (Project No. FE-19-C1) and bid awards for rapid deploy flood fighting products and rapid deploy product installation (Project No. FE-19-E1).
 16. Notice of Grant Award with the ND Department of Health for Title X Family Planning Program services (CFDA #93.217).
 17. Purchase of Service Agreement with the ND Department of Human Services, Behavioral Health Division for substance abuse prevention.
 18. Recommended amendments to the Metropolitan Council of Governments Articles of Association.
 19. Lease Agreement with FM Metropolitan Council of Governments.
 20. Request for a Fargo Police Department Summer Camp Mentor position.
 21. Purchase of one sweeper/scrubber from Tennant Sales and Service Company for a contract total of \$59,777.42 (PBC19871).
 22. Bid award for one 2019 excavator (RFP18309).
 23. Authorization of staff to enter into an Agreement with Reile's Transfer and Delivery, Inc. for transportation and handling of filled sandbags and at-the-ready services for filled sandbags used in the primary line of protection during the 2019 flood event.
 24. FAA Aerial Mosquito Spraying Authorization Application for Airborne Custom Spraying, Inc.
 25. Bid advertisement for near-term ozone improvements project (Project No. WA 1862) and raw water valve improvements project (Project No. WA 1951).
 26. Contract and bonds for Project Nos. SN-19-A1 and SR-19-A1.
 27. Bills.
 28. Bid awards for Improvement District Nos. BR-18-A1 and PR-19-E1.
 29. Request from KPH to complete work on Sundays and after hours (Improvement District No. BN-19-A1).
 30. Create Improvement District Nos. SL-19-E and TN-19-A.
 31. Contract and bond for Improvement District No. PN-18-C1.

REGULAR AGENDA:

32. Applications for Abatement or Refund of Taxes #'s 4481, 4482 and 4483 for the 2018 tax year filed by David Sholy for reduction in value of property from \$191,000.00 to \$115,000.00 at 346 27th Circle South; for reduction in value of property from \$207,000.00 to \$130,000.00 at 334 27th Circle South; and for reduction in value from \$346,600.00 to \$325,000.00 at 3510 Park Avenue South; denial is being recommended by the Assessment Department.
33. Public Hearings - 5:15 pm:
 - a. Proposal to alter and expand the Renaissance Zone boundary from 47 blocks to 48 1/2 blocks.
 - b. Plat of Maier Second Addition (1135, 1141 and 1201 49th Avenue South); approval recommended by the Planning Commission on 7/3/18.
 - c. Providence at Prairie Farms Addition (5764, 5788, 5810, 5830, 5850, 5866, 5882, 5892, 5906 and 5920 31st Street South); approval recommended by the Planning Commission on 7/3/18:
 1. Zoning Change from SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay to SR-4, Single-Dwelling Residential, and SR-4, Single-Dwelling Residential with a C-O, Conditional Overlay to P/I, Public and Institutional with a C-O, Conditional Overlay.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Providence at Prairie Farms Addition.
 - d. Airport First Addition (2102 12th Street North); approval recommended by the Planning Commission on 2/5/19:
 1. Zoning Change from LI, Limited Industrial to LC, Limited Commercial.
 2. 1st reading of rezoning Ordinance.
 - e. CONTINUE to 4/22/19 - Application filed by Pho D'Licious, Inc. d/b/a Pho D'Licious for a Class "H" Alcoholic Beverage License at 623 NP Avenue North.
 - f. Application filed by CRA3 Investments LLC d/b/a Wingstop for a Class "H" Alcoholic Beverage License at 2653 45th Street South.
 - g. Transfer of a Class "FA" Alcoholic Beverage License from Transcendent Hospitality Group LLC d/b/a Four Points by Sheraton to Fargo South Hospitality LLC d/b/a Four Points by Sheraton at 5064 23rd Avenue South.
 - h. Transfer of a Class "B-Limited" Alcoholic Beverage License from Lakemode Liquors, Inc. d/b/a Lakemode Liquors to Cash Wise Liquors LLC d/b/a Hornbacher's Wine & Spirits to be located at 4265 45th Street South, Suite 121.
34. Recommendation for appointments and reappointments to the following Boards and Commissions:
 - a. Airport Authority.
 - b. Fargo Dome Authority.
35. Resolution Opposing House Concurrent Resolution No. 3037 Nullifying North Dakota's Ratification of the Equal Rights Amendment.

36. Report on Tax Increment Financing Districts.
37. Recommendation to close TIF District No. 2001-01.
38. Performing Arts Center Taskforce Update.
39. Flood Update.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 701.241.1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

Minutes are available on the City of Fargo website at www.FargoND.gov/citycommission.

March 21, 2019

Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, North Dakota 58102

**RE: City of Fargo Sewer Use Ordinance amendment
Chapter 17 – Sewers and Sewerage**

Dear Commissioners:

Enclosed for your review, approval and enactment is a comprehensive amendment to Chapter 17 regarding Sewers and Sewerage.

Background

In accordance with the United States Environmental Protection Agency (USEPA) General Pretreatment Regulations, and Fargo's National Pollutant Discharge Elimination System (NPDES) permit, the City was required to develop and submit an industrial pretreatment program to the USEPA Region VIII in 1985. Industrial pretreatment programs are designed to prevent the introduction of pollutants into publicly owned treatment works (POTW's) that interfere with the operation of the facility, pass through or are incompatible with the treatment facility. The program also improves opportunities to recycle and reclaim municipal wastewater and sludge. Pretreatment programs regulate industrial users (IU's) that discharge wastewater which can be potentially contaminated by a variety of toxic or harmful substances. As POTW's are not specifically designed to treat these substances, industrial pretreatment programs are required to eliminate potentially serious problems that occur when contaminated waste is discharged into public sewer systems. As EPA is charged with the federal oversight and responsibility for regulating & enforcing these rules, the State of North Dakota has primacy and is considered the controlling authority over the City's Industrial Pretreatment Program.

In September 2016, the USEPA and the North Dakota Department of Health (NDDoH) conducted a three-day joint Pretreatment Compliance Inspection (PCI). Upon completion of the PCI, the Wastewater Utility was provided a list of inspection findings with a summary of corrective actions that needed to be addressed for compliance. One of the audit findings stated that the "City's legal authority did not align with the NDDoH pretreatment regulations and intergovernmental agreements (outside sewer agreements) did not provide all required legal authority". Essentially, the City was asked to update the Sewer Use ordinance to align with

the North Dakota Pretreatment regulations as per legal review. Also, the existing intergovernmental agreements needed to be reviewed to ensure that the City has the appropriate authority to implement the pretreatment regulations in outside jurisdictions and to ensure they have adopted an equivalent ordinance and delegate authority to implement the programmatic activities to the City of Fargo.

Consistent with Federal and State requirements, the enclosed amending ordinance has been submitted to the EPA and to the state Department of Health and has received approval from each. Also, consistent with state requirements, public notice was published as to these amendments, along with a 30-day comment period, before the Department of Health gave its approval of this ordinance.

The City Commission authorized us to work with the City Attorney and it directed the City Attorney to review this Chapter 17 and to draft appropriate revisions so that our city ordinances align with the Department of Health's pretreatment regulations. We have worked extensively with the City Attorney regarding these matters and the enclosed draft ordinance has been prepared by the City Attorney for your receipt and filing and, ultimately, enactment.

Recommended Motion

I move to receive and file the enclosed Ordinance Repealing and Re-enacting Articles 17-02, 17-04 and 17-05 and Enacting Articles 17-06 through 17-16 of Chapter 17 of the Fargo Municipal Code Relating to Sewers and Sewerage and to place the ordinance on for first reading at the next regularly-scheduled city commission meeting.

Respectfully Submitted,



Jim Hausauer
Wastewater Utility Director

Enclosure

OFFICE OF THE CITY ATTORNEY
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ORDINANCE NO. _____

**AN ORDINANCE REPEALING AND RE-ENACTING
ARTICLES 17-02, 17-04 AND 17-05 AND
ENACTING ARTICLES 17-06 THROUGH 17-16
OF CHAPTER 17 OF THE FARGO MUNICIPAL CODE
RELATING TO SEWERS AND SEWERAGE**

WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in accordance with Chapter 40-05 .1 of the North Dakota Century Code; and

WHEREAS, Section 40-05.1-06 of the North Dakota Century Code provides that the city shall have the right to implement home rule powers by ordinance; and

WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said home rule charter and any ordinances made pursuant thereto shall supersede state laws in conflict therewith and shall be liberally construed for such purpose; and

WHEREAS, the Board of City Commissioners deems it necessary and appropriate to implement such authority by the adoption of this ordinance;

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the city of Fargo:

Section 1. Repeal.

Articles 17-02, 17-04 and 17-05 of Chapter 17 of the Fargo Municipal Code relating to Sewers and Sewerage, as the same were amended from time to time, are hereby repealed in their entirety.

Section 2. Re-enactment.

Article 17-02 of Chapter 17 of the Fargo Municipal Code is hereby re-enacted to read as follows:

ARTICLE 17-02

CONTROL AND REGULATION OF SEWERAGE SYSTEM

17-0201 Purpose and Policy.-- This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the city of Fargo, ND and enables the city of Fargo to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC §1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this ordinance are:

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- 1 A. To prevent the introduction of pollutants into the POTW that will interfere with the operation
2 of the POTW;
- 3 B. To prevent the introduction of pollutants into the POTW which will pass through the POTW,
4 inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- 5 C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level
6 which allows its use and disposal in compliance with applicable statutes and regulations;
- 7 D. To protect POTW personnel who may be affected by wastewater and sludge in the course of
8 their employment and to protect the general public; and
- 9 E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

This article shall apply to all users of the POTW. This article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

11 17-0202 Administration.-- Except as otherwise provided herein, the Director shall administer, implement,
12 and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director
13 may be delegated by the Director to other city of Fargo personnel.

14 17-0203 Definitions.-- The following words, terms and phrases are hereby defined and shall be
15 interpreted as such throughout this chapter. Terms not herein defined shall have the meaning customarily
16 assigned to them:

- 17 1. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water
18 Act, as amended. 33 U.S.C. 1251 *et seq.*
- 19 2. Approval Authority. State of North Dakota Department of Health
- 20 3. Authorized Representative of the User.
 - 21 a. If the user is a corporation or limited liability company (LLC):
 - 22 i. The president, general manager of an LLC, secretary, treasurer, or a vice-
23 president of the corporation in charge of a principal business function, or any
other person who performs similar policy or decision-making functions for
the corporation or LLC; or
 - ii. The manager of one or more manufacturing, production, or operation
facilities, provided, the manager is authorized to make management decisions
which govern the operation of the regulated facility including having the
explicit or implicit duty of making major capital investment

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1 recommendations and initiating and directing other comprehensive measures
2 to assure long-term environmental compliance with environmental laws and
3 regulations; can ensure that the necessary systems are established or actions
4 taken to gather complete and accurate information for control mechanism
5 requirements; and where authority to sign documents has been assigned or
6 delegated to the manger in accordance with corporate procedures.

- 7
- 8 b. If the user is (a) a partnership including a limited partnership, limited liability
9 partnership or limited liability limited partnership or (b) a sole proprietorship: a
10 general partner or proprietor, respectively;
- 11 c. If the user is a federal, state, or local governmental facility: a director or highest
12 official appointed or designated to oversee the operation and performance of the
13 activities of the government facility, or his/her designee.
- 14 d. The individuals described in paragraphs a through c above may designate another
15 authorized representative if the authorization is in writing, the authorization specifies
16 the individual or position responsible for the overall operation of the facility from
17 which the discharge originates or having overall responsibility for environmental
18 matters for the company, and the written authorization is submitted to the city of
19 Fargo.
- 20 4. Best Management Practices (BMPs). Shall mean the schedules of activities, prohibitions of
21 practices, maintenance procedures, and other management practices to implement the
22 prohibitions listed in §403.5(a)(1) and (b) of the Act and in section 17-0403. BMP also
23 include treatment requirements, operating procedures, and practices to control plant site
runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
5. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical
oxidation of organic matter under standard laboratory procedures for five (5) days at 20
degrees Celsius, usually expressed as a concentration [milligrams per liter (mg/l)].
6. Building drain. That part of the lowest horizontal piping of a drainage system which receives
the discharge from soil, waste, and other drainage pipes inside the walls of the building and
conveys it to the building sewer.
7. Building sewer (also house connection or service sewer). The extension from the building
drain to the public sewer or other place of disposal.
8. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing
pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b)
and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of users and which
appears in 40 C.F.R. Chapter 1, Subchapter N, Parts 405 – 471, as the same may be amended
from time to time.
9. Categorical User. An industrial user regulated by one of the EPA's Categorical Pretreatment
Standards.
10. City. The city of Fargo, a municipal corporation of the state of North Dakota.

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- 1 11. Color. The optical density at the visual wave length of maximum absorption, relative to
2 distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical
3 density.
- 4 12. Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.
- 5 13. Composite Sample. The sample resulting from the combination of individual wastewater
6 samples taken at selected intervals based on an increment of either flow or time.
- 7 14. Control Authority. The city of Fargo
- 8 15. Cooling Water/Non-Contact Cooling Water. Water used for cooling which does not come into
9 direct contact with any raw material, intermediate product, waste product, or finished product.
10 Cooling water may be generated from any use, such as air conditioning, heat exchangers,
11 cooling or refrigeration to which the only pollutant added is heat.
- 12 16. Director. The director of wastewater utilities of the city of Fargo, or the authorized deputy,
13 agent or representative of said director.
- 14 17. Domestic User (Residential User). A “domestic user” is a user that is not regulated under
15 federal categorical pretreatment standards but that applies to the city of Fargo for a new
16 building permit or occupies an existing building and plans to commence discharge of
17 wastewater to the city of Fargo collection system after the effective date of this ordinance. A
18 “new source”, as defined above, is regulated under federal categorical pretreatment standards
19 and, therefore, a new source is not a domestic user as described in this definition.
- 20 18. Easement. An acquired legal right for the specific use of real property owned by others.
- 21 19. Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or,
22 where appropriate, the Director of Region 8 Office of Water, or duly authorized official of said
23 agency.
20. Floating Oil. Oil, fat, or grease in a physical state such that it will separate by gravity from
wastewater by treatment in an approved pretreatment facility. A wastewater shall be
considered free of floatable oil if it is properly pre-treated and the wastewater does not
interfere with the wastewater facilities.
21. Grab Sample. A sample which is taken from a waste stream on a one-time basis without
regard to the flow in the waste stream and without consideration of time.
22. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-
domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the
POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed
drainage ditches, surface water intercepting ditches, and all constructed devices and appliances
appurtenant thereto.
23. Industrial cost recovery period. A period of 30 years starting at the time of receipt of federal
grant money used for the purpose of constructing wastewater facilities during which the grant
allocable to the treatment of waste from industrial users is recovered from the industrial users
of such facilities.

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- 1 24. Industrial User. Shall mean any nondomestic source regulated under section 307(b),(c) or (d)
2 of the Clean Water Act that introduces pollutants into the city's wastewater treatment works.
- 3 25. Interference. A discharge which alone or in conjunction with a discharge or discharges from
4 other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations;
5 (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of
6 the city of Fargo's NPDES permit or of the prevention of sewage sludge use or disposal in
7 compliance with any of the following statutory/regulatory provisions or permits issued
8 thereunder (or more stringent State or local regulations): Section 405 of the Act; the Solid
9 Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource
10 Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge
11 management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic
12 Substances Control Act.
- 13 26. Letter of intent. Notification from an industrial user to the city of Fargo of that user's intent to
14 utilize a publicly owned treatment facility for a given period of time.
- 15 27. Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a
16 pollutant allowed to be discharged at any time, determined from the analysis of any discrete or
17 composited sample collected, independent of the industrial flow rate and the duration of the
18 sampling event.
- 19 28. May. "May" is permissive. (See "Shall").
- 20 29. National Pretreatment Standard, Pretreatment Standard, or Standard. Shall mean any
21 regulation containing pollutant discharge limits promulgated by the EPA in accordance with
22 Section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes
23 prohibitive discharge limits established pursuant to Section 403.5 of the Act.
- 24 30. Natural outlet. Any outlet, including storm sewers and combined sewer overflows, into a
25 watercourse, pond, ditch, lake or other body of surface or ground water.
- 26 31. New Source.
- 27 a. Any building, structure, facility, or installation from which there is (or may be) a
28 discharge of pollutants, the construction of which commenced after the publication of
29 proposed categorical pretreatment standards under Section 307. 8 of the Act which
30 will be applicable to such source if such standards are thereafter promulgated in
31 accordance with that section, provided that:
 - 32 i. The building, structure, facility, or installation is constructed at a site at
33 which no other source is located; or
 - 34 ii. The building, structure, facility, or installation totally replaces the process or
35 production equipment that causes the discharge of pollutants at an existing
36 source; or
 - 37 iii. The production or wastewater generating processes of the building, structure,
38 facility, or installation are substantially independent of an existing source at
39 the same site. In determining whether these are substantially independent,

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1 factors such as the extent to which the new facility is integrated with the
2 existing plant, and the extent to which the new facility is engaged in the same
3 general type of activity as the existing source, should be considered.

4 b. Construction on a site at which an existing source is located results in a modification
5 rather than a new source if the construction does not create a new building, structure,
6 facility, or installation meeting the criteria of Section a.(ii) or (iii) above but
7 otherwise alters, replaces, or adds to existing process or production equipment.

8 c. Construction of a new source as defined under this definition has commenced if the
9 owner or operator has:

10 i. Begun, or caused to begin as part of a continuous on-site construction
11 program:

12 1. Any placement, assembly, or installation of facilities or equipment;
13 or

14 2. Significant site preparation work including clearing, excavation, or
15 removal of existing buildings, structures, or facilities which is
16 necessary for the placement, assembly, or installation of new source
17 facilities or equipment; or

18 ii. Entered into a binding contractual obligation for the purchase of facilities or
19 equipment which are intended to be used in its operation within a reasonable
20 time. Options to purchase or contracts which can be terminated or modified
21 without substantial loss, and contracts for feasibility, engineering, and design
22 studies do not constitute a contractual obligation under this definition.

23 32. Pass Through. A discharge which exits the POTW into waters of the United States in
quantities or concentrations which, alone or in conjunction with a discharge or discharges from
other sources, is a cause of a violation of any requirement of the city's NPDES permit
(including an increase in the magnitude or duration of the violation).

33. Permittee: A person or user issued a wastewater discharge permit.

34. Person. Any individual, partnership, including limited partnership, limited liability
partnership or limited liability limited partnership, co-partnership, firm, company, corporation,
limited liability company, association, joint stock company, trust, estate, governmental entity,
or any other legal entity; or their legal representatives, agents, or assigns. This definition
includes all federal, state, or local governmental entities.

35. pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

36. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage
sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive
materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and
industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS,
turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

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- 1 37. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the
2 alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing
3 such pollutants into the POTW, whether obtained by physical, chemical, or biological
4 processes; by process changes; or by other means (except by diluting the concentration of the
5 pollutants unless allowed by an applicable pretreatment standard).
- 6 38. Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment
7 imposed on a user, other than a pretreatment standard.
- 8 39. Pretreatment Standards or Standards. Prohibited discharge standards, categorical pretreatment
9 standards, and local limits and/or BMPs established by the city of Fargo/POTW.
- 10 40. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the
11 discharge of certain substances, which appear in section 17-0403.
- 12 41. Publicly Owned Treatment Works (POTW). A “treatment works,” as defined by Section 212
13 of the Act (33 U.S.C. §1292) which is owned by the city. This definition includes any devices
14 or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or
15 industrial wastes of a liquid nature and any conveyances which convey wastewater to a POTW
16 as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to
17 and the discharges from such a treatment works. The term also means the municipality as
18 defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and
19 the discharges from such a treatment works.
- 20 42. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets,
21 campers, trailers, and septic tanks.
- 22 43. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- 23 44. Sewer. Any pipe, conduit ditch, or other device used to collect and transport sewage from the
generating source.
- 45. Sewer use charge. A monthly charge to all users of the wastewater facilities which is based on
sewage volume, strength and/or flow.
- 46. Shall, May, May Not. “Shall” is mandatory, “may” is permissive, and “may not” is
prohibitive.
- 47. Significant Industrial User (SIU).
 - a. A user subject to categorical pretreatment standards; or
 - b. A user that:
 - i. Discharges an average of 25,000 gallons per day (GPD) or more process
wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler
blowdown wastewater); or
 - ii. Contributes a process waste stream which makes up five (5) percent or more
of the average dry weather hydraulic or organic capacity of the POTW
treatment plant; or

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- 1 iii. Is designated as such by the city on the basis that it has a reasonable potential
- 2 for adversely affecting the POTW's operation or for violating any
- 3 pretreatment standard or requirement; unless,
- 4 iv. Upon a finding that a user meeting any of the above three criteria has no
- 5 reasonable potential for adversely affecting the POTW's operation or for
- 6 violating an applicable pretreatment standard or requirement, Fargo may at
- 7 any time, on its own initiative or in response to a petition received from a
- 8 user [and in accordance with procedures in 40 C.F.R. § 403.8(f)(6)]
- 9 determine that such user should not be considered a significant industrial
- 10 user.

11 48. Significant Noncompliance (403.8(f)(2)(vii)).

12 IU violations that meet one or more of the following criteria:

- 13 a. Chronic violations of wastewater discharge limits, defined here as those in which 66
- 14 percent or more of all the measurements for each pollutant parameter taken during a
- 15 6-month period exceed (by any magnitude) a numeric pretreatment standard or
- 16 requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(l).
- 17 b. Technical Review Criteria (TRC) violations, defined here as those in which 33
- 18 percent or more of all the measurements for each pollutant parameter taken during a
- 19 6-month period equal or exceed the product of the numeric pretreatment standard or
- 20 requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3 (l)
- 21 multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and
- 22 1.2 for all other pollutants except pH).
- 23 c. Any other violation of a pretreatment standard or requirement as defined by 40
- C.F.R. § 403.3 (l) (daily maximum, long-term average, instantaneous limit, or
- narrative standard) that the POTW determines has caused, alone or in combination
- with other dischargers, interference or pass through (including endangering the health
- of POTW personnel or the general public).
- d. Any discharge of a pollutant that has caused imminent endangerment to human
- health, welfare, or to the environment or has resulted in the POTW's exercise of its
- emergency authority under paragraph (f)(1)(vi)(B) of 40 C.F.R. § 403.8 to halt or
- prevent such a discharge.
- e. Failure to meet, within 90 days after the schedule date, a compliance schedule
- milestone contained in a local control mechanism or enforcement order for starting
- construction, completing construction, or attaining final compliance.
- f. Failure to provide, within 30 days after the due date, required reports such as baseline
- monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and
- reports on compliance with compliance schedules

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- 1 g. Failure to accurately report noncompliance
2 h. Any other violation or group of violations, which can include a violation of best
3 management practices, that the POTW determines will adversely affect the operation
4 or implementation of the local pretreatment program.
49. Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the
5 discharge standards in sections 17-0403 through 17-0406 or any discharge of a non-routine,
6 episodic nature, including but not limited to, an accidental spill or a non-customary batch
7 discharge.
50. Solid Waste Disposal Act (SWDA). Federal law located at 43 U.S.C. §6901 et seq.
51. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard
8 Industrial Classification Manual issued by the United States Office of Management and
9 Budget.
52. Storm Water. Any flow occurring during or following any form of natural precipitation, and
10 resulting from such precipitation, including snowmelt.
53. Superintendent. The person designated by the city to supervise the operation of the POTW,
11 and who is charged with certain duties and responsibilities by this ordinance, or a duly
12 authorized representative.
54. Total Suspended Solids. The total suspended matter that floats on the surface of, or is
13 suspended in, water, wastewater, or other liquid, and which is removable by laboratory
14 filtering.
55. Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in
15 regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. §1317) of
16 the Act.
56. Treatment Plant Effluent. The discharge from the POTW into waters of the United States.
57. Wastewater. Liquid and water-carried industrial wastes and sewage from residential
17 dwellings, commercial buildings, industrial and manufacturing facilities, and institutions,
18 whether treated or untreated, which are contributed to the POTW.
58. Wastewater Discharge Permit (Industrial Wastewater Discharge Permit, Discharge Permit).
19 An authorization or equivalent control document issued by the city to users discharging
20 wastewater to the POTW. The permit may contain appropriate pretreatment standards and
21 requirements as set forth in this ordinance.
59. Wastewater Treatment Plant or Treatment Plant. The portion of the POTW which is designed
22 to provide treatment of municipal sewage and industrial waste.

17-0204 Abbreviations-- The following abbreviations shall have the designated meanings:

- ASPP - Accidental Spill Prevention Plan
- BOD - Biochemical Oxygen Demand
- C.F.R. § - Code of Federal Regulations

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- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- GPD - gallons per day
- IWA - Industrial Waste Acceptance
- l - Liter
- IU - Industrial User
- LEL - Lower Explosive Limit
- mg - milligrams
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classifications
- SIU - Significant Industrial User
- SWDA - Solid Waste Disposal Act (43 U.S.C. 6901, et seq.)
- TSS - Total Suspended Solids
- USC - United States Code

Section 3. Re-enactment.

Article 17-04 of Chapter 17 of the Fargo Municipal Code is hereby re-enacted to read as follows:

ARTICLE 17-04

GENERAL REQUIREMENTS

17-0401 Sanitary sewers, building sewers and connections.--

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city engineer.
- B. There shall be two classes of building sewer permits:
 - 1. For residential and commercial service, and
 - 2. For service to establishments producing industrial wastes. In either case, the owner, or his agent, shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city engineer. A permit and inspection fee shall be paid to the city at the time the

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- 1 application is filed. The amount of such fee shall be established by
2 resolution of the board of city commissioners in accordance with
3 §22-0114.
- 4 C. All costs and expenses incidental to the installation and connection of the building
5 sewer shall be borne by the owner. The owner shall indemnify the city from any
6 loss or damage that may directly or indirectly be occasioned by the installation of
7 the building sewer.
- 8 D. A separate and independent building sewer shall be provided for every building;
9 except where one building stands at the rear of another on an interior lot and no
10 private sewer is available or can be constructed to the rear building through an
11 adjoining alley, court, yard, or driveway, the building sewer from the front building
12 may be extended to the rear building and the whole considered as one building
13 sewer, but the city does not and will not assume any obligation or responsibility for
14 damage caused by or resulting from any such single connection aforementioned.
- 15 E. Old building sewers may be used in connection with new buildings only when they
16 are found, on examination and test by the director to meet all requirements of this
17 ordinance.
- 18 F. The size, slope, alignment, materials of construction of all sanitary sewers including
19 building sewers, and the methods to be used in excavating, placing of the pipe,
20 jointing, testing and backfilling the trench, shall all conform to the requirements of
21 the building and plumbing code or other applicable rules and regulations of the city.
22 In the absence of suitable code provisions set forth in appropriate specifications of
23 the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to tile building at an
elevation below the basement floor. In all buildings in which any building drain is
too low to permit gravity flow to the public sewer, sanitary sewerage carried by
such building drain shall be lifted by an approved means and discharged to the
building sewer.
- H. No person shall make connection of roof downspouts, foundation drains, areaway
drains, or other sources of surface runoff or ground water to a building sewer, or
building drain which in turn is connected directly or indirectly to a public sanitary
sewer unless such connection is approved by the director and the North Dakota state
department of health.
- I. The connection of the building sewer into the public sewer shall conform to the
requirements of the building and plumbing code or other applicable rules and
regulations of the city, or the procedures set forth in appropriate specifications of the
A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be
made gastight and watertight and verified by proper testing. Any deviation from the
prescribed procedures and materials must be approved by the director before
installation.
- J. The applicant for the building sewer permit shall notify the director when the
building sewer is ready for inspection and connection to the public sewer. The

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1 connection and testing shall be made under the supervision of the director or his
2 representative.

- 3 K. All excavations for building sewer installation shall be adequately guarded with
4 barricades and lights so as to protect the public from hazard. Streets, sidewalks,
5 parkways, and other public property disturbed in the course of the work shall be
6 restored in a manner satisfactory to the city.

7 Source: 2187 (1985).

8 17-0402 Prohibited connections to sewer system - - Inspection and surcharge authority. - - Waiver
9 Provisions--

- 10 A. Section 22-0432 prohibits surface or ground water drains, including roof drains and
11 foundation drain tiles, from being connected to the sanitary sewer. Said ordinance
12 requires that surface or ground water drains shall be connected directly to the city
13 storm sewer or discharged into a sump and thereafter pumped into the city storm
14 sewer system or onto a yard in such a manner so as to drain into the city storm
15 sewer system. The following subsections further expand on such prohibited
16 connections and provide for inspections, surcharges, waivers and penalties.
- 17 B. All dwellings, buildings and structures constructed after September 21, 1971,
18 which require, because of infiltration of water into basements, crawl spaces and the
19 like, a foundation drainage system shall have a permanently installed discharge line
20 which, shall not at any time, discharge water into the sanitary sewer system except
21 as hereinafter provided in 17-0402(F). A permanent installation shall be one in
22 which the direction of flow cannot be altered and provides for year-round
23 discharge to either the outside of the dwelling, building or structure, or is connected
24 directly to the city storm sewer, or discharges to the curb and gutter.
- 25 C. Prior to June 1, 2001, all dwellings, buildings or structures constructed after
26 September 21, 1971, having surface or ground water drains, including sump
27 pumps, now connected and/or discharging into the sanitary sewer system shall
28 disconnect and/or remove the same. Any disconnects or openings in the sanitary
29 sewer shall be closed or repaired in an effective, workmanlike manner, as approved
30 by the city engineer.
- 31 D. Authorized city personnel, or its designated representatives bearing proper
32 credentials and identification, shall be permitted to enter all properties constructed
33 after September 21, 1971, for the purposes of inspection and observation to
34 identify prohibited discharges to the sanitary sewer system. Any person may
35 furnish a certificate from a licensed plumber certifying that their property is in
36 compliance with §22-0432 and this section, in lieu of having the city inspect their
37 property. Any person refusing to allow their property to be inspected (or failing to
38 furnish a plumber's certificate in lieu thereof) within fourteen (14) days of the date
39 city employees or their designated representatives are denied admittance to the
40 property, shall immediately become subject to the surcharge penalty as required

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1 under §17-0402(E). Any person found to have violated this provision shall make
2 the necessary changes to eliminate the discharge of surface or ground water into
3 the sanitary sewer system and furnish proof of the changes to the city within ninety
(90) days. Each prohibited connection identified may be re-inspected by the city,
its designated representative or a licensed plumber, to confirm compliance.

4 E. A monthly surcharge penalty, established by resolution of the board of city
5 commissioners, shall be imposed and added to the regular sewer billing on and
6 after June 1, 2001, to property owners who are not in compliance with this section.
7 The surcharge shall be added every month through December 2001 until the
8 property is in compliance. The surcharge shall continue to be levied monthly,
every year on properties not complying with this section. It is provided, however,
that the surcharge shall not be charged unless and until a property has been
inspected and found to be not in compliance, or if the property owner refuses to
allow an inspection and fails to provide a plumber's certificate in lieu thereof as set
forth in this section.

9 F. The Superintendent shall have the authority to grant exemptions from strict
compliance with this section.

10 Exemptions may be granted in the form of seasonal waivers which would allow the
11 property owner to temporarily discharge directly into the sanitary sewer system
between the date of October 1 and March 31. The holder of a seasonal waiver shall
12 allow a city employee or designated representative to certify that, prior to April 1
of each subsequent year, their discharge water connection has been removed from
13 the sanitary sewer. Failure to provide such certification shall place the seasonal
waiver holder in violation and subject to the surcharge penalty as required under
§17-0402(E). Seasonal waiver requests shall be submitted on the official form
provided by the city engineer for utilities.

14 Exemptions may be granted in the form of non-seasonal waivers for a particular
15 property owner who can demonstrate undue hardship because of unique or
16 extenuating circumstances, including physical or handicap limitations. A non-
seasonal waiver would allow the property owner to discharge directly into the
17 sanitary sewer system without seasonal restrictions. The non-seasonal waiver
request shall be submitted to the Superintendent in writing and, at a minimum,
18 identify the property for which the waiver is being requested, the name of the
property owner/applicant, and a detailed description of the circumstances justifying
the request.

19 G. Any person granted a seasonal waiver shall be charged an additional monthly fee
20 on their utility bill to cover the cost of compliance inspections and the cost for
treating the extra discharge water during the waiver period. The seasonal waiver
amount shall be set by resolution of the board of city commissioners.

21 Any person granted a non-seasonal waiver shall be charged an additional monthly
22 fee on their utility bill to cover the cost for treating the extra discharge water on a
year-round basis. The non-seasonal waiver amount shall be set by resolution of the
23

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board of city commissioners.

1 H. If a seasonal waiver is granted, the owner of the property may place a pipe
2 connecting the sump pump to the sanitary sewer, which must have a shut-off
3 valve. city staff or its designated representative, on or around April 1 of each
4 year, will inspect the system to verify that the valve is closed so no prohibited
5 water is discharged into the sanitary sewer. By applying for the waiver, the
6 owner has granted permission to the city staff or its representatives to inspect the
7 connection at any time between April 1 and October 31 to verify compliance
8 with this section. Such inspections must be made between 8:00 a.m. and 5:00
9 p.m., Monday through Friday, and only when a resident of the premises is on
10 site. Failure to allow such an inspection or to allow city staff or its designated
11 representatives entry for verification of compliance shall result in automatic
12 revocation of the seasonal waiver and imposition of the surcharge penalty
13 pursuant to §17-0402(E).

14 I. If any new structure is found to have been constructed wherein the sump pump
15 connection for the structure has been unlawfully connected to the sanitary sewer
16 system, or that there is another connection or device or lack of a plug which allows
17 surface run-off or ground water to enter into the sanitary sewer system, either
18 permanently or temporarily, the city may deny the issuance of a certificate of
19 occupancy for said new structure.

20 Source: 4150 (2001), _____ (2019).

21 17-0403 Prohibited Discharge Standards.--

22 A. General Prohibitions: No user shall introduce or cause to be introduced into the POTW any
23 pollutant or wastewater which causes pass through or interference. These general
prohibitions apply to all users of the POTW whether or not they are subject to categorical
pretreatment standards or any other federal, state, or local pretreatment standards or
requirements.

B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the
following pollutants, substances, or wastewater:

1. Oils and Grease.

i. Oil and grease concentrations or amounts from industrial facilities violating
pretreatment standards.

ii. Wastewater from industrial facilities containing floatable fats, wax, grease or
oils in amounts which would cause interference or pass through the treatment
process.

iii. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil
origin in amounts which would cause interference or pass through.

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2. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flash point of less than 140 F (60 C) using the test methods specified in 40 C.F.R. § 261.21;
3. Wastewater having a pH less than 5.0 S.U. or more than 12.5 S.U., or otherwise causing corrosive structural damage to the POTW or equipment.
4. Solid or viscous wastes. Solid or viscous wastes which will interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, un-comminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.
5. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either independently or by interaction with other pollutants, will cause interference with the POTW;
6. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits;
7. Petroleum oil, non-bio-degradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
9. Trucked or hauled pollutants, except a discharge points designated by the city.

17-0404 Federal Categorical Pretreatment Standards.-- The federal categorical pretreatment standards as amended and promulgated by EPA pursuant to the Act and as found at 40 C.F.R. Chapter I, Subchapter N, Parts 405 – 471, are hereby adopted by reference.

17-0405 State Requirements.-- The state requirements as set forth in North Dakota Administrative Code (N.D.Admin.C.) §33-16-01.1 and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this ordinance or in other applicable ordinances.

17-0406 Local Limits.-- The Superintendent is authorized to establish Local Limits pursuant to 40 C.F.R. § 403.5(c). No person shall discharge wastewater containing pollutant levels in excess of the following daily maximum allowable discharge limits:

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	<u>Pollutant</u>	<u>Daily Maximum Concentration</u>
1		
2	Arsenic (As)	2.8 mg/l
3	Cadmium (Cd)	0.11 mg/l
4	Chromium (III)	5.86 mg/l
5	Chromium (VI)	0.65 mg/l
6	Chromium (Total)	5.57 mg/l
7	Copper (Cu)	2.82 mg/l
8	Lead (Pb)	1.60 mg/l
9	Mercury (Hg)	0.001 mg/l
10	Nickel (Ni)	5.60 mg/l
11	pH	5 to 12.5 S.U.
12	Selenium (Se)	0.26 mg/l
13	Silver (Ag)	0.43 mg/l
14	Zinc (Zn)	18.17 mg/l

The above limits apply at the point where the wastewater is discharged to the POTW (end of pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

Total SIU BOD mass loading or Maximum Allowable Industrial Loadings (MAIL) at the wastewater treatment plant headworks shall not exceed 7,353 pounds per day. Total SIU TSS mass loading or MAIL at the wastewater treatment plant headworks shall not exceed 4,825 pounds per day. The city may, at its discretion, implement local limits through allocation of the BOD and TSS MAILs to significant industrial Users.

Under no circumstances shall the industrial user achieve compliance with the above limitations or categorical pretreatment standards by diluting its industrial waste with tap water, unpolluted water, sanitary sewage, or any other liquid diluent.

The POTW may develop Best Management Practices (BMPs) to implement provisions of this Chapter. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

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1 The POTW may develop site-specific limits in addition to Local Limits.

2 The following limits shall apply to wastewater that are discharged from the groundwater cleanup
 3 of petroleum and gasoline underground storage tanks or other remediation wastewaters containing these
 4 pollutants or where these pollutants are appropriate surrogates. It shall be unlawful user to discharge to
 5 cause to be discharged any waste or wastewater that exceeds the following limits, as applicable:

Pollutant ^{(a) (b)}	Daily Maximum Limit (mg/L)
Benzene	0.050
BTEX ^(c)	0.750

8 (a) These limits are based on the installation of air stripping technology as described in the EPA
 9 document: "Model NPDES Permit for Discharges Resulting from the Cleanup of Gasoline
 Released from Underground Storage Tanks, June 1989."

10 (b) All pollutants shown in the table are total.

11 (c) BTEX shall be measured as the sum of Benzene, Ethylbenzene, Toluene, and Xylene

12 17-0407 City's Right of Revision-- The city reserves the right to establish, by ordinance or in
 13 wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

14 17-0408 Special Agreement-- The city may enter into special agreements with users setting out special
 15 terms under which they may discharge to the POTW so long as such special agreement does not waive
 16 compliance with a categorical pretreatment standard. However, users may request of the superintendent a
 net/gross adjustment to a categorical standard in accordance with 40 C.F.R. §403.15. They may also
 request a variance from the categorical pretreatment standard from the Approval Authority in accordance
 with 40 C.F.R. §403.13.

17 17-0409 Dilution-- No user shall increase the use of process water, or in any way attempt to dilute a
 18 discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an
 19 applicable pretreatment standard or requirement unless expressly authorized by an applicable
 20 pretreatment standard or requirement. The Superintendent may impose mass limitations on users which he
 believes may be using dilution to meet applicable pretreatment standards or requirements or in other cases
 when the imposition of mass limitations is appropriate.

21 17-0410 Pretreatment Facilities-- Users shall provide necessary wastewater treatment as required to
 22 comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and
 23 requirements set out in this ordinance within the time limitations specified by the EPA, the state, or the
 Superintendent, whichever is more stringent. Any facilities required to pretreat wastewater to a level

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1 acceptable to the city of Fargo shall be provided, operated, and maintained at the user's expense. Detailed
2 plans showing the pretreatment facilities and operating procedures shall be submitted to the city for
3 review and must be approved by the Superintendent before construction of the facility. The review of
4 such plans and operating procedures will in no way relieve the user from the responsibility of modifying
5 the facility as necessary to produce an acceptable discharge to the city under the provisions of this
6 ordinance.

7 17-0411 Deadline for Compliance with Applicable Pretreatment Requirements.-- Compliance by existing
8 sources covered by a modification of Categorical Pretreatment Standards shall be achieved within three
9 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate
10 standard. The city shall establish a final compliance deadline date for any existing user not covered by
11 Categorical Pretreatment Standards or for any categorical user when the local limits for said user are more
12 restrictive than the federal Categorical Pretreatment Standards.

13 New source and domestic users are required to comply with applicable pretreatment standards
14 within the shortest feasible time, not to exceed 90 days from the beginning of discharge. New Sources
15 and domestic users shall install, have in operating condition, and shall start up all pollution control
16 equipment required to meet applicable pretreatment standards before beginning to discharge.

17 Any wastewater discharge permit issued to a categorical user shall not contain a compliance date
18 beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing
19 user or a categorical user that must comply with a more stringent local limit which is in non-compliance
20 with any local limits shall be provided with a compliance schedule placed in an industrial wastewater
21 permit to insure compliance within the shortest time feasible.

22 17-0412 Additional Pretreatment.--

23 A. Whenever deemed necessary, the Superintendent may require users to restrict their discharge
during peak flow periods, designate that certain wastewater be discharged only into specific sewers,
relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste
streams, and such other conditions as may be necessary to protect the POTW and determine the user's
compliance with the requirements of this ordinance.

B. Grease, oil, and sand interceptors shall be provided when, in the opinion of the
Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of
grease and oil, or sand, except that such interceptors shall not be required for residential users. All
interception units shall be of type and capacity approved by the Superintendent and shall be so located to
be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and
repaired regularly, as needed, by the user at its expense.

C. Users with the potential to discharge flammable substances may be required to install and
maintain an approved combustible gas detection meter.

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1 17-0413 Accidental Spill Prevention Plans.--The Superintendent may require any user to develop and
2 implement an accidental spill prevention plan (ASPP) or slug control plan. Where deemed necessary by
3 the city, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and
4 maintained at the user's cost and expense. An accidental spill prevention plan or slug control plan
5 showing facilities and operating procedures to provide this protection shall be submitted to the city for
6 review and approval before implementation. The city shall determine which user is required to develop a
7 plan and require said plan to be submitted within 180 days after notification by the city. Each user shall
8 implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the
9 city. Review and approval of such plans and operating procedures by the city of Fargo shall not relieve
10 the user from the responsibility to modify its facility as necessary to meet the requirements of this
11 ordinance.

12 A. Any user required to develop and implement an accidental spill prevention plan shall submit a
13 plan which addresses, at a minimum, the following:

- 14 1. Description of discharge practices, including non-routine batch discharges;
15 2. Description of stored chemicals;
16 3. Procedures for immediately notifying the POTW of any accidental or slug discharges.
17 Such notification must also be given for any discharge which would violate any of the
18 standards in sections 17-0403 through 17-0406; and

19 Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures
20 include, but are not limited to, inspection and maintenance of storage areas, handling and transfer
21 of materials, loading and unloading operations, control of plant site runoff, worker training
22 building of containment structures or equipment, measures for containing toxic organic chemicals
23 (including solvents), and/or measures and equipment for emergency response.

24 B. Users shall notify the city Wastewater Treatment Facility immediately after the occurrence of a
25 slug or accidental discharge of substances regulated by this chapter. The notification shall
26 include location of discharge, date and time thereof, type of waste, concentration and volume, and
27 corrective actions. Any affected user shall be liable for any expense, loss, or damage to the
28 POTW, in addition to the amount of any fines imposed on the city on account thereof under state
29 or federal law.

30 C. Within five (5) days following an accidental discharge, the user shall submit to the
31 Superintendent a detailed written report describing the cause of the discharge and the measures to
32 be taken by the user to prevent similar future occurrences. Such notification shall not relieve the
33 user of any expense, loss, damage, or other liability which may be incurred as a result of damage
34 to the POTW, fish kills, or any other damage to person or property nor shall such notification

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1 relieve the user of any fines, civil penalties, or other liability which may be imposed by this
2 chapter or other applicable law.

- 3 D. Signs shall be permanently posted in conspicuous places on the user's premises advising
4 employees whom to call in the event of a slug or accidental discharge. Employers shall instruct
5 all employees who may cause or discover such a discharge with respect to emergency notification
6 procedures.

7 **17-0414 Septic Tank Waste--**

- 8 A. Septic tank waste may be introduced into the POTW only at a designated receiving structure
9 within the treatment plant area, and at such times as are established by the Superintendent. Such
10 wastes shall not violate this section or any other requirements established or adopted by the city.
11 Wastewater discharge permits for individual vehicles to use such facilities may be issued by the
12 Superintendent.
- 13 B. Septic tank waste haulers may only discharge loads at locations specifically designated by the
14 Superintendent. No load may be discharged without prior consent of the Superintendent. The
15 Superintendent may collect samples of each hauled load to ensure compliance with applicable
16 pretreatment standards. The Superintendent may require the hauler to provide a waste analysis of
17 any load prior to discharge.
- 18 C. Septic tank waste haulers must provide a waste-tracking manifest form for every load. This form
19 shall include, at a minimum, the name and address of the waste hauler, permit number, truck
20 identification, sources of waste, and volume and characteristics of waste.
- 21 D. Fees for dumping hauled wastes will be established as part of the user fee system as authorized in
22 article 17-16 of this chapter.

23 **Section 4. Re-enactment.**

Article 17-05 of Chapter 17 of the Fargo Municipal Code is hereby re-enacted to read as follows:

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ARTICLE 17-05

WASTEWATER DISCHARGE PERMIT REQUIREMENTS

17-0501 Permit required.-- No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent; the permit must be enforceable and contain all the elements as required by 40 C.F.R. § 403.8(f)(1)(iii)(B). Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the penalties or sanctions set forth in this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. The Superintendent may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this ordinance.

17-0502 Wastewater Discharge Permitting.--Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance and that wishes to continue such discharges in the future shall, within 60 days after notification by the Superintendent submit a permit application to the city in accordance with section 17-0505.

17-0503 Wastewater Discharge Permitting: New Source.-- At least 90 days prior to the anticipated start-up, any new source, which is a source that becomes a user subsequent to the proposal of an applicable categorical pretreatment standard that is later promulgated, and any domestic user considered by the city of Fargo to fit the definition of SIU shall apply for a wastewater discharge permit and will be required to submit to the city of Fargo at least the information listed in section 17-0505(A)-(E). A new source or domestic user may not discharge without first receiving approval from the city of Fargo. New sources and domestic users shall also be required to include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards. New Sources and domestic users shall give estimates of the information requested in section 17-0505(D) and (E).

17-0504 Wastewater Discharge Permitting: Extra jurisdictional Users.-- Any existing user who is located beyond the city of Fargo limits and who is required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in section 17-0502. New Source and domestic users who are located beyond the city of Fargo limits and who are required to obtain a wastewater discharge permit shall comply with section 17-0503.

17-0505 Wastewater Discharge Permit Application Contents.-- The Superintendent shall approve a form to be used as a permit application for a wastewater discharge permit. Categorical users submitting the following information must have complied with 40 C.F.R. §403.12(b) prior to submitting said application. All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information.

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- 1 A. Identifying information. The user shall submit the name and address of the facility including the
2 name of the operator and owners.
- 3 B. Permits. The user shall submit a list of all environmental control permits held by or for the
4 facility;
- 5 C. Description of operations. The user shall submit a brief description of the nature, average rate of
6 production, and standard industrial classification of the operation(s) carried out by such Industrial
7 User, including a list of all raw materials and chemicals used or stored at the facility which are or
8 could accidentally or intentionally be discharged to the POTW; number or processes, and rate of
9 production; type and amount or raw materials processed (average and maximum per day) and the
10 time and duration of discharges. This description should also include a schematic process
11 diagram which indicates points of discharge to the POTW from the regulated or manufacturing
12 processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers,
13 sewer connections, inspection manholes, sampling chambers and appurtenances by size, location
14 and elevation.
- 15 D. Flow Measurement.
- 16 1. Categorical User: The user shall submit information showing the intended measured
17 average daily and maximum daily flow, in gallons per day, to the POTW from each of
18 the following:
- 19 i. Regulated or manufacturing process streams; and
 - 20 ii. Other streams as necessary to allow use of the combined waste stream formula
21 [40 C.F.R. §403.6(e)].
- 22 2. Non-Categorical User The user shall submit information showing the intended
23 measured average daily and maximum daily flow, in gallons per day, to the POTW
from each of the following:
- i. total process flow,
 - ii. wastewater treatment plant flow,
 - iii. total plant flow or
 - iv. individual manufacturing process flow as required by the Superintendent.

The city may allow verifiable estimates of said flows where justified by cost or feasibility considerations proposed by the applicant to the satisfaction of the city.

- 20 E. Measurements of pollutants.
- 21 1. Categorical User:
- 22 i. The user shall identify the applicable pretreatment standards for each regulated or
23 manufacturing process.
 - ii. In addition, the user shall submit the results of sampling and analysis identifying
the nature and concentration (or mass, where required by Categorical

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1 Pretreatment Standard or as required by the city or regulated pollutants
2 (including standards contained in sections 17-0403 through 17-0406 as
3 appropriate) in the discharge from each regulated or manufacturing process.
4 Both daily maximum and average concentration (or mass, where required) shall
5 be reported. The sample shall be representative of daily operations and shall
6 conform to sampling and analytical procedures outlined in article 17-07.

- 7 iii. The user shall take a minimum of one representative sample to compile that data
8 necessary to comply with the requirements of this subsection.
- 9 iv. Where an alternate concentration or mass limit has been calculated in accordance
10 with 40 C.F.R. §403.6(e) for a categorical user, this adjusted or alternate limit
11 along with supporting data shall be submitted as part of the application.

12 2. Non-Categorical User:

- 13 i. The user shall identify the applicable pretreatment standards for its wastewater
14 discharge.
- 15 ii. In addition, the user shall submit the results of sampling and analysis identifying
16 the nature and concentration in the discharge (or mass where required by the city)
17 of regulated pollutants contained in sections 17-0403 through 17-0406, as
18 appropriate. Both daily maximum and average concentration (or mass, where
19 required) shall be reported. The sample shall be representative of daily
20 operations and shall conform to sampling and analytical procedures outlined in
21 article 17-07.
- 22 iii. The user shall take a minimum of one representative sample to compile the data
23 necessary to comply with the requirements of this subsection.
- iv. Where the Superintendent has developed alternate concentration or mass limits
because of dilution, this adjusted or alternate limit along with supporting data
shall be submitted as part of the application.

16 F. Certification. The user shall submit a statement, worded as specified in section 17-0506, which
17 has been reviewed by an authorized representative of the user, and certified by a qualified
18 professional, indicating whether the applicable pretreatment standards are being met on a
19 consistent basis, and, if not, whether additional operation and maintenance and/or additional
20 pretreatment is required for the user to meet the applicable pretreatment standards and
21 Requirements.

20 G. Compliance Schedule. If additional pretreatment and/or operation and maintenance will be
21 required to meet the applicable pretreatment standards, the user shall submit the shortest schedule
22 by which the user will provide such additional pretreatment and/or operation and maintenance.
23 The user's schedule shall conform with the requirements of section 17-0604. The completion

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1 date in this schedule shall not be later than the compliance date established pursuant to section
17-0411.

- 2 1. Where the user's categorical Pretreatment Standard has been modified by a removal
3 allowance (40 C.F.R. §403.7), the combined waste stream formula (40 C.F.R.
4 §403.6(e)), and/or a Fundamentally Different Factors variance (40 C.F.R. §403.13) at
5 the time the user submits the report required by this subsection, the information
6 required by subsections (F) and (G), hereof, shall pertain to the modified limits.
- 7 2. If the categorical Pretreatment Standard is modified by a removal allowance (40 C.F.R.
8 §403.7), the combined waste stream formula (40 C.F.R. §403.13) after the user submits
9 the report required by subsections (F) and (G), hereof, then a report containing
10 modified information shall be submitted by the user within 60 days after the new limit
11 is approved.

12 H. The user shall submit any other information as may be deemed necessary by the Superintendent
13 to evaluate the wastewater discharge permit application.

14 Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

15 17-0506 Signatory and Certification Requirement-- All wastewater discharge permit applications and
16 user reports must be signed and certified by the authorized representative of the user, as defined in this
17 chapter, containing the following certification statement:

18 "I certify under penalty of law that this document and all attachments were prepared under my
19 direction or supervision in accordance with a system designed to assure that qualified personnel
20 properly gather and evaluate the information submitted. Based on my inquiry of the person or
21 persons who manage the system, or those persons directly responsible for gathering the
22 information, the information submitted is to the best of my knowledge and belief, true, accurate,
23 and complete. I am aware that there are significant penalties for submitting false information,
including the possibility of fine and imprisonment for knowing violations."

17-0507 Wastewater Discharge Permit Decisions--The Superintendent will evaluate the data furnished
by the user and may require additional information. Within 30 days of receipt of a complete wastewater
discharge permit application, the Superintendent will determine whether or not to issue a wastewater
discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full
evaluation and acceptance of the data furnished. The Superintendent may deny any application for a
wastewater discharge permit. Failure of the Superintendent to take such action within said 30 days shall
be deemed to be a denial of the permit.

17-0508 Wastewater Discharge Permit Contents--The Superintendent is authorized to include such
conditions on a wastewater discharge permit as are reasonably deemed necessary by the Superintendent to
prevent pass through or interference, protect the quality of the water body receiving the treatment plant's

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1 effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against
2 damage to the POTW.

3 A. All Wastewater discharge permits are subject to the following conditions and the
4 Superintendent shall ensure that the permit expressly states the following:

- 5 1. A statement that indicates wastewater discharge permit duration, which in no event
6 shall exceed five (5) years;
- 7 2. A statement that the wastewater discharge permit is non-transferable without prior
8 notification to and approval from the city, and provisions for furnishing the new
9 owner or operator with a copy of the existing wastewater discharge permit;
- 10 3. Applicable pretreatment standards and requirements, including any special state
11 requirements;
- 12 4. Self-monitoring, sampling, reporting, notification, submittal of technical reports,
13 compliance schedules, and record-keeping requirements. These requirements shall
14 include an identification of pollutants to be monitored, sampling location, sampling
15 frequency, and sample type based on federal, state, and local law.
- 16 5. Requirement for immediate notification to the city where self-monitoring results
17 indicate non-compliance;
- 18 6. Requirement to report a bypass or upset of a pretreatment facility;
- 19 7. Requirement to report immediately to the city all discharges, including slug loadings,
20 that could cause problems to the POTW;
- 21 8. Requirement for the SIU who reports non-compliance to repeat the sampling and
22 analysis and submit results to the city within 30 days after becoming aware of the
23 violation.
9. A statement of applicable civil, criminal, and administrative penalties for violation of
pretreatment standards and requirements, and any applicable compliance schedule.
10. Requirements to control slug discharges, if determined by the POTW to be necessary.

B. Wastewater discharge permits may contain, but need not be limited to, the following
conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or
requirements for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or
construction of appropriate containment devices, designed to reduce, eliminate, or
prevent the introduction of pollutants into the treatment works;
3. Requirements for the development and implementation of spill control plans or other
special conditions including management practices necessary to adequately prevent
accidental, unanticipated, or routine discharges;
4. Development and implementation of waste minimization plans to reduce the amount
of pollutants discharged to the POTW;

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- 1 5. The unit charge or schedule of user charges and fees for the management of the
- 2 wastewater discharged to the POTW;
- 3 6. Requirements for installation and maintenance of inspection and sampling facilities
- 4 and equipment;
- 5 7. A statement that compliance with the wastewater discharge permit does not relieve
- 6 the permittee of responsibility for compliance with all applicable Federal and State
- 7 pretreatment standards, including those which become effective during the term of
- 8 the wastewater discharge permit;
- 9 8. Any special agreements the Superintendent chooses to continue or develop between
- 10 the city and user;
- 11 9. Other conditions as deemed appropriate by the Superintendent to ensure compliance
- 12 with this article, and state and federal laws, rules, and regulations.

13 17-0509 Wastewater Discharge Permit Appeals.-- Any person, including the user, may petition the city to

14 appeal the denial of, or to reconsider the terms of, a wastewater discharge permit or may appeal the terms

15 of the permit required by the Superintendent in issuing the permit by filing a written notice of appeal with

16 the Superintendent within 180 days of its denial or issuance.

- 17 A. Failure to submit a timely petition for review shall be deemed to be a waiver of the right to
- 18 appeal.
- 19 B. In its written petition and notice to appeal, the appealing party must indicate the wastewater
- 20 discharge permit provisions objected to, the reasons for this objection, and the alternative
- 21 condition, if any, it seeks to place in the wastewater discharge permit or, if it is an appeal of a
- 22 denial of the permit, the reasons for challenging the denial.
- 23 C. The denial of the wastewater discharge permit shall not be stayed pending the appeal.
- D. The appeal shall be heard and considered by the Director. The Director may schedule a hearing
- at which time the appellant and the city may appear and present evidence, information and
- arguments in support of, or opposing, the appeal or reconsideration. Unless the Director extends
- the time within which the city will consider the appeal or reconsideration, if the city fails to act
- within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to
- reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to
- modify a wastewater discharge permit shall be considered final action for purposes of judicial
- review.
- E. The decision of the Director on appeal, including the denial of an appeal or reconsideration that
- has resulted from a failure to act within said 30 days, shall be subject to further appeal to the
- board of city commissioners of the city, by the appellant filing a written notice of appeal with the
- Director within fifteen (15) days of such denial.

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1 17-0510 Wastewater Discharge Permit Duration-- Wastewater discharge permits shall be issued for a
2 specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a
3 period less than five (5) year, at the discretion of the Superintendent. Each wastewater discharge permit
shall indicate a specific date upon which it will expire, although the failure of the permit to so indicate
shall not invalidate the permit.

4 17-0511 Wastewater Discharge Permit Modification-- The Superintendent may modify the wastewater
5 discharge permit for good cause including, but not limited to, the following:

- 6 A. To incorporate any new or revised federal, state, or local pretreatment standards or
requirements;
- 7 B. To address significant alterations or additions to the user's operation, processes, or
wastewater volume or character since the time of wastewater discharge permit issuance;
- 8 C. A change in the POTW that requires either a temporary or permanent reduction or
elimination of the authorized discharge;
- 9 D. Information indicating that the permitted discharge poses a threat to the city's POTW,
personnel, or receiving waters;
- 10 E. Violation of any terms or conditions of the wastewater discharge permit;
- 11 F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge
permit application or in any required report;
- 12 G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40
C.F.R. §403.13;
- 13 H. To correct typographical or other errors in the wastewater discharge permit; or
- 14 I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

15 17-0512 Wastewater Discharge Permit Transfer-- Wastewater discharge permits may be reassigned or
16 transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance
notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer.
17 The notice to the Superintendent must include a written certification by the new owner and/or operator
which:

- 18 A. States that the new owner and/or operator has no immediate intent to change the facility's
operations and processes;
- 19 B. Identifies the specific date on which the transfer is to occur; and
- 20 C. Assumes full responsibility for complying with the existing wastewater discharge permit
beginning on the date of the transfer.

21 Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable
as of the date of facility transfer.

22 17-0513 Wastewater Discharge Permit Revocation-- Wastewater discharge permits may be revoked for,
23 but not limited to, the following reasons:

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- 1 A. Failure to notify the city of significant changes to the wastewater prior to said change.
- 2 B. Failure to provide prior notification to the city of changed conditions;
- 3 C. Misrepresentation or failure to full disclose all relevant facts in the wastewater discharge permit application;
- 4 D. Falsifying self-monitoring reports;
- 5 E. Tampering with monitoring equipment;
- 6 F. Refusing to allow the city timely access to the facility premises and records;
- 7 G. Failure to meet discharge limitations;
- 8 H. Failure to pay fines;
- 9 I. Failure to pay sewer charges;
- 10 J. Failure to meet compliance schedules;
- 11 K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- 12 L. Failure to provide advance notice of the transfer of permitted facility; or
- 13 M. If the city has to invoke its emergency provision as cited in article 17-11.
- 14 N. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

15 Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

16 17-0514 Wastewater Discharge Permit Reissuance.-- A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with section 17-0505, a minimum of [thirty (30)] days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

17 **Section 5. Re-enactment.**

18 Article 17-06 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

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ARTICLE 17-06

REPORTING REQUIREMENTS

17-0601 Baseline Monitoring Reports--

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- A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 C.F.R. §403.6(a)(4) (whichever is later) existing categorical users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city a report which contains the information listed in subsection B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in subsection B, below. A new source shall also be required to report the method of retreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity off pollutants discharged.
 - B. Users described above shall submit the following information:
 - 1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - 2. Environmental Permits. A list of any environmental control permits held by or for the facility.
 - 3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - 4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 C.F.R. §403.6(e).
 - 5. Measurement of Pollutants.
 - i. The categorical pretreatment standards applicable to each regulated process.
 - ii. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in article 17-07.
 - iii. Sampling must be performed in accordance with procedures set out in article 17-07.

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- 1 6. Certification. A statement, reviewed by the user's authorized representative and
2 certified by a qualified professional, indicating whether pretreatment standards are being
3 met on a consistent basis, and, if not, whether additional operation and maintenance
4 (O&M) and/or additional pretreatment, is required to meet the pretreatment standards
5 and requirements.
- 6 7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet
7 the pretreatment standards, the shortest schedule by which the user will provide such
8 additional pretreatment and/or O&M. The completion date in the schedule shall not be
9 later than the compliance date established for the applicable pretreatment standard. A
10 compliance schedule pursuant to this section must meet the requirements set out in
11 section 17-0604.
- 12 8. Signature and Certification. All baseline monitoring reports must be signed and
13 certified in accordance with section 17-0506.

14 17-0602 Compliance Reporting--

- 15 A. Within ninety (90) days following the date for final compliance of an existing Significant
16 Industrial User (SIU) with applicable pretreatment standards and requirements set forth in
17 this article, in federal categorical standards, or in a wastewater discharge permit, or, in the
18 case of a new source or a domestic user considered by the city to fit the definition of SIU,
19 within 90 days following commencement of the introduction of wastewater into the POTW,
20 the affected user shall submit to the city a report containing the information outlined in
21 subsections (D)-(F) of section 17-0505.
- 22 B. For users subject to equivalent mass or concentration limits established by the city in
23 accordance with procedures established in 40 C.F.R. §403.6(c), this report shall contain a
24 reasonable measure of the user's long term production rate. For all other users subject to
25 categorical pretreatment standards expressed in terms of allowable pollutant discharge per
26 unit of production (or other measure of operation), this report shall include the user's actual
27 production during the appropriate sampling period.

28 17-0603 Periodic Compliance Report--

- 29 A. Any user that is required to have an industrial waste discharge permit and performs self-
30 monitoring shall comply with all applicable requirements under 40 C.F.R. §403.12 and
31 submit to the city on or before June 1 and December 1 of each year, unless required on other
32 dates or more frequently by the city, a report indicating the nature of the effluent over the
33 previous reporting period. The frequency of monitoring shall be as prescribed within the
34 industrial waste discharge permit. At a minimum, users shall sample their discharge at least
35 twice per year.
- 36 B. The report shall include a record of the concentrations (and mass if specified in the
37 wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that

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1 were measured and a record of all flow measurements (average and maximum) taken at the
2 designated sampling locations and shall also include any additional information required by
3 this ordinance or the wastewater discharge permit. Production data shall be reported if
4 required by the wastewater discharge permit. Both daily maximum and average
5 concentration (or mass, where required) shall be reported. If a user sampled and analyzed
6 more frequently than what was required by the city or by this ordinance, using methodologies
7 in 40 C.F.R. Part 136, it must submit all results of sampling and analysis of the discharge
8 during the reporting period.

- 9 C. Any user subject to equivalent mass or concentration limits established by the city or by unit
10 production limits specified in the applicable categorical standards shall report production data
11 as outlined in section 17-0602(B).
- 12 D. If the city calculated limits to factor out dilution flows or non-regulated flows, the user will
13 be responsible for providing flows from the regulated process flows, dilution flows and non-
14 regulated flows.
- 15 E. Flows shall be reported on the basis of actual measurement, provided, however, that the city
16 may accept reports of average and maximum flows estimated by verifiable techniques if the
17 city determines that an actual measurement is not feasible.
- 18 F. Discharges sampled shall be representative of the user's daily operations and samples shall be
19 taken in accordance with the requirements specified in article 17-07.
- 20 G. The city may require reporting by users that are not required to have an industrial wastewater
21 discharge permit if information or data is needed to establish a sewer charge, determine the
22 treatability of the effluent, or determine any other factor which is related to the operation and
23 maintenance of the sewer system.
- H. The city may require self-monitoring by the user or, if requested by the user, may agree to
perform the periodic compliance monitoring needed to prepare the periodic compliance report
required under this section. If the city agrees to perform such periodic compliance
monitoring, it may charge the user for such monitoring, based upon the costs incurred by the
city for the sampling and analyses. Any such charges shall be added to the normal sewer
charge and shall be payable as part of the sewer bills. The city is under no obligation to
perform periodic compliance monitoring for a user.

17-0604 Compliance schedules for meeting applicable pretreatment standards.--

- 19 A. The schedule shall contain increments of progress in the form of dates for the commencement
20 and completion of major events leading to the construction and operation of additional
21 pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring
22 an engineer, completing preliminary plans, completing final plans, executing contract for
23 major components, commencing construction, completing construction, etc.).
- B. No increment referred to in subsection (A) of this section shall exceed nine (9) months.

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1 C. Not later than fourteen (14) days following each date in the schedule and the final date for
2 compliance, the user shall submit a progress report to the city including, at a minimum,
3 whether or not it complied with the increment of progress to be met on such date and, if not,
4 the date on which it expects to comply with this increment of progress, the reason for delay,
5 and the steps being taken by the user to return the construction to the schedule established. In
6 no event shall more than 9 months elapse between such progress reports.

7 17-0605 Notification of Significant Production Changes.-- Any user operating under a wastewater
8 discharge permit incorporating equivalent mass or concentration limits shall notify the city within two (2)
9 business days after the user has a reasonable basis to know that the production level will significantly
10 change within the next calendar month. Any user not providing a notice of such anticipated change will
11 be required to comply with the existing limits contained in its wastewater discharge permit.

12 17-0606 Hazardous Waste Notification.-- Any user that is discharging more than 15 kilograms of
13 hazardous wastes as defined in 40 C.F.R. §261 (listed or characteristic wastes) in a calendar month or any
14 facility discharging any amount of acutely hazardous wastes as specified in 40 C.F.R. §§261.30(d) and
15 261.33(e) is required to provide a one-time notification in writing to the city, to the EPA Region 8
16 Hazardous Waste Director, and to the state of North Dakota. Any existing user exempt from this
17 notification shall comply with the requirements contained herein within 30 days of becoming aware of a
18 discharge of 15 kilograms of hazardous wastes in a calendar month or any discharge of acutely hazardous
19 wastes to the city sewer system.

20 Such notification shall include:

- 21 A. The name of the hazardous waste as set forth in 40 C.F.R. Part 261.
22 B. The EPA Hazardous waste number; and
23 C. The type of discharge (continuous, batch, or other).
D. If an industrial user discharges more than 100 kilograms of such waste per calendar month to
the sewer system, the notification shall also contain the following information to the extent it
is known or readily available to the industrial user:
1. An identification of the hazardous constituents contained in the wastes,
 2. An estimation of the mass and concentration of such constituents in the waste streams
discharged during that calendar month, and;
 3. An estimation of the mass of constituents in the waste streams expected to be
discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-
monitoring requirements.

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1 Whenever the EPA publishes final rules identifying additional hazardous wastes or new
2 characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance with 90
3 days of the effective date of such regulations.

4 In the case of any notification made under this paragraph, an industrial user shall certify that it
5 has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it
6 has determined to be economically practical.

7 17-0607 Notice of potential problems, including accidental spills, bypasses, and slug loads.-- Any user
8 shall give verbal notice of an unanticipated bypass, accidental spill, and/or slug load that exceeds
9 applicable Pretreatment Standards to the Control Authority within 24 hours from the time the becomes
10 aware of the issue. The notification shall include the concentration and volume and corrective action.
11 Steps being taken to reduce any adverse impact should also be noted during the notification. A written
12 submission shall also be provided within 5 days of the time the user becomes aware of the accidental
13 spill, bypass, or slug load. Any user who discharges a slug load of pollutants shall be liable for any
14 expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the city under
15 state or federal law.

16 17-0608 Non-Compliance Reporting.-- If sampling performed by a user indicates a violation, the user
17 shall notify the Control Authority within 24 hours of becoming aware of the violation. Within five (5)
18 days following such discharge, the User shall submit a detailed written report describing the cause(s) of
19 the discharge and the measures to be taken by the User to prevent similar future occurrences. Such
20 notification shall not relieve the User of any expense, loss damage, or other liability which might be
21 incurred as a result of damage to the POTW, natural resources, or any other damage to person or property;
22 nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed
23 pursuant to this ordinance. The user shall also repeat the sampling and submit the results of the repeat
analysis to the Control Authority within 30 days after becoming aware of the violation [Where the
Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control
Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and
requires the User to perform the repeat analysis]. Resampling is not required if:

- A. The Control Authority performs sampling at the site of the Industrial User at a frequency of at least once per month, or
- B. The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

17-0609 Notification of changed discharge.-- All users shall promptly notify the Control Authority in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 C.F.R. §403.12(p).

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1 17-0610 Reports from un-permitted Users-- All users not required to obtain a wastewater discharge
2 permit shall provide appropriate reports to the city as the Superintendent may require.

3 17-0611 Record Keeping-- Users subject to the reporting requirements of this article shall retain and
4 make available for inspection and copying all records of information obtained pursuant to any monitoring
5 activities required by this ordinance and any additional records of information obtained pursuant to
6 monitoring activities undertaken by the user independent of such requirements. Records shall include the
7 date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the
8 dates analysis were performed; who performed the analyses; the analytical techniques or methods used;
9 and the results of such analyses including documentation associated with Best Management Practices.
10 These records shall remain available for a period of at least three (3) years. This period shall be
11 automatically extended for the duration of any litigation concerning the user or POTW, or where the User
12 has been specifically notified of a longer retention period by the Superintendent.

13 **Section 6. Enactment.**

14 Article 17-07 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

15 ARTICLE 17-07

16 SAMPLING AND ANALYTICAL REQUIREMENTS

17 17-0701 Sampling Requirements for Users--

- 18 A. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile
19 organic compounds. For all other pollutant, 24-hour composite samples must be obtained
20 through flow-proportional composite sampling techniques, unless time-proportional composite
21 sampling or grab sampling is authorized by the Control Authority, the samples must be
22 representative of the discharge and the decision to allow the alternative sampling must be
23 documented in the Industrial User file for the Industrial User manifested by the city. Using
protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate
EPA guidance, multiple grab samples collected during the 24-hour period may be composited in
the laboratory. Composite samples for other parameters unaffected by compositing procedures as
documented in approved EPA methodologies may be authorized by the Control Authority, as
appropriate.
- B. For sampling required in support of baseline monitoring and 90-day compliance reports, a
minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease,
sulfide and volatile organic compounds for facilities for which historical sampling data does not
exist; for facilities for which historical sampling data are available, the Control Authority may
authorize a lower minimum. For the reports required by 40 C.F.R. §403.12 (e) and (h), the

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Control Authority shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements.

- C. Samples shall be taken immediately downstream from facilities if such exist, immediately downstream from the regulated or manufacturing process if no pretreatment exists, or at a location determined by the city and specified in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 C.F.R. §403.6(e) in order to evaluate compliance with the applicable Categorical Pretreatment Standards. For other SIU for which the city has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).
- D. All sample results shall indicate the time, date and place of sampling, and the methods of analysis and shall certify that the waste stream sampled is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed the waste stream more frequently than what was required in its wastewater discharge permit, using methodologies in 40 C.F.R. Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

17-0702 Analytical Requirements-- All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

17-0703 City Monitoring of User's Wastewater-- The city will follow the same procedures as outlined in sections 17-0701 and 17-0702.

Section 7. Enactment.

Article 17-08 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

ARTICLE 17-08

COMPLIANCE MONITORING

17-0801 Inspection and Sampling-- The city shall have the right to enter the facilities of any user to ascertain whether the purpose of this ordinance and any wastewater discharge permit or order issued hereunder is being met and whether the user is complying with all requirements thereof. Users shall allow the Superintendent ready access to all areas of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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- 1 A. Where a user has security measures in force which require proper identification and clearance
2 before entry into its premises, the User shall make necessary arrangements with its security
3 guards so that, upon presentation of suitable identification, the Superintendent will be permitted
4 enter without delay for the purposes of performing specific responsibilities.
- 5 B. The Superintendent shall have the right to set up on the User's property, or require installation of,
6 such devices as are necessary to conduct sampling and/or metering of the user's operations.
- 7 C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected
8 and/or sampled shall be promptly removed by the user at the written or verbal request of the
9 Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the
10 user.
- 11 D. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a
12 violation of this ordinance.

13 17-0802 Monitoring Facilities.-- Each user shall provide and operate at its own expense a monitoring
14 facility to allow inspection, sampling, and flow measurements of each sewer discharge to the city. Each
15 monitoring facility shall be situated on the user's premises, except where such a location would be
16 impractical or cause undue hardship on the user, the city may concur with the facility being constructed in
17 the public street or sidewalk area, provided that the facility is located so that it will not be obstructed by
18 landscaping or parked vehicles. The Superintendent, whenever applicable, may require the construction
19 and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line
20 or a wastewater treatment system).

21 There shall be ample room in or near such sampling facility to allow accurate sampling and
22 preparation of samples for analysis. The facility, including the sampling and measuring equipment, shall
23 be maintained at all times in a safe and proper operating condition at the expense of the user.

The Superintendent may require the user to install monitoring equipment as necessary at the
User's expense. All monitoring facilities shall be constructed and maintained in accordance with all
applicable local construction standards and specifications. All devices used to measure wastewater flow
and quality shall be calibrated to ensure their accuracy.

17-0803 Search Warrants.-- If the Superintendent has been refused access to a building, structure or
property, or any part thereof and is able to demonstrate probable cause to believe that there may be a
violation of this ordinance, or that there is a need to inspect as part of a routine inspection program of the
city designed to verify compliance with this ordinance or any wastewater discharge permit or order issued
hereunder, or to protect the overall public health, safety and welfare of the community, the city may seek
an administrative search warrant pursuant to N.D.C.C. Chapter 29-29.1, or may seek any other search
warrant as authorized by law.

17-0804 Vandalism.-- No person shall willfully or negligently break, damage, destroy, uncover, deface,
tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW.

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1 Any person found in violation of this requirement shall be subject to the sanctions set out in this
2 ordinance.

3 **Section 8. Enactment.**

4 Article 17-09 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:
5

6 ARTICLE 17-09

7 CONFIDENTIAL INFORMATION

8 17-0901 Confidential Information.-- Information and data on a user obtained from reports, surveys,
9 wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and
10 from city inspection and sampling activities is held and maintained subject to North Dakota Open Record
11 Law, including N.D.C.C. §44-04-17.1 *et seq.*, and specifically N.D.C.C. §44-04-18.4. City Wastewater
12 constituents, characteristics and other "effluent data" as defined by 40 C.F.R. §2.302 will not be
13 recognized as confidential information and will be available to the public without restriction.

14 **Section 9. Enactment.**

15 Article 17-10 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:
16

17 ARTICLE 17-10

18 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

19 17-1001 Publication of Significant Non-Compliant Users.-- The city shall publish annually, in one or
20 more newspaper(s) of general circulation providing meaningful public notice within the jurisdiction(s)
21 served by the POTW, a list of the users which, during the previous twelve (12) months, were in
22 significant non-compliance with applicable pretreatment standards and requirements. For the purposes of
23 this provision, an industrial user is in significant noncompliance if its violation meets one or more of the
following criteria:

- 24 A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six
25 percent (66%) or more of wastewater measurements taken for each pollutant parameter during a
26 six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or
27 Requirement, including instantaneous limits, as defined by 40 C.F.R. §403.3(l);
- 28 B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent
29 (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6)
30 month period equals or exceeds the product of the numeric Pretreatment Standard or

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1 Requirement, including instantaneous limits, as defined by 40 C.F.R. §403.3(l) multiplied by the
2 TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and TRC = 1.2 for all other pollutants except
3 pH];

4 C. Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 C.F.R.
5 §403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative Standard) that
6 the POTW determines has caused, alone or in combination with other discharges, Interference or
7 Pass Through (including endangering the health of POTW personnel or the general public);

8 D. Any discharge of pollutants that has caused imminent endangerment to the public or to the
9 environment, or has resulted in the city’s exercise of its emergency authority to halt or prevent
10 such a discharge;

11 E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone
12 contained in a wastewater discharge permit or enforcement order for starting construction,
13 completing construction, or attaining final compliance;

14 F. Failure to provide within thirty (30) days after the due date, any required reports, including
15 baseline monitoring reports, reports on compliance with categorical pretreatment standard
16 deadlines, periodic self-monitoring reports, and reports on compliance with compliance
17 schedules;

18 G. Failure to accurately report non-compliance; or

19 H. Any other violation or group of violations, which may include a violation of Best Management
20 Practices, which the POTW determines will adversely affect the operation or implementation of
21 the local Pretreatment Program.

22 **Section 10. Enactment.**

23 Article 17-11 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

ARTICLE 17-11

ADMINISTRATIVE ENFORCEMENT REMEDIES

17-1101 **Definitions.**-- The following definitions apply to this chapter:

19 A. “Notice of violation (NOV)” shall mean a notice of violation is a written notice of the violation of
20 an ordinance in this chapter which identifies the nature of the violation, the section or ordinance
21 allegedly violated and the time of occurrence of the violation, if known.

22 B. “Administrative compliance order (ACO)” shall mean an administrative compliance order is an
23 order issued by the director which identifies the nature of the violation, the section or ordinance
allegedly violated, the time of occurrence of the violation, if known, the corrective steps

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1 necessary and the nature of subsequent penalties and enforcement actions should the situation not
2 be corrected and ordering that the alleged violator come into compliance with the section or
ordinance within which compliance must occur.

- 3 C. "Order to show cause" shall mean an order issued by the director issued when there is reason to
4 believe that the violation identified in the administrative compliance order has not ceased or been
5 corrected as required, and directing the alleged violator to appear before the director to show
6 cause why service should not be terminated.
- 7 D. "Restitution" shall mean restitution is the amount determined by the director to be payable to the
8 city by a violator of this chapter necessary to reimburse the city for damage caused to the sewage
9 system as a result of such violation.

10 17-1102 Responsibility for enforcement.-- The director is authorized to enforce this chapter.

11 17-1103 Types of violations.-- All of the following represent violations of this article and of law and will
12 be subject to the remedies and penalties provided in this article, the city code and state law.

- 13 A. Discharge of sewage without required permit or approval. It is a violation of this section to
14 discharge sewage into the sewerage system of the city without obtaining all the permits,
15 approvals, certificates and other forms of authorization required by this article.
- 16 B. Discharge of sewage inconsistent with permit. It is a violation of this section to discharge sewage
17 into the sewerage system of the city in any way inconsistent with the terms and conditions of any
18 permit, approval, certificate or other form of authorization required in order to engage in such
activity.
- 19 C. Discharge of sewage inconsistent with conditions. It is a violation of this section to violate, by
20 act or omission, any term, condition, or qualification imposed by a decision-making body upon a
required permit, certificate, or other form of authorization.
- 21 D. Sewerage discharge equipment and structures inconsistent with this section. It is a violation of
22 this section to erect, construct, reconstruct, remodel, alter, maintain, move, or use any equipment,
23 building or structure or to use any equipment, building or structure in violation or contravention
of this section.
- E. Continuing violations. It is a violation of this section to continue any of the violations specified
in this section. Each day that a violation continues shall be considered a separate offense.

17-1104 Remedies and enforcement powers.-- The city shall have the following remedies and
enforcement powers:

- A. Withhold permits. The city may deny or withhold all permits, certificates or other forms of
authorization as to any applicant for a permit, or to refuse the discharge into the sewerage system

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1 as to any land or structure or improvements thereon upon which there is an uncorrected violation
2 of this chapter or of a condition or qualification of a permit, certificate, approval or other
3 authorization previously granted by a decision-making body. Instead of withholding or denying
4 an authorization, the city may grant such authorization subject to the condition that the violation
5 be corrected. This enforcement provision applies regardless of whether the current owner or
6 applicant is responsible for the violation in question. The city may deny or withhold all permits,
7 certificates or other forms of authorization on any land or structure or improvements owned by a
8 person who owns, developed or otherwise caused an uncorrected violation of a provision of this
9 article or of a condition or qualification of a permit, certificate, approval or other authorization
10 previously granted by a decision-making body. This provision applies regardless of whether the
11 property for which the permit or other approval is sought is the property in violation.

- 12 B. Revoke permits. A permit may be revoked when the director determines that:
- 13 1. There is departure from the plans, specifications, or conditions as required under terms of
14 the permit;
 - 15 2. The plans, specifications, or conditions were obtained by false representation or was
16 issued by mistake; or
 - 17 3. Any of the provisions of this chapter are being violated.
- 18 C. Revoke plan or other approval. When a violation of this article involves a failure to comply with
19 approved plans or conditions to which the approval of such plans was made subject, the
20 superintendent, may, upon notice to the applicant and other known parties in interest (including
21 an holders of building or other permits affected) and after a public hearing, revoke the plan or
22 other approval or condition its continuance on strict compliance, the provision of security or such
23 other conditions as the superintendent may reasonably impose.
- D. Sewer service shut off. In a situation deemed by the director to be an emergency, the director
may order the shut off of sewer service subject to the user's right to a hearing before the director
as set forth in this article. In non-emergency situations, subject to the user's right to a hearing
prior to such shut-off, as set forth in this article, the superintendent may order the sewer service of
a violator to be shut off.
- E. Injunctive relief. The city may seek an injunction or other equitable relief in court to stop any
violation of this chapter or of a permit, certificate or other form of authorization granted
hereunder.
- F. Abatement. The city may seek a court order in the nature of mandamus, abatement, injunction or
other action or proceeding to abate or remove a violation or to otherwise restore the premises in
question to the condition in which they existed prior to the violation

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- 1 G. Restitution. The city may seek an order requiring restitution as a condition to be met by a person
2 before the person's permit is restored, before the person is allowed to lawfully discharge into the
3 sewer system, or before other action may be taken by the person as determined by an appropriate
4 order.
- 5 H. Penalties. The penalty for a violation of this ordinance shall be governed by the penalty
6 provisions of Fargo Municipal Code 1-0305, and the city may also seek such criminal or civil
7 penalties provided by North Dakota law or city ordinance.
- 8 I. Other remedies. The city shall have such other remedies as are and as may be from time to time
9 provided by North Dakota law and municipal codes for the violation of this chapter or related
10 provisions.
- 11 J. Remedies cumulative. The remedies and enforcement powers established in this article are
12 cumulative.

13 17-1105 Enforcement procedures.-- The following enforcement procedures shall apply to violations of
14 this chapter:

- 15 A. Non-emergency matters. In the case of violations of this chapter that do not constitute an
16 emergency, the superintendent may:
 - 17 1. Issue a notice of violation; or
 - 18 2. Issue an administrative compliance order;which shall be issued to the property owner and to any other person who is alleged to be in
19 violation of this article or of the terms of any permit or condition granted and to any applicant
20 for any relevant permit.
- 21 B. Emergency matters. In the case of violations of this chapter that do constitute an emergency
22 situation, the city shall use all remedies, penalties and enforcement powers available under
23 this chapter without prior notice, including shutting off sewer service, but the director must
send notice simultaneously with beginning enforcement action to the property owner, to any
other person who is party to the agreement and to applicants for any relevant permit and must
advise persons affected by the sewer service shut off that a hearing will be held within seven
days from the date sewer service was shut off. At the hearing, the director will determine
whether there were appropriate grounds for the sewer service to be shut off, and whether the
shut off of sewer service should continue.
- C. Administrative compliance orders procedure. Persons receiving an administrative
compliance order or an administrative compliance order with fine shall have ten (10) days, or
such longer period as the director allows, to correct the violation. If the violation is not

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1 corrected within the required time-frame, the director may use all penalties, remedies and
2 enforcement powers available under this article.

- 3 D. Order to Show Cause Hearing. In the event the director has issued an administrative
4 compliance order, if the violation is not corrected by timely compliance, the director may
5 order any person who causes or allows an unauthorized discharge to show cause before the
6 director why sewer service should not be shut off. A notice shall be served on the offending
7 party, specifying the time and place of a hearing to be held by the director regarding the
8 violation, and directing the offending party to show cause before said board why an order
9 should not be made directing the shut off of service. The notice of the hearing shall be served
10 personally or by registered or by certified mail, return receipt requested, at least 10 days
11 before the hearing. Such notice shall be deemed served if a copy thereof is (a) delivered to
the offending party personally or to the offending party's registered agent; (b) sent by
certified mail addressed to the offending party or to the offending party's registered agent at
the last known address with a return-receipt requested; or (c) delivered in any other manner as
permitted under local law. If the certified mailing is returned showing that the item was not
delivered, a copy thereof shall be posted in a conspicuous place in or about the property
affected by such notice. Service by mail shall be deemed made or accomplished when it is
deposited for delivery with the U.S. Postal Service.

12 17-1106 Emergency Suspensions.-- The Superintendent may immediately suspend a user's discharge
13 (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened
14 discharge which reasonably appears to present or cause an imminent or substantial endangerment to the
15 health or welfare of persons. The Superintendent may also immediately suspend a user's discharge (after
notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which
presents or may present an endangerment to the environment.

- 16 A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its
17 contribution. In the event of a user's failure to immediately comply voluntarily with the
18 suspension order, the Superintendent shall take such steps as deemed necessary, including
19 immediate severance of the sewer connection, to prevent or minimize damage to the POTW,
20 its receiving stream, or endangerment to any individuals. The superintendent shall allow the
21 user to recommence its discharge when the user has demonstrated to the satisfaction of the
22 city that the period of endangerment has passed, unless the termination proceedings in section
23 17-1107 are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent
endangerment shall submit a detailed written statement, describing the causes of the harmful
contribution and the measures taken to prevent any future occurrence, to the Superintendent
prior to the date of any show cause or termination hearing under this chapter.

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Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this chapter.

17-1107 Termination of Discharge (Non-Emergency).-- In addition to the provisions in section 17-0513, any user that violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operation or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in article 17-04.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 17-1105 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

17-1108 Other Powers.-- In addition to the enforcement powers specified in this chapter, the city may exercise any and all enforcement powers granted to them by North Dakota law.

17-1109 Continuation.-- Nothing in this chapter shall prohibit the continuation of previous enforcement actions, undertaken by the city pursuant to previous and valid ordinances and laws.

Section 11. Enactment.

Article 17-12 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

ARTICLE 17-12

JUDICIAL ENFORCEMENT REMEDIES

17-1201 Injunctive Relief.-- When the Superintendent finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may petition the state district court or federal district court, as applicable, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to

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1 conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a
2 prerequisite for, taking any other action against a user.

3 17-1202 Criminal Prosecution--

- 4 A. A user which has willfully or negligently violated any provision of this ordinance, a wastewater
5 discharge permit, or order issued hereunder, or any other pretreatment standard or requirement
6 shall, upon conviction, be guilty of a Class B misdemeanor, punishable by a fine of not more than
7 \$1500, imprisonment for not more than thirty (30) days, or both said imprisonment and fine.
- 8 B. A user which has willfully or negligently introduced any substance into the POTW which causes
9 personal injury or property damage shall, upon conviction, be guilty of a Class B misdemeanor,
10 punishable by a fine of not more than \$1500, imprisonment for not more than thirty (30) days, or
11 both said imprisonment and fine. This penalty shall be in addition to any other cause of action for
12 personal injury or property damage available under State law.
- 13 C. A user which knowingly made any false statements, representations, or certifications in any
14 application, record, report, plan, or other documentation filed, or required to be maintained,
15 pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who
16 falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method
17 required under this ordinance shall, upon conviction, be guilty of a Class B misdemeanor,
18 punishable by a fine of not more than \$1500, imprisonment for not more than thirty (30) days, or
19 both said imprisonment and fine.

20 17-1203 Remedies Non-exclusive-- The provisions in articles 17-10 through 17-13 of this ordinance are
21 not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions
22 against a non-compliant user. Enforcement in response to pretreatment violations will generally be in
23 accordance with the city's enforcement response plan. However, the city reserves the right to take other
action against any user when the circumstances warrant. Further, the city is empowered to take more than
one enforcement action against any non-compliant user. These actions may be taken concurrently.

Section 12. Enactment.

Article 17-13 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

ARTICLE 17-13

SUPPLEMENTAL ENFORCEMENT ACTION

17-1301 Performance Bonds-- The Superintendent may decline to issue or reissue a wastewater
discharge permit to any user which has failed to comply with any provision of this ordinance, a previous
wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement

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1 unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value
2 determined by the Superintendent to be necessary to achieve consistent compliance.

3 17-1302 Liability Insurance.-- The Superintendent may decline to issue or reissue a wastewater discharge
4 permit to any user which has failed to comply with any provision of this ordinance, a previous wastewater
5 discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the
6 user first submits proof that is has obtained financial assurances sufficient to restore or repair damage to
7 the POTW caused by its discharge.

8 17-1303 Water Supply Severance.-- Whenever a user has violated or continues to violate any provision
9 of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment
10 standard or requirement, water service to the user may be severed. Service will only recommence, at the
11 user's expense, after it has satisfactorily demonstrated its ability to comply.

12 17-1304 Public Nuisances.-- A violation of any provision of this article, a wastewater discharge permit,
13 or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public
14 nuisance and city may be abated, enjoined or repressed in the same manner as any other public nuisance,
15 including restraining order or injunction issued by a court of competent jurisdiction.

16 17-1305 Contractor Listing.-- Users which have not achieved compliance with applicable pretreatment
17 standards and requirements are not eligible to receive a contractual award for the sale of goods or
18 services to the city. Existing contracts for the sale of goods or services to the city held by a user found to
19 be in significant non-compliance with the pretreatment standards or requirements may be terminated at
20 the discretion of the city.
21
22
23

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1 **Section 13. Enactment.**

2 Article 17-14 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

3 ARTICLE 17-14

4 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

5 17-1401 Upset--

- 6 A. For the purposes of this chapter, "upset" means an exceptional incident in which there is
7 unintentional and temporary non-compliance with applicable pretreatment standards because of
8 factors beyond the reasonable control of the user. An upset does not include non-compliance to
9 the extent caused by operational error, improperly designed treatment facilities, inadequate
10 treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 11 B. An upset shall constitute an affirmative defense to an action brought for non-compliance with
12 applicable pretreatment standards if the requirements of subsection C hereof are met.
- 13 C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through
14 properly signed, contemporaneous operating logs, or other relevant evidence that:
- 15 1. An upset occurred and the user can identify the cause(s) of the upset;
 - 16 2. The facility was at the time being operated in a prudent and workman-like manner and in
17 compliance with applicable operation and maintenance procedures; and
 - 18 3. The user has submitted the following information to the POTW and treatment plant
19 operator within twenty four (24) hours of becoming aware of the upset [if this
20 information is provided orally, a written submission must be provided within five(5)
21 days]:
 - 22 i. A description of the indirect discharge and cause of non-compliance;
 - 23 ii. The period of non-compliance, including exact dates and times or, if not
corrected, the anticipated time the non-compliance is expected to continue; and
 - iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of
the non-compliance.
- 22 D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have
23 the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an
enforcement action brought for non-compliance with applicable pretreatment standards.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 F. Users shall control production of all discharges to the extent necessary to maintain compliance
2 with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility
3 until the facility is restored or an alternative method of treatment is provided. This requirement
applies in the situation where, among other things, the primary source of power of the treatment
facility is reduced, lost, or fails.

4 17-1402 Prohibited Discharge Standards.-- A user shall have an affirmative defense to an enforcement
5 action brought against it for non-compliance with the prohibitions in section 17-0403(A) and (B) if it can
6 prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with
7 discharges from other sources, would cause pass through or interference and that either: (a) a local limit
8 exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and
9 during, the pass through or interference; or (b) no local limit exists, but the discharge did not change
substantially in nature or constituents from the user's prior discharge when the city was regularly in
compliance with its NPDES permit, and in the case of interference, was in compliance with applicable
sludge use or disposal requirements.

10 17-1403 Bypass.--

11 A. For the purposes of this chapter,

- 12 1. "Bypass" means the intentional diversion of waste streams from any portion of a user's
13 treatment facility.
14 2. "Severe property damage" means substantial physical damage to property, damage to the
15 treatment facilities which causes them to become inoperable, or substantial and
16 permanent loss of natural resources which can reasonably be expected to occur in the
17 absence of a bypass. Severe property damage does not mean economic loss caused by
18 delays in production.

19 B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or
20 requirements to be violated, but only if it also is for essential maintenance to assure efficient
21 operation. These bypasses are not subject to the provision of subsections (C) and (D) hereof.

22 C. Notice to Bypass

- 23 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the
POTW at least ten (10) days before the date of the bypass, if possible.
2. A user shall submit oral notice to the city of an unanticipated bypass that exceeds
applicable pretreatment standards within twenty-four (24) hours from the time it becomes
aware of the bypass. A written submission shall also be provided within five (5) days of
the time the user becomes aware of the bypass. The written submission shall contain a
description of the bypass and its cause; the duration of the bypass, including exact dates

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 and times, and, if the bypass has not been corrected, the anticipated time it is expected to
2 continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the
3 bypass. The POTW may waive the written report on a case by case basis if the oral
report has been received within twenty-four (24) hours.

4 D. Bypass Conditions

- 5 1. Bypass is prohibited, and the POTW may take an enforcement action against a user for a
6 bypass, unless the user demonstrates:
 - 7 i. Bypass was unavoidable to prevent loss of life, personal injury, or severe
8 property damage;
 - 9 ii. There were no feasible alternatives to the bypass, such as the use of auxiliary
10 treatment facilities, retention of untreated wastes, or maintenance during normal
11 periods of equipment downtime. This condition is not satisfied if adequate back-
up equipment should have been installed in the exercise of reasonable
12 engineering judgment to prevent a bypass which occurred during normal periods
13 of equipment downtime or preventive maintenance; and
 - 14 iii. The user submitted notices as required under subsection (C) hereof.
- 15 2. The POTW may approve an anticipated bypass, after considering its adverse effects, if
16 the POTW determines that it will meet the three conditions listed in subparagraph (a) of
17 this subsection.

18 **Section 14. Enactment.**

19 Article 17-15 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

20 ARTICLE 17-15

21 WASTEWATER TREATMENT RATES

22 17-1501 Sewerage rates and rules.-- The city reserves the right to change the rates for the use and
23 availability of sewerage service from time to time, by resolution, and at all times to make such sewerage
service restrictions, rules, and regulations as, in the judgment of the board of city commissioners may be
necessary; provided, that the schedules of such rates and charges shall be such as will provide the
amounts required, over and above the current expenses of operation and maintenance for depreciation,
replacement, and improvement of said utility which will keep the same in a state of efficiency
corresponding to the progress of such sewerage utilities generally, including payment of principal and
interest and creation and maintenance of reserves securing such payments on any bond issued to finance

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 or refinance improvements thereto, in accordance with the resolutions and ordinances authorizing such
2 bonds. Sewerage rates, surcharges, discounts, penalties, service, or advance charges shall be those
established by the board of city commissioners by resolution:

- 3 A. Payment of the user's wastewater service charge and penalties—The city shall submit statements
4 on a quarterly or more frequent basis to the user. The city shall add a penalty of 10% if the
5 payment is not received by the city within 15 days. Should any user fail to pay the user
wastewater service charge and penalty within three months of the due date, the city may stop the
wastewater service to the property.
- 6 B. Wastes prohibited from being discharged to the wastewater treatment system—The discharge of
7 wastes containing materials in such quantities as to be detrimental to the wastewater treatment
8 process is hereby prohibited. The discharge of wastes which cause or are likely to cause
maintenance problems such as to hinder flow, block pipes and/or pumps is hereby prohibited.

9 17-1502 Industrial waste surcharge.--

- 10 A. There shall be collected from any permitted user within the city an additional charge over and
11 above the base sewage rates provided for commercial users based upon the extent to which the
12 sewage or waste so discharged has a biochemical oxygen demand (BOD) concentration greater
than two hundred seventy-five (275) mg/l, total suspended solids (TSS) greater than two hundred
seventy-five (275) mg/l or other pollutants in such concentration as to require special attention to
treatment as determined by resolution of the board of city commissioners.
- 13 B. Any sums so charged in addition to the base sewage charges shall be termed "surcharge" and
14 shall be ascertained as hereinafter described.
- 15 1. Sampling and testing of the permittees' wastewater shall be conducted at periodic
16 intervals as specified in the industrial waste permit or agreed upon by the city and
17 permittee for the purpose of computation of the monthly surcharge and penalty fee, if
any.
- 18 2. The surcharge to the permitted user shall be based upon the following:
- 19 i. $S = (RB(BOD-275) + RS(TSS-275) + RP(P)) * 8.34 * VW$
- 20 ii. For the purposes of this ordinance the following terms apply:
- 21 (a.) RB = surcharge rate in \$/lb for BOD
- 22 (b.) BOD = Concentration of BOD in user's wastewater, mg/l
- 23 (c.) RS = surcharge rate in \$/lb for TSS

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

(d.) TSS = Concentration of TSS in user's discharge, mg/l

(e.) RP = surcharge rate in \$/lb for other specified pollutant

(f.) P = Concentration of other pollutant(s) in user's discharge, mg/l

(g.) VW= Volume of wastewater discharged for the billing period, million gallons

iii. If the surcharge amount for any pollutant in the above formula becomes less than zero (0) it shall not be used to offset or reduce the surcharge amount to be collected for other pollutants listed in the surcharge formula.

3. Wastewater surcharges shall be in addition to and shall be collected with the wastewater base rate charges and all regulations which apply to the collection of these wastewater base rate charges shall also apply to wastewater surcharges.

4. The rates to be applied in the surcharge formula for treatment of pollutants in addition to the wastewater rentals are established as follows:

i. For BOD: The BOD rate (RB) = is amount set by resolution of the board of city commissioners.

ii. For TSS: The TSS rate (RS) = is amount set by resolution of the board of city commissioners.

iii. For other pollutants: The rate (P) = (rate to be determined by board of city commissioners when need exists for special attention to treatment of other pollutants.)

C. Any person discharging any waste which by its nature or toxicity causes damage to the treatment works or increases the cost of managing the effluent, sludge or other products of treatment shall pay the costs of cleanup, restoration of such damage, and any increased treatment costs.

17-1505 Maximum Loadings.-- The Board of city commissioners, by resolution, may establish the maximum load of BOD and TSS, or other pollutant, for each permittee.

17-1506 Transitional provision.-- The requirement of the maximum loadings set by the board of city commissioners, as provided by section 17-1505, shall take effect no earlier than July 1, 2007.

17-1507 Industrial waste permit fee.-- An annual fee of one hundred dollars (\$100.00) shall be charged for each industrial waste permit. The initial fee shall be submitted at the time of application for such permit and subsequent renewal fees shall be submitted with a written application for renewal of the permit prior to December 31 of each year.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 17-1508 Notification of rates and charges.-- The charges for wastewater service (user charges) shall be
2 stated separately from the water, refuse collection or other amounts shown on the periodic water bills
3 issued to each user. Each user will be notified annually, or at more frequent intervals, as to the current
4 rates for wastewater service, surcharges for high strength wastes, and any other charges made for
5 collection and treatment of wastewater in the city.

6 17-1509 When due.-- Wastewater charges shall be collected with the water charges of the city by the city
7 water department, and shall become due and delinquent upon the same dates as the water bills upon which
8 the same are charged, and for failure to pay the said wastewater charges the authorized city representative
9 shall have the same authority to shut off water and said authorized city representative shall refuse to turn
10 on or reconnect the same as is now provided in the case of default in the payment of water bills.
11 Whenever the authorized city representative shall have shut off water service as provided herein for
12 failure of the owner or occupant to pay the wastewater charges, such service shall not be reinstated until
13 all past due bills for wastewater service are paid in full.

14 17-1510 Exemptions.--

- 15 A. No wastewater fees shall be charged or collected upon water meter readings for water which is
16 carried out of the city for use. This section shall not be construed as exempting from wastewater
17 charges water which is used for processing purposes within the city though the product thereof is
18 carried outside of the city for use, but shall apply only to water users actually hauling or carrying
19 their water beyond the city limits for use.
- 20 B. No wastewater fees shall be charged upon premises outside the city limits unless said premises
21 are served by the city wastewater system.

22 17-1511 Out of city sewer connections.--

- 23 A. No wastewater services shall be connected to the systems of the city to serve property lying
outside the corporate limits of the city.
- B. Exceptions:
1. Political subdivision. Wastewater service may be extended to any village, city, township,
county, state, or federal governmental agency with the approval of the board of city
commissioners.
 2. Existing connections. Any sewer connection serving property outside the corporate
limits of the city, on the effective date of this article, shall be continued.
 3. Institutions of learning and public charity. Wastewater service may be extended to
schools, academics, colleges, institutions of learning, institutions of public charity,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 hospitals, churches and religious organizations with the approval of the board of city
2 commissioners.

- 3 C. Any person, firm or corporation that is permitted as an out of city sewer connection shall enter
4 into an agreement with the city that said person, firm or corporation will construct and maintain
5 in good repair at the user's own expense under the direction, supervision, and according to
6 instruction of the authorized city representative, the necessary service pipe, manholes, and other
7 appurtenances to serve the premises in compliance with all city codes and ordinances, will obtain
8 the necessary plumbing permits therefor and will pay all sewer connection or service fees, permit
9 fees, and inspection fees required for such installations. The authorized city representative shall
10 have the same authority to collect monthly wastewater fees and to shut off water for failure of the
11 user to pay the said wastewater fees as for users within the city limits.
- 12 D. In the event an additional user desires to be connected to an existing out of city sewer service the
13 written consent of the owner of the sewer and of the authorized city representative, together with
14 the payment of all applicable fees shall be required. Said fees shall include the inspection fee,
15 sewer connection or service fee, industrial waste permit fee, and/or any other fees if and when
16 applicable to the service desired and shall accompany a written application to the city for said
17 service.
- 18 E. The payment of the monthly wastewater service charges provided in this article shall also apply
19 to out of city property owners who have been heretofore connected to said service, and in
20 addition said users shall be subject to all conditions and regulations imposed by this chapter, and
21 amendments thereto and shall be subject to such other conditions as may be required by the
22 authorized city representative.

23 **Section 15. Enactment.**

Article 17-16 of Chapter 17 of the Fargo Municipal Code is hereby enacted to read as follows:

ARTICLE 17-16

MISCELLANEOUS PROVISIONS

17-1601 Pretreatment Charges and Fees.--The city may adopt reasonable fees for reimbursement of costs
of setting up and operating the city's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such
application;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection
and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 C. Fees for reviewing and responding to accidental discharge procedures and construction'

2 D. Fees for filing appeals; and

3 E. Other fees as the city may deem necessary to carry out the requirements contained herein.
4 These fees relate solely to the matters covered by this ordinance and are separate from all
5 other fees, fines, and penalties chargeable by the city.

6 17-1602 Severability-- If any provision of this ordinance is invalidated by any court of competent
7 jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

8 17-1603 Conflicts-- All other ordinances and parts of other ordinances inconsistent or conflicting with
9 any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

10 17-1604 Days-- A day under this chapter should be a calendar day unless context suggests otherwise.

11 17-1605 Savings Clause. -- To the extent that any portion of Chapter 17 of the Fargo Municipal Code has
12 been repealed and re-enacted with a different or revised section or article number, particularly with
13 respect to a repeal and re-enactment occurring with the year 2019 passage of Ordinance No.
14 _____ [codifier to insert ordinance number upon enactment hereof] of the city of Fargo, and to the extent
15 said re-enacted section or portion thereof addresses the same subject matter as existed under the prior
16 version of said law; and to the extent such prior city ordinance was referenced in an agreement with the
17 state, an agency thereof, or another political subdivision or other party, public or private, the re-enacted
18 version of the ordinance or section shall be deemed to be an amendment of the prior version, regardless of
19 the change in numbering or title of the re-enacted law.

20 Section 16. Penalty Clause.

21 A person who willfully violates this ordinance is guilty of a Class B misdemeanor. Every person, firm or
22 corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a
23 fine not to exceed \$1,500, or by imprisonment not to exceed 30 days, or by both such fine and
imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to
revoke the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion,
may assess a fee in an amount not to exceed \$25.00 as provided in N.D.C.C. §27-01-10.

Section 17. Effective date. This ordinance shall be in full force and effect from and after its
passage, approval and publication.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

2

ORDINANCE NO. _____

1
2 AN ORDINANCE REPEALING AND RE-ESTABLISHING
3 A CONDITIONAL OVERLAY DISTRICT ON CERTAIN
4 PARCELS OF LAND LYING IN SCHATZ FOURTH ADDITION,
5 CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

6 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
7 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
8 parcels of land lying in Schatz Fourth Addition, City of Fargo, Cass County, North Dakota; and,

9 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
10 request on February 5, 2019; and,

11 WHEREAS, the rezoning changes were approved by the City Commission on March 11,
12 2019; and,

13 WHEREAS, it is intended by this ordinance that the base zoning districts applicable to the
14 property described herein shall remain unchanged and that the intended effect hereof is to repeal the
15 existing "C-O", Conditional Overlay, District and to amend the "C-O" District by repeal and re-
16 enactment or re-establishment;

17 NOW, THEREFORE,

18 Be It Ordained by the Board of City Commissioners of the City of Fargo:

19 Section 1. The following described property:

20 Lots One (1) through Four (4), Block One (1) of Schatz Fourth Addition to the City
21 of Fargo, Cass County, North Dakota,

22 is hereby rezoned to retain the base zoning district for said property of a "LC", Limited Commercial
23 Zoning District and to repeal the existing "C-O", Conditional Overlay, District and to re-establish
the "C-O", Conditional Overlay, District to read as follows:

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 2. The “C-O”, Conditional Overlay, District modifications and restrictions are as follows:

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial and residential development within the described property.
2. All primary buildings shall be constructed or clad with materials that are durable, economically maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality pre-stressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to ‘Aluco Bond’ and synthetic panels similar to ‘Trespa’. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for and 50% for commercial.
3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.
4. All building façades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade, and extending at least 20 percent of the length of the façade. No uninterrupted length of any façade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.
5. Ground floor façades that front Veterans Blvd shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length. If the façade facing the street is not the front, it shall include the same features and/or landscaping in scale with the façade.
6. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average

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ORDINANCE NO. _____

height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet.

7. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.
8. Separate vehicular and pedestrian circulation systems shall be provided. An onsite system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:
 - a. The primary entrance or entrances to each commercial building, including pad site buildings.
 - b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
 - c. Parking areas or structures that serve such primary buildings.
 - d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
 - e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
 - f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.
9. A minimum of 5% of the internal surface area of the parking lot shall be landscaped. The cumulative open space (green space) of each property shall consist of at least 10% of the total property acreage.
10. As to the Use Categories applicable to the base, "LC", zoning district, the following uses are prohibited.
 - a. Detention Facilities
 - b. Self Service Storage
 - c. Adult Entertainment Center

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 d. Off-Premise Advertising Signs (directional signs that are less than 50 square feet in
size are exempt for this prohibition)

2 e. Portable Signs (portable signs will be allowed until June 30, 2021 or until the
development has been completed and issued certificates of occupancy within the
completed development, whichever comes first)

3 f. Vehicle Repair

4 g. Industrial Service

5 h. Manufacturing and Production

6 i. Warehouse and Freight Movement

7 j. Aviation/Surface Transportation

8 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his
9 office so as to conform with and carry out the provisions of this ordinance.

10 Section 4. This ordinance shall be in full force and effect from and after its passage and
11 approval.

12 _____
Timothy J. Mahoney, M.D., Mayor

13 (SEAL)

14 Attest:

15 _____
16 Steven Sprague, City Auditor

17 First Reading:
18 Second Reading:
19 Final Passage:
20
21
22
23

CITY OF
Fargo
ASSESSMENT DEPARTMENT

3a

March 5, 2019

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1706 14 St. S as submitted by Stacy A. Lieser. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2019, 2020, 2021, 2022, & 2023.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$165 with the City of Fargo's share being \$30.

Sincerely,



Ben Hushka
City Assessor

hah
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner STACY LIESER Phone No. 701-566-4260

2. Address of Property 1706 14 ST S

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. LT 25 BLK 2 BOHNSACKS 1ST ADDN

4. Parcel Number 01-0161-00340-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner SAME

City _____ State _____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). UPDATED SIDING, NEW WINDOWS ON MAIN FLOOR

7. Building Permit No. 181472 8. Year Built 1956

9. Date of Commencement of making the improvement 8/29/2018

10. Estimated market value of property before improvement \$ 190,700

11. Cost of making the improvement (all labor, material and overhead) \$ 8,173

12. Estimated market value of property after improvement \$ _____

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature [Signature] Date 2/15/19

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): 5 YEARS FOR QUALIFYING WORK

Assessor's Signature [Signature] Date 3/7/19

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

36

March 5, 2019

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

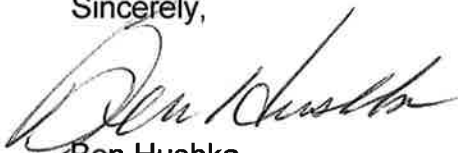
Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 215 5 St. N as submitted by American Federal Bank. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2019, 2020, 2021, 2022, & 2023.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$2775 with the City of Fargo's share being \$470.

Sincerely,



Ben Hushka
City Assessor

hah
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner	<u>American Federal Bank</u>	Phone No.	_____
2. Address of Property	<u>215 5 St. N</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58102</u>
3. Legal description of the property for which the exemption is being claimed.	<u>Lot 1 Blk 8 N Dak Urban Renewal 1st</u>		
4. Parcel Number	<u>01-2160-00140-000</u>	Residential <input type="checkbox"/>	Commercial <input checked="" type="checkbox"/> Central Business District <input type="checkbox"/>
5. Mailing Address of Property Owner	<u>Same</u>		
City	_____	State	_____ Zip Code _____

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary).	<u>Remodel of 1st level. NFPA 13 sys added to basement, 1st lvl, and mezz lvl. One single use restroom added to 1st lvl.</u>		
7. Building Permit No.	<u>181420</u>	8. Year Built	<u>1964</u>
9. Date of Commencement of making the improvement	<u>08/22/2018</u>		
10. Estimated market value of property before improvement	\$	<u>3,010,700</u>	
11. Cost of making the improvement (all labor, material and overhead)	\$	_____	
12. Estimated market value of property after improvement	\$	<u>3,203,000</u>	

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.			
Applicant's Signature	<u><i>Pat McGee</i></u> , VP	Date	<u>03/04/2019</u>

Assessor's Determination

14. The local assessor finds that the improvements in this application has <input checked="" type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s):	<u>5 YEARS FOR QUALIFYING WORK</u>		
Assessor's Signature	<u><i>Don Hendrick</i></u>	Date	<u>3/7/19</u>

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>			
Approval subject to the following conditions:	_____		
Chairman of Governing Body	_____	Date	_____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

30

March 5, 2019

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 910 7 St. N as submitted by Bruce Thompson. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2019, 2020, 2021, 2022, & 2023.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$125 with the City of Fargo's share being \$20.

Sincerely,



Ben Hushka
City Assessor

hah
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Bruce Thompson Phone No. 701-367-2352

2. Address of Property 910 7 St N
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. S 40' of Lt 3, Blk 16
Harwoods 2nd

4. Parcel Number 01-1130-00530-000 Residential Commercial Central Business District

5. Mailing Address of Property Owner 1008 5 St N
City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Replace windows, siding, gutters, repair main floor & basement, construct detached garage

7. Building Permit No. 181574 8. Year Built 1900

9. Date of Commencement of making the improvement September 12, 2018

10. Estimated market value of property before improvement \$ 122,200

11. Cost of making the improvement (all labor, material and overhead) \$ 60,000

12. Estimated market value of property after improvement \$ 131,700

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature Bruce Thompson Date 3/11/19

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): 5 YEARS FOR QUALIFYING WORK

Assessor's Signature [Signature] Date 3/14/19

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

CITY OF
Fargo
ASSESSMENT DEPARTMENT

30

March 8, 2019

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1110 3 Ave. N Unit 701W as submitted by Erik Berg. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for the years 2019, 2020, 2021, 2022, & 2023.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$190 with the City of Fargo's share being \$30.

Sincerely,



Ben Hushka
City Assessor

hah
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner Erik Berg Phone No. 701-238-1286

2. Address of Property 1110 3 Ave N Unit 701W
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lts 4-9, Blk 37, Roberts

4. Parcel Number 01-2382-03836-050 Residential Commercial Central Business District

5. Mailing Address of Property Owner 1306 Elm St N
City Fargo State ND Zip Code 58102

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary). Remodel kitchen & remove walls

7. Building Permit No. 180235 8. Year Built 1978

9. Date of Commencement of making the improvement 03/14/18

10. Estimated market value of property before improvement \$ 107,400

11. Cost of making the improvement (all labor, material and overhead) \$ 30,000

12. Estimated market value of property after improvement \$ 131,600

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.

Applicant's Signature *Erik Berg* Date 03/07/19

Assessor's Determination

14. The local assessor finds that the improvements in this application has has not met the qualifications for exemption for the following reason(s): 5 YEARS FOR QUALIFYING WORK

Assessor's Signature *Don* Date 3/11/19

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied Approved

Approval subject to the following conditions: _____

Chairman of Governing Body _____ Date _____

AA

\$25.00
3-13-19
CC 0152



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

Application for: Local Permit * Charity Local Permit (one event per year)

Name of Non-profit Organization Fargo Rotary Club	Date(s) of Activity	For a raffle, provide drawing date(s): 5/22/19	
Person Responsible for the Gaming Operation and Disbursement of Net Income Srihari Panjini	Title Past Presiden	Business Phone Number (701) 205-1687	
Business Address 300 Main Avenue, Suite 100	City Fargo	State ND	Zip Code 58103-1930
Mailing Address (if different) Po Box 1653	City Fargo	State ND	Zip Code 58107-0000
Name of Site Where Game(s) will be Conducted Radisson Hotel Meeting Room	Site Address 201 5th Street N		
City Fargo	State ND	Zip Code 58102-4892	County Cass
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.			
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Gift certificate	\$1,000.00			
Raffle	Gift certificate	\$300.00			
Raffle	Gift certificate	\$200.00			
Total:					(Limit \$12,000 per year) \$ 1,500.00

Intended uses of gaming proceeds: Donation to Charism, a North Dakota nonprofit entity.

Does the organization presently have a state gaming license? No Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-328-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ _____. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official <i>[Handwritten Signature]</i>	Date 3/13/19	Title President	Business Phone Number 701-239-5080
--	------------------------	---------------------------	--



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

\$25.00
ce
3-19-19

Application for: [X] Local Permit * [] Charity Local Permit (one event per year)

Form with fields: Name of Non-profit Organization (Kappa Alpha Theta - Gamma Nu), Date(s) of Activity (04/17/19), Person Responsible (Maicyla Johnson), Title (Philanthropy Director), Business Address (1262 12th St N), City (Fargo), State (ND), Zip Code (58102), Name of Site Where Game(s) will be Conducted (St Paul's Newman Center), Site Address (1141 3550 N), City (Fargo), State (ND), Zip Code (58102), County (Cass). Includes checkboxes for game types: Bingo, Raffle, Raffle Board, Calendar Raffle, Sports Pool, Poker, Twenty-one, Paddlewheels.

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Table with 3 columns: Game Type, Description of Prize, Retail Value of Prize. Contains 7 rows of prize entries: Raffle (Spa Basket \$30), Raffle (nail basket \$20), Raffle (kitchen basket \$20), Raffle (canby \$20), Raffle (movie \$50), Raffle (purse \$20), Raffle (college apparel \$40). Total: \$200 (Limit \$12,000 per year).

Intended uses of gaming proceeds: All proceeds from the event will go to the charity Court Appointed Special Advocates. Does the organization presently have a state gaming license? [X] No [] Yes. Has the organization received a charity local permit...? [] No [] Yes. Has the organization received a local permit...? [] No [X] Yes. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official (Kassidi Steff), Date (3/19/2019), Title (Chief executive officer), Business Phone Number (701-566-4649).



(40)

\$25.00
3-14-19

APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

Application for: Local Permit * Charity Local Permit (one event per year)

Name of Non-profit Organization FARGO POST 2 BASEBALL CLUB		Date(s) of Activity 7-1-2019 to 8-30-19	For a raffle, provide drawing date(s): 1137 No Elm St Fargo	
Person Responsible for the Gaming Operation and Disbursement of Net Income NED CLAPP		Title BOOKKEEPER	Business Phone Number (218) 790-6324	
Business Address PO Box 2664		City FARGO	State ND	Zip Code 58108-2664
Mailing Address (if different)		City	State	Zip Code
Name of Site Where Game(s) will be Conducted, JACK WILLIAMS STADIUM		Site Address 1137 No Elm St		
City FARGO		State ND	Zip Code 58102	County CASS
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.				
<input type="checkbox"/> Bingo <input type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input checked="" type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *				

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Calendar Raffle	Cash	\$4,350			
Total: (Limit \$12,000 per year)					\$ 4,350 ⁰⁰

Intended uses of gaming proceeds: Support youth baseball

Does the organization presently have a state gaming license? No Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240.

Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," the organization does not qualify for a local permit or charity local permit.

Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? No Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ _____. This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official <i>[Signature]</i>	Date 3-15-19	Title Comptroller	Business Phone Number (218) 790-6324
--	------------------------	-----------------------------	--



APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

25.00
cash
3/21/19

Application for: [X] Local Permit * [] Charity Local Permit (one event per year)

Form with fields: Name of Non-profit Organization (Homeward Animal Shelter), Date(s) of Activity (4/11/19 to 4/11/19), For a raffle, provide drawing date(s) (4/11/19), Person Responsible for the Gaming Operation and Disbursement of Net Income (Lacey Gebere / Nukhet Hendricks), Title (D.A./E.D.), Business Phone Number (701-364-9013), Business Address (1201 28th N), City (Fargo), State (ND), Zip Code (58102), Mailing Address (if different), Name of Site Where Game(s) will be Conducted (Holiday Inn Fargo), Site Address (3803 13th Ave S), City (Fargo), State (ND), Zip Code (58103), County (Cass). Check the Game(s) to be Conducted: [] Bingo [X] Raffle [] Raffle Board [] Calendar Raffle [] Sports Pool [] Poker * [] Twenty-one * [] Paddlewheels *

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Table with 3 columns: Game Type, Description of Prize, Retail Value of Prize. Rows include: Raffle Fargo Marathon Entries \$175.00, Raffle Broadsmith Basket \$125.00, Raffle West Acres Gift Card \$100.00, Raffle Mall of America Pkg \$100.00, Raffle Schools Store \$150.00, Raffle Schools Arena \$118.00, Raffle Briteway Cleaning \$50.00, Raffle Residence Inn Stay \$139.00, Raffle Go Far Woman-Entry \$100.00.

Table with 3 columns: Game Type, Description of Prize, Retail Value of Prize. Rows include: Raffle Homefol Gear \$129.00, Raffle Grateful Grateful \$63.00, Raffle Hilton Garden Inn \$318.00. Total: (Limit \$12,000 per year) \$1567.00

Intended uses of gaming proceeds: all proceeds go to the Spray/Neuter fund of Homeward Animal Shelters. The raffle will take place at the spray-gnotti + No balls luncheon on Thursday April 11, 2019. Does the organization presently have a state gaming license? [X] No [] Yes - If "Yes," the organization is not eligible for a local permit or charity local permit and should call the Office of Attorney General at 1-800-326-9240. Has the organization received a charity local permit from this or another city or county for the fiscal year July 1 through June 30? [X] No [] Yes - If "Yes," the organization does not qualify for a local permit or charity local permit. Has the organization received a local permit from this or another city or county for the fiscal year July 1 through June 30? [] No [X] Yes - If "Yes," indicate the total value of all prizes previously awarded: \$ 830.00 . This amount is part of the total prize limit of \$12,000 per year.

Signature of Organization's Top Executive Official (Nukhet Hendricks), Date (3/21/2019), Title (Executive Director), Business Phone Number (701-364-9013)



5

MEMORANDUM

RFP19017

TO: BOARD OF CITY COMMISSIONERS

FROM: Leon Schlafmann, Emergency Services Coordinator City of Fargo

DATE: March 25, 2019

SUBJECT: BID AWARD TO MIDSTATES WIRELESS FOR OUTDOOR WARNING SIRENS

On March 1, 2019 proposals were received to replace up to four outdoor warning sirens. This equipment is compatibility specific and only one bidder submitted a proposal for the siren project. 2019 capital outlay allows \$110,000.00 for the replacement sirens.

The results from the RFP19017 bid are as follows: (Bidding four locations)

Equipment to be installed at 52 nd Ave and 18 th St. S for the cost of	\$28,824.00
Equipment to be installed at 17 th Ave and 42 nd St. S for the cost of	\$28,824.00
Equipment to be replaced at El Tora Blvd and 42 nd St S. for the cost of	\$28,824.00
Equipment to be installed at 5 th Ave and 25 th St. S for the cost of	\$28,824.00
Total cost of excepted Bids	\$ 115,296.00

After reviewing the only bid it is the recommendation to move forward with four sirens at this time. The cost of not having to replace footings and poles will be a cost savings to allow.

RECOMMENDED MOTION: Approve the recommendation to accept the MidStates Wireless Fargo, North Dakota, bid to purchase and install outdoor warning sirens with a total installed price of \$115,296.00.

Mayor Tim Mahoney

March 25, 2019

COPY



SIREN Addition Project FOR CITY OF FARGO

(Dated March 2019)

Proposed – Federal Signal Alerting and Notification System

Prepared By: Jon Wiser, Vice President

Mid States Wireless, Inc.
55 N 3rd Street
Fargo, ND 58102
(701) 293-9561
jonw@midstateswireless.com

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SECTION 1.0 BIDDER PROFILE

Mid States Wireless, Inc., formerly known as Elder's Radio Communications was originally formed in 1946 to work on consumer electronics during and following WWII when replacement parts were difficult to find. Elder's Radio Communications installed its first commercial RF communications in a fleet of taxi cabs for Doyle Cab Company in Fargo, ND.

The company has remained in the same family for the past 70 years and has been handed from one generation to the next. Today the corporation deals primarily in public safety, interoperability solutions from the RF subscriber, to the dispatch center technology up to and including the construction and maintenance of the tower facilities.

Mid States Wireless has 2 primary locations; the headquarters in Fargo, ND and a satellite shop in Minot, ND. MSW has 1 technician that are permanently assigned to Minot Air Force Base (AFB) and 1 that is permanently assigned to Grand Forks Air Force Base (AFB), these technicians that are located on the AFB's are contracted by the federal government to maintain the Land Mobile Radio network for the respective facilities. In addition to the maintenance of these facilities, Mid States does a significant amount of work with Minot AFB on the upgrade and expansion of its current communications network.

Mid States works with a variety of technologies, including but not limited to, wireless broadband (point-to-point & multi-point), UHF & VHF solutions (both analog and digital), Digital Trunking, Complete Dispatch Center Solutions, Command and Control Consoles, Analog and Digital Video capture and storage, 911 integration, Turnkey tower installations, Siren and Alerting Solutions, Squad car fit-up, In car digital, ALPR, to name a few.

Mid States Wireless is a family owned and operated corporation and prides itself on being community oriented and employee friendly, a majority of our approximately 20 employees have worked for us for more than 5 years and more than half of them for greater than 15.

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SECTION 2.0 OVERVIEW:

Mid States Wireless, Inc., has been in business in the Red River Valley and surrounding area since 1946. MSW has the best trained and equipped service technicians in the region and has provided installation and service on a majority of similar systems in Federal/State/Local communities within a 150 mile radius of Fargo-Moorhead. The products specified in this bid from the manufacturer, Federal Signal, are, in MSW's opinion the best available for the City of Fargo's intended purpose. Federal Signal is the leader in alerting and notification solutions for communities and facilities around the world. FS market leading software, equipment, and services deliver "holistic" alerting and notification systems that integrate outdoor, indoor. And personal notifications systems over a redundant networked platform.

BID DOCUMENTS

**City of Fargo
Cass County
State of North Dakota
CITY OF FARGO- SIREN Addition Project
BID FORM**

BID TO:

BID FOR:

The work described as the **CITY OF FARGO- SIREN Addition Project**

Mid States Wireless (MSW) agrees to perform all of the Work as described in the specifications document.

MSW hereby declares that it has carefully examined all Bidding and Contract Documents, prepared by CITY OF FARGO Director and Coordinator, and that they have personally inspected the actual location of the work, and local sources of supply, has satisfied themselves as to all the quantities and conditions, and understands that in signing this Bid they waive their right to plead any misunderstanding regarding the same.

MSW hereby proposes to furnish all labor, materials, tools, equipment, machinery, equipment rental, transportation, superintendents, perform all work, provide all services, and to construct all work in the bid package stated above and for the bid amount as stated below. The bid amount is to cover all costs incurred in performing the Work as required for this bid package category under the MSW's Documents, of which this Bid Form is a part.

Prices shall constitute full compensation for the complete provision, fabrication, and/or installation of each item including insurance, overhead, profit, and superintendents.

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MSW agrees that if awarded the Contract, to substantially complete the Work of the Contract, subject to the provisions of the Contract Documents, in accordance with the Project Construction Schedule prepared by the CITY OF FARGO.

MSW agrees that this bid may not be withdrawn for a period of ninety (90) calendar days immediately following the date of receipt of bids.

In submitting this bid, it is understood that the CITY OF FARGO reserves the right to reject any or all bids, to waive any informality or irregularity in any bid received, and to accept any alternate(s) in any order or combination.

THE UNDERSIGNED operates as a:

Corporation, Incorporated in the State of North Dakota

LEGAL NAME OF PERSON, FIRM, OR CORPORATION:

Name: Mid States Wireless, Inc
Address 55 North 3rd St. Fargo, ND 58102
Phone (701) 293-9561
By Jon Wisner

Vice President / Operations Manager

The bidder shall submit three (3) copies of the following information to be included in the Proposal as evidence of compliance with the City of Fargo's specifications (see Section 3 for Proposal Format). **THE PROPOSAL MAY BE REJECTED IF THE RESPONSES TO THE REQUESTED SPECIFICATIONS ARE INCOMPLETE OR IF THE PROPOSED SYSTEM DEVIATES FROM THE SPECIFICATIONS.**

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SECTION 3.0 EQUIPMENT

The purpose of this bid is purchasing, installing and optimizing siren equipment for the City of Fargo. The City of Fargo would like to Replace 4 existing mechanical sirens and, install a 4 new sirens that are capable of two-way control/monitoring. The purpose of the project is to replace the 4 outdated sirens, and install 4 new sirens.

Equipment removed /re install New at 52nd ave & 18th st so (existing site)
(\$28,824.00)

Remove existing Whelen siren , re-engineer existing Pole for New Federal 2001 siren and electrical

2001-130 130db rotating Mechanical siren

DCFCTBDU 2-Way Digital DC Control /Battery Cabinet, Charger/ Two 48VDC Contactors/Sensors Uhf Radio/Nema Aluminum Cabinets

2001TRBP Transformer/Rectifier for AC/DC operation

HTR4 Battery warming blankets

DCM0075 Large sealed batteries

Equipment removed /re install New at El Tora Blvd & 42nd st so (existing site)
_____ (\$28,824.00)

Remove existing Whelen siren , re-engineer existing Pole for New Federal 2001 siren and electrical

2001-130 130db rotating Mechanical siren

DCFCTBDU 2-Way Digital DC Control /Battery Cabinet, Charger/ Two 48VDC Contactors/Sensors Uhf Radio/Nema Aluminum Cabinets

2001TRBP Transformer/Rectifier for AC/DC operation

HTR4 Battery warming blankets

DCM0075 Large sealed batteries

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Remove existing Whelen siren , reuse Pole and electrical

Equipment removed /Re-install new 17th ave & 43rd St so (existing Site)
_____(\$28,824.00)

Remove existing Whelen siren , re-engineer existing Pole for New Federal 2001 siren and electrical
2001-130 130db rotating Mechanical siren

DCFCTBDU 2-Way Digital DC Control /Battery Cabinet, Charger/ Two 48VDC Contactors/Sensors Uhf
Radio/Nema Aluminum Cabinets

2001TRBP Transformer/Rectifier for AC/DC operation

HTR4 Battery warming blankets

DCM0075 Large sealed batteries

Equipment removed /Re-install new 5th Ave & 25th St so (existing Site)
_____(\$28,824.00)

Remove existing Whelen siren , re-engineer existing Pole for New Federal 2001 siren and electrical
2001-130 130db rotating Mechanical siren

DCFCTBDU 2-Way Digital DC Control /Battery Cabinet, Charger/ Two 48VDC Contactors/Sensors Uhf
Radio/Nema Aluminum Cabinets

2001TRBP Transformer/Rectifier for AC/DC operation

HTR4 Battery warming blankets

DCM0075 Large sealed batteries

SECTION 3.1 EQUIPMENT PRICING

TOTAL PRICE INCLUDING EQUIPMENT, INSTALLATION OF ALL EQUIPMENT, ELECTRICAL, new adapter plates for existing poles.

\$115,296.00 (one hundred fifteen thousand two hundred and ninety six dollars.)

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Physically inspect and test the sirens twice a year as directed below:

1. Inspection of sirens will occur twice a year with a more extensive individual check of each siren in the spring. The inspection will coincide with the time change spring & fall
2. Perform battery load testing
3. Verify that the speaker oscillates back and forth properly.
4. Verify that the siren activates via radio (one way and two way)
5. Physically inspect installation to be sure that ground connections are secure and not corroded, the antenna is straight, hardware holding the cabinet and speaker to the pole are tight, etc.
6. Check tamper switch activation.

CUSTOMER AGREES TO PERFORM MONTHLY CHECKS (1ST WEDNESDAY OF EVERY MONTH) AND IMMEDIATELY NOTIFY MSW OF ANY FAILURES OR CONCERNS

MSW HAS 4 TECHNICIANS TRAINED TO PERFORM MAINTENANCE ON THIS EQUIPMENT

MIDSTATES LOCAL SERVICE SHOP: 55 N 3RD ST, FARGO ND 58102

CONTACT INFO – EMERGENCY / 24 HOURS (701) 293-9561

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SAMPLE MAINTENANCE CONTRACT (with a neighboring municipality):



June 1, 2014

West Fargo Police Department
800 4th Avenue East
West Fargo, ND 58078

RE: Annual Siren Maintenance Contract Years 2014-2015

This is a maintenance agreement between the West Fargo Police Department (WFPD) and Mid States Wireless, Inc. (MSW) regarding nine (9) Whelen mechanical sirens on 55 foot poles. The WFPD agrees to pay MSW the total sum of XXXXXXXX per year. These payments will be billed following the conclusion of scheduled maintenance period for a period of 2 years (2014 and 2015) to physically inspect and test the sirens twice a year as directed below:

1. Inspection of sirens will occur twice a year with a more extensive individual check of each siren in the spring. The two time of the year will be when the time change occurs in spring and fall.
2. Load test batteries making sure connections are secure and not corroded.
3. Perform SiTest on tone activation to verify operation of amplifiers and speaker drivers in the spring.
4. Verify that the speaker oscillates back and forth properly.
5. Verify that the siren activates via radio.
6. Physically inspect the installation to be sure that ground connections are secure and not corroded, the antenna is straight, hardware holding the cabinet and speaker to the pole are tight, etc.
7. Check tamper switch activation.

This agreement is signed the _____ day of _____, 2014 between the West Fargo Police Department and Mid States Wireless, Inc., and will be effective January 1, 2014 through December 31, 2015.

West Fargo Police Department	Mid States Wireless, Inc.
Date	Date

RESPONSE MATRIX	MAX TIME ACKNOWLEDGE	MAX TIME RESPOND	MAX TIME RESOLUTION
Urgent / Service Affecting	2 Hours	4 Hours	8 Hours
Serious / Non-Service Affecting	8 Hours	24 Hours	48 Hours
Routine (M – F / 8am – 5pm)	24 Hours (M-F)	3/5 Days (M-F)	3/5 Days (M-F)

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SECTION 5.0 DELIVERY AND INSTALLATION:

Services Required by the Customer

Identify and provide access to all locations

Services Provided by Mid States Wireless

TK-S-PROJMGT Project Management Services
TK-IO-CUSTINS Site Optimization and install new antenna and coax
TK-IO-CUSTINS System Optimization & Complete Training Package
ES-IAT Internal Acceptance Test.
ISYS-DOCUMENT Documentation - Operators manual and service manual

Mid States Wireless will order and accept delivery of equipment, install and perform and complete acceptance testing, for the siren addition project prior to July 31, 2019.

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(701)-293-9561 (800)-279-9561



SECTION 6.0 REFERENCE DATA:

REFERENCES FROM SIMILAR SYSTEMS IN THE AREA:

City of Moorhead Fire Department

Jeff Wallin, Assistant Chief

(218) 299-5439

jeff.wallin@ci.moorhead.mn.us

City of Grand Forks North Dakota

Becky Ault, Public Safety Answering Point Director

BAult@grandforksgov.com

701-787-8042

Stark County Emergency Management, North Dakota

Bill Fahlsing, Director

BFahlsing@starkcountynd.gov

701-227-0462

City of Watford City North Dakota

Police Chief Art Walgren

awalgren@nd.gov

701-842-2280

Williams County Emergency Management

Mike Smith, Director

mikesm@co.williams.nd.us

701-609-7017

Olmsted County Emergency Management, Minnesota

Mike Bromberg, Director

bromberg.mike@co.olmsted.mn.us

507-328-6101

City of Lakeville Minnesota

Police Chief John Kornmann

jekornmann@ci.lakeville.mn.us

952-985-4843

City of St. Paul, MN

Rick Larkin, Emergency Manager

rick.larkin@ci.stpaul.mn.us

651-266-5490

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SECTION 7.0 ADDENDUM MATERIAL:

The following addendum information is included on the following pages:

MAINTENANCE CONTRACT (Current Fargo Sample)
ATP
WARRANTY
AFFIRMATIVE ACTION POLICY
LIABILITY INSURANCE
FEDERAL SIGNAL MODEL 2001-130
FEDERAL MODEL FCTBD

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MAINTENANCE CONTRACT

Here is the current maintenance contract between Mid States Wireless and City of Fargo on current installed sirens. MSW will negotiate a new contract in good faith with the City of Fargo based on their requirements and scope of maintenance desired



March 31, 2016

Fargo Emergency Management
4630 15th Ave N
Fargo, ND 58102

RE: Annual Siren Maintenance Contract Year 2016

This is a maintenance agreement between Fargo Emergency Management (FEM) and Mid States Wireless, Inc. (MSW) regarding thirty-three (33) warning sirens on 55 foot poles and 1 repeater and control station. The FEM agrees to pay MSW the total sum of \$3,360 (three thousand three hundred and sixty dollars) per year. These payments will be billed annually:

1. Load test batteries making sure connections are secure and not corroded.
2. Verify that the speaker oscillates back and forth properly.
3. Verify that the siren activates via radio.
4. Physically inspect the siren hardware and verify the equipment is structurally sound.
5. Testing of the repeater, control station and antenna systems.

This agreement is signed the _____ day of _____, 2016 between Fargo Emergency Management and Mid States Wireless, Inc. and will be effective January 1, 2016 through December 31, 2016.

Fargo Emergency Management

Mid States Wireless, Inc

Date

Date

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Acceptance Test Plan

A comprehensive test plan is provided in partnership with the vendor, Federal Signal. Below is an outline of the comprehensive nature of the plan. Full test parameters including all equipment and all locations will be provided upon successful bid.

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SAMPLE

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WARRANTY

This warranty begins July 31st 2019 (System Acceptance Date) and continues for the period of ONE YEAR following SAD.

If it appears at any time within 1 year after installation and/or system acceptance that the equipment does not meet the system performance or individual equipment specifications and the CITY OF FARGO has notified the Mid States Wireless promptly in writing of such deficiencies, MSW shall within fourteen (14) days of notification correct the deficiency or make necessary repairs or replace any defective equipment or system to meet these specifications

Additionally;

- A) MSW warrants that all equipment conforms to its published specifications.
- B) MSW warrants that the equipment delivered under this contract conforms to the contract requirements and is free of any defect of equipment, material or workmanship.
- C) MSW warrants that all equipment furnished hereunder is new, current manufacture, and includes the latest hardware and software designs being delivered by each manufacturer.
- D) Under this warranty, MSW shall remedy at its own expense any failure to conform to the general contract terms, specifications, or any other document included by reference into this contract. MSW also agrees to remedy at its own expense any defect in materials or their workmanship.
- E) MSW shall remedy at its own expense damage to CITY OF FARGO owned or controlled real or personnel property, when that damage is the result of the MSW's failure to conform to the contract requirements. MSW shall also restore any work damaged in fulfilling the terms of this contract.

MSW's warranty with respect to work repaired or replaced hereunder will run for one year from the date of such repair or replacement.

- F) Should MSW fail to remedy any failure, defect, or damage within a reasonable time after receipt of notice thereof, the CITY OF FARGO shall have the right to replace, repair, or otherwise remedy such failure, defect, or damage at MSW's expense. This failure is also a breach of contract. Thus, the City of Fargo's rights are in addition to and not as an alternative to the City of Fargo's rights under breach of contract.
- G) In addition to the other rights and remedies provided by this contact clause, all subcontractors', manufacturers', and suppliers' warranties expressed or implied, regarding any work and materials shall, at the discretion of the purchaser, be enforced by MSW for the benefit of the purchaser. MSW shall obtain any warranties, which the subcontractors, manufacturers, or suppliers would give in normal commercial practice.

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WARRANTY CONTINUED

- H) If directed by the CITY OF FARGO, MSW shall require any such warranties to be executed in writing to the purchaser.
- I) The "acceptance" of a subsystem or individual equipment by the CITY OF FARGO shall not limit the City of Fargo's rights with respect to material defects, workmanship, or fraud.
- J) If there is a conflict between a clause in this warranty and a clause in the MSW's warranty, the clause that extends the greatest protection to the CITY OF FARGO under the circumstances in question shall control.
- K) Manufacturer (Federal Signal) warranty is as follows:

Limited Warranty

The Alerting and Notification Systems Division of Federal Signal Corporation (Federal) warrants each new product to be free from defects in material and workmanship, under normal use and service, for a period of two years on parts replacement and factory-perforated labor (one year for Informer, EAS, and Federal software products) from the date of delivery to the first user-purchase. Federal warrants every 2001, Echoes and 500 Siren (Top of pole only) to be free from defects in material, per our standard warranty, under normal use and service for a period of five years on parts replacement.

During this warranty period, the obligation of Federal is limited to repairing or replacing, as Federal may elect, any part or parts of such product which after examination by Federal, are determined to be defective in material and/or workmanship.

Federal will provide warranty for any unit which is delivered, transported prepaid, to the Federal factory or designated authorized warranty service center for examination and such examination reveals a defect in material and/or workmanship.

This warranty does not cover travel expenses, the cost of specialized equipment for gaining access to the product, or labor charges for removal and re-installation of the product. The Federal Signal Corporation warranty shall not apply to components or accessories that have a separate warranty by the original manufacturer, such as, but not limited to batteries.

Federal will provide on-site warranty service during the first 60-days after the completion of the installation, when Federal has provided a turn-key installation including optimization and/or commissioning services.

This warranty does not extend to any unit which has been subjected to abuse, misuse, improper installation or which has been inadequately inspected, nor to units which have problems related to service or modification at any facility other than Federal factory or authorized warranty service centers. Moreover, Federal shall have no liability with respect to defects arising in Products through any cause other than ordinary use (such as, for example, accident, fire, lightning, water damage, or other remaining acts of God).

THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL FEDERAL BE LIABLE FOR ANY LOSS OF PROFITS OR ANY INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY SUCH DEFECT IN MATERIAL WORKMANSHIP.

 **FEDERAL SIGNAL**
Safety and Security Systems / Alerting & Notification
Advancing security and well-being

2645 Federal Signal Drive, University Park, IL 60484
Phone: 800.524.3021 Fax: 708.534.4585
www.alertnotification.net

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AFFIRMATIVE ACTION POLICY

In accordance with the City of Fargo's Affirmative Action policies against discrimination, no person shall, on the grounds of race, color, religion, sex, marital status, public assistance status, or national origin, be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service or activity under the provisions of any and all applicable federal and state laws against discrimination.

The following is Mid States Wireless's Affirmative Action Information:

1) Number of employees in Vendor's Company: 18

2) Vendor's firm has adopted a written Affirmative Action Program:

YES

3) Vendor's Affirmative Action Program (if any) has been subject to federal Equal Opportunity Review:

NO

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MidStates Wireless



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/26/2019

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 INSURE FORWARD 1202 28th St S Fargo ND 58103	CONTACT NAME: Kim Rogen PHONE (AG, No, Ext): (701) 293-9540 FAX (AG, No): (701) 293-3338 EMAIL ADDRESS: kim.rogen@insureforward.com
INSURED Midstates Wireless, Inc. Bortnem Family LP, Jim Bortnem Enterprises, Inc. 65 North 3rd Street Fargo ND 58102	INSURER(S) AFFORDING COVERAGE INSURER A: Harleyville Insurance Company NAIC # 23682 INSURER B: Acuity Insurance 14164 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 18/19 Master **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.

INSTR. LTR.	TYPE OF INSURANCE	ADD'L SUBR. INFO. WORD	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO. <input type="checkbox"/> LOC OTHER:	Y	MPA0000027008N	04/08/2018	04/08/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADJ INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/PROP \$ 2,000,000 Stopgap \$ 1,000,000 COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist \$ 1,000,000 VOLUNTARILY WRITTEN EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY		BA0000027008N	04/08/2018	04/08/2019	BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$ Uninsured motorist \$ 1,000,000 VOLUNTARILY WRITTEN EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$		CMB0000027008N	04/06/2018	04/06/2019	PER STATE <input type="checkbox"/> DTH-ER <input type="checkbox"/> EL EACH ACCIDENT \$ 1,000,000 EL DISEASE - EA EMPLOYEE \$ 1,000,000 EL DISEASE - POLICY LIMIT \$ 1,000,000 Limit \$25,000 Deductible \$500
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	X70583 MN	08/17/2018	05/17/2019	
A	Equipment Floater		MPA0000027008N	04/06/2018	04/06/2019	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Fargo
206 N 3rd St

Fargo ND 58102

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
Kim Rogen

ACORD 26 (2016/03)

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MidStates Wireless



► Model 2001-130 and Equinox

High Power, Directional Rotating Siren

The Federal Signal 2001-130 and Equinox siren is a high power, rotating, uni-directional outdoor warning siren. The high-decibel output provides maximum coverage with minimum installation cost. Radio/cellular/satellite or wireless IP activation can further minimize installation costs by eliminating the need for leased dedicated control lines.

The siren's projector produces a 60-degree projection of sound which rotates at 3 RPM and can produce three distinct warning signals: steady wail and fast wail. The siren will supply a minimum of 15 minutes of full power output from its batteries after AC power loss. The siren controls are available with battery operation, solar, AC operation, and AC operation with battery back-up, one-way and two-way radio control, wired or wireless ethernet, satellite/cellular or landline. The 2001 Series is offered in low frequency (490 Hz) or mid-range frequency (790 Hz).

Ideal applications for this warning siren include hazardous weather conditions, fires, floods, chemical spills and other types of community or facility emergencies.

FEATURES

- High-powered rotating siren for maximum coverage
- Available in low and mid-range frequency
- Three distinct warning signals
- AC or Solar powered with battery operation or back-up
- Weather-resistant coating

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MidStates Wireless

2 / 2

Power:¹

Sirens can be powered from 120VAC, 240VAC, with battery back-up or battery operation. Solar powering can also be provided

Signal Information:	2001-130	Equinox
Signal /Sweep Rate	Frequency Range	
Steady /Continuous	790 Hz	500 Hz
Wail /10 sec.	470-790 Hz	180-500 Hz
Fast Wail /3.5 sec.	600-790 Hz	300-500 Hz
Coverage: ²	2001-130	Equinox
70dB	Up to 6,500'	Up to 6,100'
60dB	Up to 13,200'	Up to 12,200'

Pole Mounts:

Wood, steel, composite or concrete poles can be provided. Contact Federal Signal for details

Communications:

Federal Signal can supply one-way and two-way communications. Radio, IP, Landline, Satellite and Cellular can be combined to provide a robust alerting solution

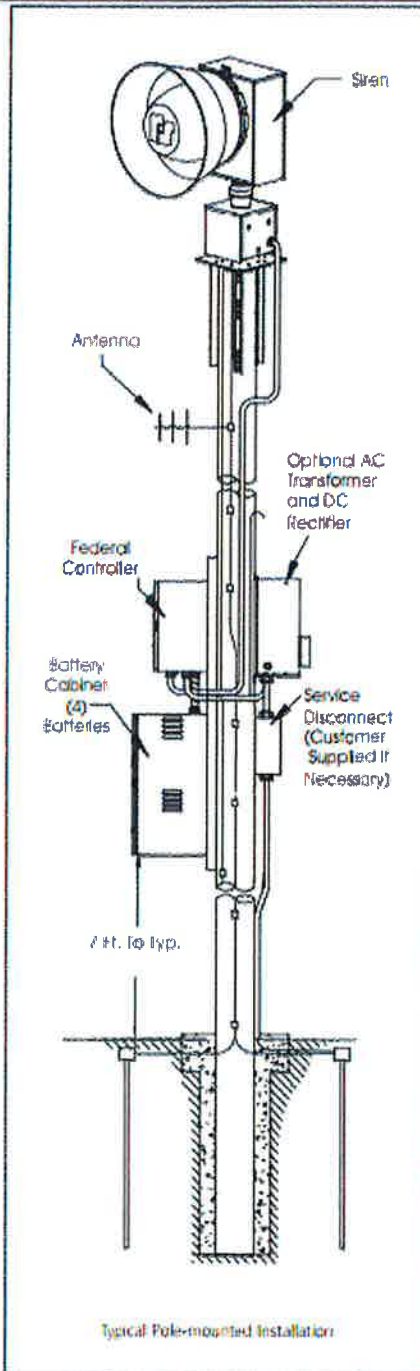
Operating Temperature: ³	-22°F to 140°F	-30°C to 60°C
Dimensions H x W x D:	62" x 37" x 41"	(157 cm x 94 cm x 104 cm)
Shipping Weight:	460 lbs	205 kg

HOW TO ORDER

Contact our Federal Signal Sales Engineers to design a system that meets your specific requirements.

Description	Part Number
Siren Ordering Information:	
Rotating electro-mechanical siren 130 db(C) +/- 1db(C) @ 100' (30.5m) 48VDC, pole mount included	2001-130
Rotating electro-mechanical siren, low frequency, 125 db(C) +/- 1db(C) @ 100' (30.5m) 48VDC, pole mount included	Equinox
Siren Control Ordering Information:	
One-way FC Controller, 120VAC operation	FC/H/U
Two-way FC Controller, 120VAC operation	FCTBD/H/U
One-way FC Controller, 120VAC to battery operation	DCFCB/H/U*
Two-way FC Controller, 120VAC to battery operation	DCFCTBD/H/U*
Command and Control for Multiple Siren Installation:	
Console for siren activation (R for rack mount)	SS2000+R
Commander software for PC based siren activation, monitoring and control	SFCD ⁴

¹ Contact Federal Signal for powering options
² Actual coverage is dependent on many factors, contact Federal Signal for sound analysis of your specific location
³ The siren can operate throughout this temperature range provided that battery temperature is maintained at 18°C or higher
⁴ Batteries not included
⁵ See product page for additional information



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MidStates

Wireless



► Model FCTBD

Two-way control and status monitoring

Monitor any electro-mechanical siren.

The Federal Controller two-way digital (model FCTBD) will control and monitor any electro-mechanical siren, and may be used in conjunction with the SS2000+ Controller located at a central command point. The FCTBD will automatically report change in status of the unit's components back to the SS2000+ Controller. The system may also be polled via the SS2000+ at any time for current status conditions. The FCTBD offers the ability to monitor six remote sensor inputs, such as: AC power, low and up to three additional sensors to monitor siren operation. The FCTBD is packaged in a NEMA 4 weatherproof cabinet and comes equipped with power supply, gel battery, processor unit, radio transceiver and AC power surge protection.

The FCTBD is field programmable through an RS232 port. This enables the user to change activation code formats and signal timing. Programming is accomplished by using the FSPWARE that can be purchased separately. The FCTBD is programmable over the air, and includes a "digipeat" system feature that automatically seeks and recalls the best means of transmitting data to the central control by using the siren sites as radio repeaters. This feature can greatly reduce the costs of RF infrastructure required for the system.

The FCTBD is an ideal choice for upgrading or retrofitting one-way controls to two-way status monitoring for use with existing electro-mechanical sirens like the Federal Signal 2001-130 siren, 508, Eclipse8 and the Model 2 sirens.

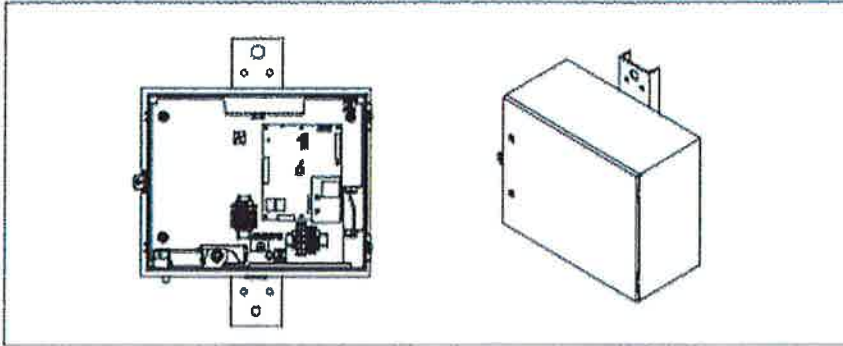
FEATURES

- Two-way control and status monitoring
- Six remote sensor inputs
- Interface with PA systems, voice capable fire alarm systems and telephone alerting systems
- Programmable codes and timing
- Push buttons for local activation
- Built-in tone generator for local tones or public address features
- Internal battery back-up
- UL and cUL listed

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MidStates Wireless

Two-Way Digital Controller (FCTBD)



SPECIFICATIONS

Operating Temperature: -22°F to 149°F -30°C to 65°C
 Humidity: 0-98% non-condensing
 AC supply voltage: 120 VAC @ 3.0 Amps
 Current Draw: 240VAC @ 1.5 Amps
 w/ 10%, 50/60 Hz, maximum standby current
 Power Supply: 10A @ 13.3 VDC, 2A @ 13.3 VDC
 Battery Backup: 12VDC - std, ext, Gel and AGM batteries available
 Current Draw: <600 mA in standby
 Serial Port Protocol: RS232C 1200, N, B, 1

Transceiver Specifications:
 Programmable frequency: Power out and private line options. For further details consult the Vertex® Standard product manual.

Signaling format:
 FSK (200 baud), MSK (Minimum Key Shift) modem type.
 Usable decode sensitivity: 10db(C) SINAD (Min.)
 DTMF: 3-12 standard DTMF characters
 Relay outputs: SPST
 Contact Rating: (4 relays standard) 3A @ 30VDC, 7A @ 250VAC
 Audio Output Voltage: <2V peak to peak
 Maximum Load: 8 Ohms
 Total Harmonic Distortion: <10% @ 1kHz Sine wave
 Controller Dimensions HxWxD: 62.5" x 23.5" x 16.94"
 1588mm x 597mm x 430mm
 Battery Cabinet Dimensions HxWxD: 20" x 20" x 12"
 50.8cm X 50.8cm X 30.48cm
 (vented NEMA 4X rated)
 Shipping Weight (approx.): 155 lbs. 70.3 kg

REPLACEMENT PARTS

Description	Part Number
Q20000188	12VDC Charger
155193A	12VDC Battery
Q2005263B	PC x Central Board

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HOW TO ORDER

Specify Model:	Part Number
Description: Two-way Federal Controller	FCTBD ^{1,2}
Two-way Federal Controller, High Band 148-174 MHz	FCTBDH ^{1,2}
Two-way Federal Controller, UHF band 403-470 MHz	FCTBDU ^{1,2}
IP-enabled two-way electro-mechanical controller	FCTBD-IP ^{1,2}

¹For use with 2001-130, 506 and Edge®
²Antenna and cable are not included with radio activation control and must be ordered separately.
³Hardware, software and SmartWay software sold separately.

OPTIONAL ACCESSORIES

Description	Part Number
Federal Commander Digital Software (see literature for details)	FCDSWAVE
Two-way DTMF Programming	ES-PROG-DTMF
Private line tone and digital coded squelch encoder and decoder	S-PL1
Encoder and decoder (low)	ES-PL2
Hardware Controller	SS10024
Telco Base, Landline	TB-11
Two-way DTMF Programming	ES-PROG-DTMF

SmartWay Federal Controllers with two-way status monitoring. Select the sensor that matches your wire number and number.

Single motor AC current sensor	SK-5M
Three motor AC current sensor	SK-3M

Select the usage that matches your voltage and phase:

Single phase, 120VAC voltage sensor	SK-1-120
Single phase, 240VAC voltage sensor	SK-1-240
3-phase, 240VAC voltage sensor	SK-3-240
3-phase, 480VAC voltage sensor	SK-3-480

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PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(6)

Type: Sale of City Property

Location: 2 6th Avenue North

Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Shawn Bullinger</u>

The Committee reviewed the accompanying correspondence from Land Acquisition Specialist, Shawn Bullinger, related to excess land located at 2 6th Avenue North. In an effort to reduce maintenance costs, staff is recommending the lot be split and the remainder be sold. Currently, the lot has flood protection along the eastern portion and this would need to be retained. Additionally, the buyer would need to remove the existing gatewell and storm sewer and fill in the existing pond area.

The property has an assessed value of \$4,000.00. According to a preliminary estimate, the cost to remove the gatewell, storm sewer, and fill the pond is \$60,000.00 - \$70,000.00.

Staff is recommending approval.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of the sale of 2 6th Avenue North, with the condition that the buyer would remove the gatewell and storm sewer and would fill the existing pond.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Engineering's request to move forward with a lot split and to sell the excess land located at 2 6th Avenue North with the condition that the buyer will remove the existing gate well, storm sewer and fill in the existing pond.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____

Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 50% escrow deposit required

Yes	No
_____	_____
_____	_____
_____	_____

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Bruce Grubb, City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Brenda Derrig, City Engineer
 Kent Costin, Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
_____	_____	_____	<u>✓</u>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mike Redlinger
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tom Knakmuhs
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, PE
 Assistant City Engineer

Memorandum

To: Members of PWPEC
From: Shawn G. Bullinger, Land Acquisition Specialist
Date: March 6, 2019
Re: Sale of City Property – 2 6th Avenue South

Background:

Engineering staff has identified a portion of the property located at 2 6th Avenue South as excess land. In an effort to reduce maintenance costs, staff is recommending a lot split and selling off the remainder of this lot. The City currently has flood protection along the eastern portion, which would need to be retained. On the remainder of the property exists a gate well, pond and storm sewer. As a condition of the sale, the buyer would need to remove the existing gate well, associated storm sewer and fill in the existing pond area.

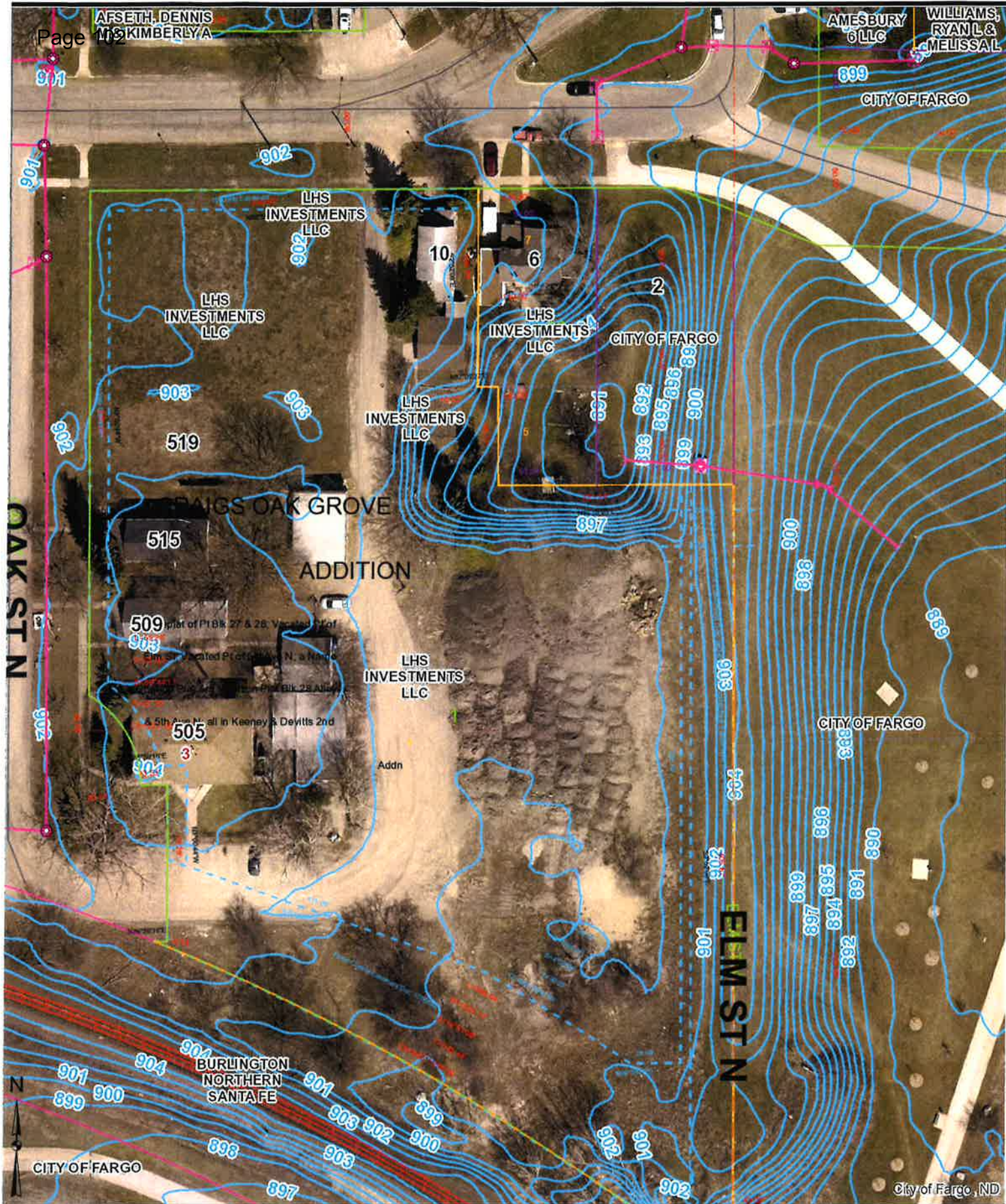
The property currently has an assessed value of \$4,000.00 due to the existing levee, gate well, storm sewer and pond area. According to a Preliminary Engineers Estimate, the cost to remove the gate well, storm sewer and fill the existing pond is \$60,000.00 - \$70,000.00.

Recommended Motion:

Approve Engineering's request to move forward with a lot split and to sell the excess land located at 2 6th Avenue South with the condition that the buyer will remove the existing gate well, storm sewer and fill in the existing pond area.

SGB/klb

Attachments



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

<h1>2 6th Ave S - City Lot</h1>	
1:1,128	3/7/2019 9:35:15 AM
<small>This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.</small>	





These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

<h2>2 6th Ave S - City Lot</h2>	
1:1,128	3/7/2019 9:38:09 AM
This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.	

THE CITY OF
Fargo
 FAR MORE

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

7

Project No. TR-17-B1 Type: Final Balancing Change Order #4

Location: Citywide Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Jacob Rick</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jacob Rick, for Final Balancing Change Order #4 in the amount of \$373.00, bringing the total contract amount to \$375,943.00.

Staff is recommending approval of Final Balancing Change Order #4.

On a motion by Nicole Crutchfield, seconded by Steve Dirksen, the Committee voted to recommend approval of Final Balancing Change Order #4.

RECOMMENDED MOTION

Approve Final Balancing Change Order #4 in the amount of \$373.00 to Ernst Trenching, bringing the total contract amount to \$375,943.00.

PROJECT FINANCING INFORMATION:


Recommended source of funding for project: Traffic Engineering Funds & Sales Tax

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u> </u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u> </u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u> </u>

COMMITTEE


	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mike Redlinger
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tom Knakmuhs
Kent Costin, Finance Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Tom Knakmuhs, P.E.
 Assistant City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Jake Rick, Project Manager 
Date: March 14, 2019
Re: Project No. #TR-17-B1 – Final Balancing Change Order

Background:

Attached is a final balancing change order in the amount of \$373.00 for Project No. TR-17-B1. Please refer to the attached Final Balancing Change Order (FBCO), which reconciles the measured quantities with those estimated for the contract.

Original Contract:	\$	262,410.00
Change Order #1	\$	51,600.00
Change Order #2	\$	54,454.00
Change Order #3	\$	7,106.00
FBCO #4:	\$	<u>373.00</u>
Total Contract:	\$	375,943.00

Recommended Motion:

Approve Final Balancing Change Order in the amount of \$373.00 to Ernst Trenching Inc.

Attachment
FBCO #4



CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Project No: TR-17-B1 Change Order No: 4
 Project Name: Fiber Optic Cable Installation & Incidentals
 Date Entered: 3/8/2019 For: Ernst Trenching, Inc.

This change is made under the terms of or is supplemental to your present contract, if and when approved, you are ordered to perform the work in accordance with the additions, changes, or alterations hereinafter described.

EXPLANATION OF CHANGE: Final Balancing Change Order

This change order reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Traffic Signals	1	F&I Pull Box PVC	EA	6.00	0.00	6.00	-1.00	5.00	950.00	-950.00
	3	F&I Conduit 2" Dia	LF	4,800.00	0.00	4,800.00	105.00	4,905.00	12.60	1,323.00
Traffic Signals Sub Total (\$)										373.00
Summary										
Source Of Funding										
Net Amount Change Order # 4 (\$)										373.00
Previous Change Orders (\$)										113,160.00
Original Contract Amount (\$)										262,410.00
Total Contract Amount (\$)										375,943.00

I hereby accept this order both as to work to be performed and prices on which payment shall be based.

CONTRACT TIME

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
08/30/2018		0.00	0.00	09/26/2018	

Description: F

APPROVED APPROVED DATE



CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

For Contractor

Ernst Trenching

Title

Project Manager

Department Head

3/20/19

Mayor

Attest

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

8

Project No. FM-14-13 (5962)

Type: Contract Amendment #6

Location: Oak Creek, Copperfield Court

Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Jody Bertrand</u>

The Committee reviewed the accompanying correspondence from Division Engineer, Jody Bertrand, related to a Contract Amendment submitted by Houston Engineering in the amount of \$42,700.00, bringing the total contract amount to \$1,035,481.20. This Amendment is being proposed to revise the project plans for the levee and gatewell improvements for the 2019 construction season and a future construction phase. This Amendment includes the cost for plan revisions due to eminent domain proceedings for 4033 Copperfield Court, which is expected to be brought to the ND Supreme Court for appeal. Included with this Amendment is the cost for the additional plan production, construction administration, inspection and survey of this project.

Staff is recommending approval.

On a motion by Nicole Crutchfield, seconded by Steve Dirksen, the Committee voted to recommend approval of Contract Amendment #6.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Contract Amendment #6 to Houston Engineering in the amount of \$42,700.00.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax (460)

	Yes	No
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u> </u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u> </u>
50% escrow deposit required	<u>N/A</u>	<u> </u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Mike Redlinger</u>
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Tom Knakmuhs</u>
Kent Costin, Finance Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, PE
 Assistant City Engineer

Memorandum

To: Members of PWPEC
From: Jody Bertrand, Division Engineer
Date: March 18, 2019
Re: Project No. 5962 (FM-14-13) – Contract Amendment #6 Request
Oak Creek and Copperfield Court Additions

Background:

Enclosed is a copy of the proposed Contract Amendment #6 from Houston Engineering for the flood mitigation project within the Oak Creek and Copperfield Court Additions. This sixth Contract Amendment is proposed to revise the project plans for the levee and gateway improvements for the 2019 construction season and a future construction phase. This amendment includes the cost for plan revisions for the 2019 construction plans due to the eminent domain proceedings for the property located at 4033 Copperfield Court, which is expected to be brought to the ND Supreme Court for appeal. This judicial action delays a portion of the project area from being completed in 2019. The additional plan production, construction administration, inspection and survey for the removed portion of the project is included for the 2020 construction season as part of this Contract Amendment.

Attached is the Houston Engineering memo detailing the plan modifications for 2019 and the design and construction management costs for final phase of this project area.

Recommend Motion:

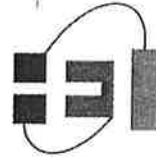
Approve Contract Amendment #6 submitted by Houston Engineering in the amount of \$42,700.00.

JRB/klb

Attachment

Fargo Corporate Office 701.237.5065 701.237.5101

1401 21st Avenue North Fargo ND 58102



HoustonEngineering Inc.

PROFESSIONAL SERVICES

PROPOSAL AND AGREEMENT – AMENDMENT NO. 6

Project: Drain 27 40th Avenue South to 25th Street South Stability Analysis and Flood Risk Management Study - Proj. 5962 (Coulee’s Crossing, Oakcreek and Copperfield Court) Scope of Work and Cost Estimate HE Project No. 10_6059_029

Client: City of Fargo
200 North 3rd Street
Fargo, ND 58102
Phone (701) 241-1545
Attn: Jody Bertrand

Location of Project: City of Fargo, Cass County, North Dakota

Description of Work: This contract amendment is to provide additional services, as requested by city staff, to modify the Phase 3 construction documents and to assist with the design and construction of permanent flood protection at 4033 Copperfield Court, along Drain 27.

The additional services fee is based on the following breakdown:

1. Revision of Phase 3 construction documents with the 4033 Copperfield Court property levee removed.
2. Creation of construction documents for a levee to be constructed at the 4033 Copperfield Court property.
3. Construction services for the 2020 construction of the 4033 Copperfield Court levee once acquired by the City of Fargo.

1. Revision of Phase 3 construction documents with the 4033 Copperfield Court property removed.

- a. The specific items include:
 - i. Modifying the completed construction documents to exclude the property not currently owned by the City of Fargo.

Bismarck	P	701.323.0200	F	701.323.0300	Minot	P	701.852.7931	F	701.858.5655
Maple Grove	P	763.493.4522	F	763.493.5572	Thief River Falls	P	218.681.2951	F	218.681.2987



2. Creation of construction documents for a levee to be constructed at the 4033 Copperfield Court property.

- a. The specific items include:
 - i. Creating a set of construction documents for the levee, inspection trench, erosion control, home demolition, and retaining wall.
 - ii. Attend 1 meeting with the City of Fargo Staff to review the final construction documents. It is anticipated a 95% submittal would be provided for comment, then the final 100% documents would be prepared to incorporate comments.

3. Construction services for the 2020 construction of the 4033 Copperfield Court levee.

- a. The specific items include:
 - i. Construction inspection for the levee construction. (4 weeks assumed)
 - ii. Construction administration for the levee construction.
 - iii. Construction staking.
 - iv. Geotechnical material testing.
 - v. Additional construction closeout documentation to supplement the construction closeout for phase 1 to 3 of the Oakcreek levee project.

Houston Engineering, Inc. is pleased to provide this proposal to perform the work as outlined below and detailed in Attachment 1. Tasks will be performed in accordance with our current hourly rates and proposed 2020 hourly rates (Attachment 2).

Task	Cost
1) Revision of Phase 3 Construction Documents with the 4033 Copperfield Court Property Removed.	\$3,700
2) Creation of Phase 3 Construction Documents for a Levee to be Constructed at the 4033 Copperfield Court Property	\$5,000
3) Construction Services for 2020 Construction of the 4033 Copperfield Court Levee	\$34,000
Total Not to Exceed Proposal =	\$42,700



Page 3

Fee: The total estimated fee for the above described tasks is \$42,700 as summarized below. This includes an estimated \$5,000 in Geotechnical Analysis/Material Evaluation to be provided by Braun Intertec. Additional work required beyond the scope listed below will be billed at our current hourly rates.

Conditions: Services will be invoiced monthly and are due and payable upon receipt.

Limitation of Liability: Houston Engineering, Inc. agrees to indemnify and save the client harmless from any loss, cost, or expense including attorney fees, claimed by third parties for property damage or bodily injury, including death, caused by the negligence of Houston Engineering, Inc. or its employees in connection with Houston Engineering, Inc.'s services. The client agrees to indemnify and save Houston Engineering, Inc. harmless from any loss, cost, or expense, including attorney fees, claimed by third parties for property damage or bodily injury including death, caused by the negligence of the client or its employees in connection with the operations of the client. If the negligence of both Houston Engineering, Inc. and the client (or a person identified above for whom each is liable) is the cause of such damage or injury, the loss, cost, or expense shall be shared between Houston Engineering, Inc. and the client in proportion to their relative degrees of negligence and the right of indemnity shall apply for such proportion. Neither party hereto shall be liable to the other for incidental, special or indirect damages nor shall Houston Engineering, Inc. be liable for any cost or expense that provides betterment, upgrade or enhancement of the project.

Houston Engineering, Inc. hereby proposes, and the client hereby authorizes, the above described services to be performed by Houston Engineering, Inc. under the terms and conditions set forth.

Authorization:

Proposal: Houston Engineering, Inc.

Client: City of Fargo

Signature: _____

Signature: Jerry B

Title: _____

Title: Vice President

Date: _____

Date: 3-6-2019

ATTACHMENT 1 – TASKS INCLUDED IN SCOPE

Project FM-14-11 - Coulee's Crossing/Oakcreek - Phase 3 Construction and Design
Cost Estimate

3/6/2019

Amendment 6
Notes

	Task Cost	PM	Eng/General Design	Survey
1) Revision of Oakcreek Planset		\$202	\$168	\$147
Design and Plan Revisions (Phase 3)				
Meeting - Present plans and estimate to city for review	\$1,944		2	12
Final Plan Set and Bid Package	\$336		2	
Total Hours	\$1,410	1	4	4
Total Costs	25	1	8	16
	\$3,690	\$202	\$1,344	\$2,144
2) Plansheet creation for Copperfield Court				
Meeting - Present plans and estimate to city for review	\$336		2	
Final Design and Plan Set Development	\$2,816		4	16
Create Design Document - Summary of recommendations and preferred plan.	\$1,342	1	2	6
Final Plan Set and Bid Package based Review Comments	\$538	1	2	
Total Hours	34	2	10	22
Total Costs	\$5,066	\$404	\$1,680	\$2,948
3) Construction Services				
Prepare Closeout Documents (Phase 1)	\$1,408		2	8
Record Drawings	\$704		1	4
Project Representative	\$23,584			176
Material and Compaction Tests - Braun Completion Report	\$5,000			
Project Correspondence	\$436		1	2
Required Permits	\$268			2
Construction Staking	\$1,176			8
Progress Payments	\$336		2	
Final Inspection Reports	\$268			2
Project Development Summary - Decisions	\$536			4
Total Hours	212	0	6	198
Total Costs	\$33,928	\$0	\$1,008	\$26,532
				\$1,176
				\$0
Total Project Costs				
Total Hours	271	3	24	236
Total Costs	\$42,684	\$606	\$4,032	\$31,624
				\$1,176
				\$0

ATTACHMENT 2 – CURRENT AND PRELIMINARY 2020 HEI
HOURLY RATES



Houston Engineering Inc.

2019 FEE SCHEDULE

The following is a schedule of hourly rates and charges for engineering and surveying services offered by Houston Engineering, Inc. These rates are subject to a modest increase on January 1st of each year (typically no more than 5%).

Category	2019 Rates
Engineer I	\$121
Engineer II	134
Engineer III	151
Project Engineer	168
Project Manager	184
Sr Project Manager	202
Scientist I	\$121
Scientist II	134
Scientist III	152
Project Mgr – Environmental	178
Sr Project Mgr – Environmental	202
Hydrogeologist I	\$121
Hydrogeologist II	134
Hydrogeologist III	152
Sr Hydrogeologist	190
Construction Engineer	\$139
Sr Construction Engineer	165
Land Surveyor I	\$121
Land Surveyor II	139
Land Surveyor III	153
Project Mgr – Land Surveying	165
Sr Project Manager – Land Surveying	184
Survey Crews:	
1-Person Crew (+ equipment)	\$147
2-Person Crew (+ equipment)	178
3-Person Crew (+ equipment)	222
4-Person Crew (+ equipment)	248
Landscape Architect	\$129
CAD Technician I	\$82
CAD Technician II	95
CAD Supervisor	108
Designer I	\$127
Designer II	136
Sr Designer	146
Engineering Specialist	155
Technician Intern (all areas)	\$82
Technician I	\$95
Technician II	108
Sr Technician	121

Category	2019 Rates
Right-of-Way Technician	\$110
Right-of-Way Specialist	184
GIS Analyst I	\$90
GIS Analyst II	105
GIS Analyst III	121
Sr GIS Analyst	139
Project Manager – GIS	152
Sr Project Manager – GIS	178
Software Engineer I	\$105
Software Engineer II	121
Software Engineer III	139
Sr Software Engineer	152
Computer Technician	\$146
Communications Specialist	\$82
Sr Communications Specialist	90
Administrative Assistant	\$77
Sr Administrative Assistant	82
Planner	\$133
Senior Planner	184
Legislative/Grant Specialist	\$171
Expert Witness	222
Drone Pilot	\$129
Drone Visual Observer	49

Chargeable Expenses	Rate
Subsistence	Actual Cost
Mileage-Vehicles:	
2-Wheel Drive	IRS Standard Rate
4-Wheel Drive	IRS Standard Rate + \$0.20/Mile
GPS Equipment	\$25/hour/unit
Robotic Total Station	\$40/hour
ATV/Snowmobile/Boat	\$15/hour
ATV with Tracks	\$30/hour
Hydrone RCV	\$50/hour
Small UAS	\$25/hour
Delivery, Postage, Printing	Actual Cost
Surveying Materials, Special Equipment, and other Materials required	Actual Cost
Subconsultants	Actual Cost + 10%



Houston Engineering Inc.

2020 FEE SCHEDULE

The following is a schedule of hourly rates and charges for engineering and surveying services offered by Houston Engineering, Inc. These rates are subject to a modest increase on January 1st of each year (typically no more than 5%).

Category	2020 Rates
Engineer I	\$125
Engineer II	138
Engineer III	156
Project Engineer	173
Project Manager	190
Sr Project Manager	208
Scientist I	\$125
Scientist II	138
Scientist III	157
Project Mgr – Environmental	184
Sr Project Mgr – Environmental	208
Hydrogeologist I	\$125
Hydrogeologist II	138
Hydrogeologist III	157
Sr Hydrogeologist	196
Construction Engineer	\$143
Sr Construction Engineer	170
Land Surveyor I	\$125
Land Surveyor II	143
Land Surveyor III	158
Project Mgr – Land Surveying	170
Sr Project Manager – Land Surveying	190
Survey Crews:	
1-Person Crew (+ equipment)	\$152
2-Person Crew (+ equipment)	184
3-Person Crew (+ equipment)	229
4-Person Crew (+ equipment)	256
Landscape Architect	\$133
CAD Technician I	\$85
CAD Technician II	98
CAD Supervisor	112
Designer I	\$131
Designer II	140
Sr Designer	151
Engineering Specialist	160
Technician Intern (all areas)	\$85
Technician I	\$98
Technician II	112
Sr Technician	125

Category	2020 Rates
Right-of-Way Technician	\$114
Right-of-Way Specialist	190
GIS Analyst I	\$93
GIS Analyst II	108
GIS Analyst III	125
Sr GIS Analyst	143
Project Manager – GIS	157
Sr Project Manager – GIS	184
Software Engineer I	\$108
Software Engineer II	125
Software Engineer III	143
Sr Software Engineer	157
Computer Technician	\$151
Communications Specialist	\$85
Sr Communications Specialist	93
Administrative Assistant	\$80
Sr Administrative Assistant	85
Planner	\$137
Senior Planner	190
Legislative/Grant Specialist	\$176
Expert Witness	229
Drone Pilot	\$133
Drone Visual Observer	51

Chargeable Expenses	Rate
Subsistence	Actual Cost
Mileage-Vehicles:	
2-Wheel Drive	IRS Standard Rate
4-Wheel Drive	IRS Standard Rate + \$0.20/Mile
GPS Equipment	\$25/hour/unit
Robotic Total Station	\$40/hour
ATV/Snowmobile/Boat	\$15/hour
ATV with Tracks	\$30/hour
Hydrone RCV	\$50/hour
Small UAS	\$25/hour
Delivery, Postage, Printing	Actual Cost
Surveying Materials, Special Equipment, and other Materials required	Actual Cost
Subconsultants	Actual Cost + 10%

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

9

Project No. UR-19-A1 Type: Crossing Surface Installation Agreement with BNSF

Location: 8th Ave from 18th St N to Drain #3 Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Roger Kluck</u>

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, regarding a BNSF permit, which will allow the City to complete storm sewer reconstruction within the railroads right of way. BNSF has provided their standard contract and is asking for a reimbursement in the amount of \$3,700. This permit would be paid from the Storm Sewer Utility Fund.

Staff is recommending approval of the permit and reimbursement to BNSF.

On a motion by Ben Dow, seconded by Mike Redlinger, the Committee voted to recommend approval of the permit and payment to BNSF.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the right of way permit for storm sewer reconstruction with payment to BNSF in the amount of \$3,700.00.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility Fund

Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 Letter of Credit required (per policy approved 5-28-13)

Yes	No
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>N/A</u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mike Redlinger
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tom Knakmuhs
Kent Costin, Finance Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, PE
 Assistant City Engineer

Memorandum

To: PWPEC
From: Roger E. Kluck, PE, CFM Civil Engineer II
Cc: Jody Bertrand
Date: March 11, 2019
Re: Project #UR-19-A1 – Storm Sewer, Storm Sewer Repairs, PC Concrete Paving & Incidentals

Project #UR-19-A1 consists of storm sewer replacement on 8th Avenue from 18th Street N to Drain 3 which will complete the storm sewer work started last summer as part of the XCEL relocation project BR-18-E1. This project also repairs storm sewers on Elm Street near El Zagal golf course, and installs a storm sewer on the 12th Avenue frontage west of 25th Street to improve some drainage problems in that rural section that has been exacerbated due to housing development. The existing storm sewer from 8th Avenue to Drain 3 lies within railroad right of way and is currently not covered by a BNSF permit. In order to bring the new storm sewer into compliance the old line is being removed and a BNSF permit is being executed.

BNSF will require a permit for the stretch of line on their right of way. BNSF has provided their standard contract to cover the anticipated project work and to allow the City to do the storm sewer reconstruction within railroad right of way. The BNSF contract asks for reimbursement of \$3,700.00 to allow the storm sewer in railroad right of way. The project and permit is being paid for out of the storm sewer utility fund.

Recommended Motion:

To approve the contract and payment to BNSF for \$3,700.00 for replacement of the existing storm sewer line within railroad right of way and to recommend that the mayor be approved to sign the contract.



Jones Lang LaSalle Brokerage, Inc
4200 Buckingham Rd, Ste 110
Fort Worth, Texas 76155
tel +1 817-230-2600, fax +1 817 306-8265

March 8, 2019

Tracking #18-61807

City of Fargo
Attention: Mr Roger Kluck
200 3rd St N
Fargo, ND 58102

Dear Mr Kluck:

Attached please find a copy of the requested contract for execution by an official authorized to execute contract agreements on behalf of your company. Please print two (2) copies, **SINGLE SIDED ONLY**, execute and **return both copies with original signature** for completion on part of BNSF Railway Company ("BNSF") to this office, along with the following requirements:

- A check in the amount of **\$3,700** payable to BNSF Railway Company which covers the permit fee.
- Please have ready for Risk Management a Certificate of Insurance as required in the agreement.

*****If there are any issues with your insurance, you will be contacted by a member of the Risk Management team of BNSF Railway*****

- A **separate policy** for Railroad Protective Liability Insurance as required in the agreement (**ORIGINAL POLICY MUST BE PROVIDED**). BNSF Railway Company will be the only insured party; OR;

In lieu of providing a separate policy for Railroad Protective Liability Insurance, you may participate in the BNSF's Railroad Protective Policy by checking the appropriate box in the contract and including an additional **\$1,899.00** with your check.

Please note the agreements cannot be executed by BNSF without an approved insurance certificate.

DO NOT SEND ANY INSURANCE FORMS to Camille Barbosa as she cannot accept certificates.

Acceptance and deposit of any check by BNSF does not constitute an agreement between BNSF and Licensee for the requested license. BNSF shall not be obligated to hold the check in a separate fund, but may commingle the funds with other funds of BNSF, and in no event shall BNSF be responsible for interest on said funds.

The enclosed permit is not a binding agreement and shall become binding only when, and if, it is executed by you and fully approved and executed by BNSF Railway Company. Upon completion on behalf of BNSF, one fully executed counterpart will be returned for your records.

The specifications/plans you provided may differ from BNSF's minimum specification requirements. Therefore, prior to your installation, please review the Exhibit A to determine the specifications necessary for your installation.

Please be informed that if contracts, fees, and insurance are not returned within sixty (60) days, an \$800.00 late fee will be incurred.

Sincerely,

Camille Barbosa
Associate Manager Permits

Enclosures

PIPELINE LICENSE

THIS PIPELINE LICENSE ("License") is made to be effective _____, 2019 (the "Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and **CITY OF FARGO**, a North Dakota municipality ("Licensee").

In consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Grant of License. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "**Drawings and Specifications**"), one (1) RCP pipeline, 48 inches in diameter (the "**Pipeline**"), across or along Licensor's rail corridor at or near the station of Fargo Junction, County of Cass, State of North Dakota, Line Segment 0034, Mile Post 0.98 as shown on the attached Drawing No. 74476, dated February 28, 2019, attached hereto as Exhibit "A" and incorporated herein by reference (the "**Premises**").
2. Term. This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.
3. Existing Improvements. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use, repair, maintenance or replacement of such improvements.
4. Use of the Premises. Licensee shall use the Premises solely for construction, maintenance, and use of the Pipeline in accordance with the Drawings and Specifications. The Pipeline shall carry storm water, and Licensee shall not use the Pipeline to carry any other material or use the Premises for any other purpose.
5. Alterations. Except as set forth in this License, Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

COMPENSATION

6. License Fee. Licensee shall pay Licensor, prior to the Effective Date, the sum of Three Thousand Seven Hundred and No/100 Dollars (**\$3,700.00**) as compensation for the use of the Premises
7. Costs and Expenses.
 - 7.1 For the purpose of this License, "cost" or "costs" and "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.
 - 7.2 Licensee agrees to reimburse Licensor (pursuant to the terms of **Section 8** below) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the Pipeline, including but not limited to the furnishing of Licensor's flaggers and any vehicle rental costs incurred, inspection coordination, safety, mobilization and/or other observation services described in this License (collectively, the "**Services**"). Licensee shall bear the cost of the Services, when deemed necessary by Licensor's representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time

and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this **Section 7**.

7.3 Licensor, at its sole discretion, may elect to designate a third party (the "Scheduling Agent"), to perform and/or arrange for the performance of the Services.

8. **Payment Terms.** All invoices are due thirty (30) days after the date of invoice. If Licensee fails to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

LICENSOR'S RESERVED RIGHTS

9. **Reserved Rights of Use.** Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:

9.1 to maintain, use, operate, repair, replace, modify and relocate any utility, power or communication pipe/lines/cables and appurtenances (other than the Pipeline) and other facilities or structures of like character upon, over, under or across the Premises existing as of the Effective Date;

9.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities, structures and related appurtenances upon, over, under or across the Premises; or

9.3 to use the Premises in any manner as Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in **Section 4** above.

10. **Right to Require Relocation.** If at any time during the term of this License, Licensor desires the use of its rail corridor in such a manner as would, in Licensor's reasonable opinion, be interfered with by the Pipeline, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensor to such effect, make such changes in the Pipeline as in the sole discretion of Licensor may be necessary to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the Pipeline, or the construction of a new pipeline to replace the Pipeline. Notwithstanding the foregoing, Licensee agrees to make all emergency changes and minor adjustments, as determined by Licensor in its sole discretion, to the Pipeline promptly upon Licensor's request.

LICENSEE'S OPERATIONS

11. **Construction and Maintenance of the Pipeline.**

11.1 Licensee shall not enter or commence construction unless accompanied by Licensor's representative, the Scheduling Agent or its designee. Licensee shall notify Licensor's Roadmaster, *Jason Paquette, at 801 Main Ave, Fargo, ND 58102, telephone (701) 280-7907*, at least fifteen (15) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon. In the event of emergency, Licensee shall notify Licensor of Licensee's entry onto the Premises at the telephone number above as soon as practicable and shall promptly thereafter follow up with written notice of such entry.

- 11.2 Licensee's on-site supervisors shall retain/maintain a fully executed copy of this License at all times while on the Premises.
- 11.3 While on the Premises, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.
- 11.4 Any contractors or subcontractors performing work on the Pipeline or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.
- 11.5 Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.
- 11.6 Licensee shall, at its sole cost and expense, construct and maintain the Pipeline in such a manner and of such material that the Pipeline will not at any time endanger or interfere with (i) the existence or use of present or future tracks, roadbeds, or property of Licensor, (ii) the safe operation and activities of Licensor or existing third parties, or (iii) the rights or interests of third parties. The construction of the Pipeline shall be completed within one (1) year of the Effective Date, and any subsequent maintenance shall be completed within one (1) year of initiation. Within fifteen (15) days after completion of the construction of the Pipeline or the performance of any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore the Premises to substantially their state as of the Effective Date, unless otherwise approved in advance by Licensor in writing. On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense, surrender the Premises to Licensor pursuant to the terms and conditions set forth in **Section 24** hereof.
- 11.7 Licensor may direct one or more of its field engineers to observe or inspect the construction and/or maintenance of the Pipeline at any time for compliance with the Drawings and Specifications and Legal Requirements (defined below). If ordered at any time to halt construction or maintenance of the Pipeline by Licensor's personnel due to non-compliance with the Drawings and Specifications or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the Pipeline, it being solely Licensee's responsibility to ensure that the Pipeline is constructed and maintained in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise of, nor the failure by Licensor to exercise, any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this **Section 11**, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, pursuant to the terms of **Section 8**. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.

12. Boring and Excavation.

- 12.1 Prior to Licensee conducting any boring, excavation, or similar work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Licensee may request information from Licensor concerning the existence and approximate location of Licensor's underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline by contacting Licensor's Telecommunications Helpdesk at least thirty (30) business days prior to installation of the Pipeline. Upon receiving Licensee's timely request, Licensor will provide Licensee with the information Licensor has in its possession regarding any existing underground lines, utilities, and pipelines at or near the vicinity of the proposed Pipeline and, if applicable, identify the location of such lines on the Premises pursuant to Licensor's standard procedures. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions of the Premises and Licensee's operations will be subject at all times to the liability provisions herein.
- 12.2 For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation must be performed by Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in Licensor's sole discretion, a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at Licensee's sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.
- 12.3 Any open hole, boring, or well, constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
- 12.3.1 filled in to surrounding ground level with compacted bentonite grout; or
- 12.3.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

LIABILITY AND INSURANCE13. Liability and Indemnification.

- 13.1 For purposes of this License: (a) "**Indemnitees**" means Licensor and Licensor's affiliated companies, partners, successors, assigns, legal representatives, officers, directors, shareholders, employees, and agents; (b) "**Liabilities**" means all claims, liabilities, fines, penalties, costs, damages, losses, liens, causes of action, suits, demands, judgments, and expenses (including, without limitation, court costs, reasonable attorneys' fees, costs of investigation, removal and remediation, and governmental oversight costs) environmental or otherwise; and (c) "**Licensee Parties**" means Licensee or Licensee's officers, agents, invitees, licensees, employees, or contractors, or any party directly or indirectly employed by any of them, or any party they control or exercise control over.

- 13.2 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEES FOR, FROM, AND AGAINST ANY AND ALL LIABILITIES OF ANY NATURE, KIND, OR DESCRIPTION DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO (IN WHOLE OR IN PART):
- 13.2.1 THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- 13.2.2 ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- 13.2.3 LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- 13.2.4 THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED TO BY LICENSEE, OR
- 13.2.5 ANY ACT OR OMISSION OF ANY LICENSEE PARTY.
- 13.3 TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE NOW AND FOREVER WAIVES ANY AND ALL CLAIMS THAT BY VIRTUE OF ENTERING INTO THIS LICENSE, LICENSOR IS A GENERATOR, OWNER, OPERATOR, ARRANGER, OR TRANSPORTER FOR THE PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED ("CERCLA") OR OTHER ENVIRONMENTAL LAWS (DEFINED BELOW). LICENSEE WILL INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS. NOTHING IN THIS LICENSE IS MEANT BY EITHER PARTY TO CONSTITUTE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES AND THIS LICENSE SHOULD NOT BE SO CONSTRUED. IF ANY AGENCY OR COURT CONSTRUES THIS LICENSE TO BE A WAIVER OF ANY INDEMNITEE'S COMMON CARRIER DEFENSES, LICENSEE AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND INDEMNITEES FOR ANY LIABILITIES RELATED TO THAT CONSTRUCTION OF THIS LICENSE. IN NO EVENT AS BETWEEN LICENSOR AND LICENSEE AS TO USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL LICENSOR BE RESPONSIBLE TO LICENSEE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.
- 13.4 IF ANY EMPLOYEE OF ANY LICENSEE PARTY ASSERTS THAT HE OR SHE IS AN EMPLOYEE OF ANY INDEMNITEE, TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH ASSERTION INCLUDING, BUT NOT LIMITED TO, ASSERTIONS OF EMPLOYMENT BY AN INDEMNITEE RELATED TO THE FOLLOWING OR ANY PROCEEDINGS THEREUNDER: THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.
- 13.5 THE FOREGOING OBLIGATIONS OF LICENSEE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, BUT SHALL APPLY TO ALL OTHER LIABILITIES, INCLUDING THOSE ARISING FROM OR ATTRIBUTED TO ANY OTHER ALLEGED OR ACTUAL NEGLIGENCE, INTENTIONAL ACTS, OR STRICT LIABILITY OF ANY INDEMNITEE.

13.6 Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs and expenses incident to such defense, including, but not limited to, reasonable attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

14. Personal Property Risk of Loss. **ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

15. Insurance. Licensee shall, at its sole cost and expense, procure and maintain during the life of this License the following insurance coverage:

15.1 Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by Licensee. Coverage must be purchased on a post 2004 ISO occurrence or equivalent and include coverage for, but not limited to, the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and completed operations

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waiver of subrogation in favor of and acceptable to Licensor.
- Additional insured endorsement in favor of and acceptable to Licensor and Jones Lang LaSalle Brokerage, Inc.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability Insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to Licensor's employees.

No other endorsements limiting coverage may be included on the policy.

15.2 Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage.
- Any and all vehicles owned, used or hired.

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensor.
- Additional insured endorsement in favor of and acceptable to Licensor.

- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Licensor.

15.3 Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) in which the services are to be performed. If optional under state laws, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Licensor.

15.4 Railroad Protective Liability Insurance. This insurance shall name only Licensor as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the Pipeline. **THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE.** If further maintenance of the Pipeline is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 12 03 and include the following:

- Endorsed to include the Pollution Exclusion Amendment.
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to Licensor prior to performing any work or services under this License.
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control arising out of the acts or omissions of the contractor named on the Declarations."

In lieu of providing a Railroad Protective Liability Policy, for a period of one (1) year from the Effective Date, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$1,266.00.

- I elect to participate in Licensor's Blanket Policy;
- I elect not to participate in Licensor's Blanket Policy.

15.5 Intentionally deleted

15.6 Other Requirements:

- 15.6.1 Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.
- 15.6.2 Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, Licensee's insurers, through the terms of the policy or a policy endorsement, must waive their right of subrogation against Licensor for all claims and suits, and the certificate of insurance must reflect the waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers must also waive their right of subrogation against Licensor for loss of Licensee's owned or leased property, or property under Licensee's care, custody, or control.
- 15.6.3 Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this License, be covered by Licensee's insurance will be covered as if Licensee elected not to include a self-insured retention or other financial responsibility for claims.
- 15.6.4 Prior to entering the Premises, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. Licensee shall notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution, or material alteration. In the event of a claim or lawsuit involving Licensor arising out of this License, Licensee will make available any required policy covering such claim or lawsuit.
- 15.6.5 Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- 15.6.6 If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration or termination of this License. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.
- 15.6.7 Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this License. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.
- 15.6.8 Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.
- 15.6.9 If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

- 15.6.10 Failure to provide evidence as required by this Section 15 shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this Section shall not operate as a waiver of Licensee's obligations hereunder.
- 15.6.11 The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.
- 15.6.12 These insurance provisions are intended to be a separate and distinct obligation on the part of the Licensee. Therefore, these provisions shall be enforceable and Licensee shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable.
- 15.6.13 For purposes of this Section 15, Licensor shall mean "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

COMPLIANCE WITH LAWS, REGULATIONS, AND ENVIRONMENTAL MATTERS

16. Compliance with Laws, Rules, and Regulations.

- 16.1 Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the construction, maintenance, and use of the Pipeline and the use of the Premises.
- 16.2 Prior to entering the Premises, Licensee shall and shall cause its contractor(s) to comply with all of Licensor's applicable safety rules and regulations. Licensee must ensure that each of its employees, contractors, agents or invitees entering upon the Premises completes the safety orientation program at the Website "www.BNSFcontractor.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Licensee must ensure that each and every employee of Licensee, its contractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering upon the Premises. Licensee must renew the Safety Orientation annually.
- 16.3 Licensee shall obtain on or before the date it or its contractor enters the Premises, any and all additional rights-of way, easements, licenses and other agreements relating to the grant of rights and interests in and/or access to the Premises (collectively, the "**Rights**") and such other rights, licenses, permits, authorizations, and approvals (including without limitation, any necessary local, state, federal or tribal authorizations and environmental permits) that are necessary in order to permit Licensee to construct, maintain, own and operate the Pipeline and otherwise to perform its obligations hereunder in accordance with the terms and conditions hereof.
- 16.4 Licensee shall either require that the initial stated term of each such Rights be for a period that does not expire, in accordance with its ordinary terms, prior to the last day of the term of this License or, if the initial stated term of any such Right expires in accordance with its ordinary terms on a date earlier than the last day of the term of this License, Licensee shall, at its cost, exercise any renewal rights thereunder, or otherwise acquire such extensions, additions and/or replacements as may be necessary, in order to cause the stated term thereof to be continued until a date that is not earlier than the last day of the term of this License.

16.5 Upon the expiration or termination of any Right that is necessary in order for Licensee to own, operate or use the Pipeline in accordance with the terms and conditions of this License, this License thereby shall automatically expire upon such expiration or termination of the Right.

17. Environmental.

17.1 Licensee shall strictly comply with all federal, state and local environmental Legal Requirements and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, and CERCLA (collectively referred to as the "**Environmental Laws**"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.

17.2 Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body through the Pipeline on Licensor's property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in compliance with the provisions of this **Section 17.2**.

17.3 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any known (i) release of hazardous substances on, from, or affecting the Premises, (ii) violation of Environmental Laws, or (iii) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on, from, or affecting the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.

17.4 If Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Pipeline which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.

17.5 Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons, property, or the environment arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

DISCLAIMER OF WARRANTIES

18. No Warranties.

18.1 **LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR**

FITNESS FOR A PARTICULAR PURPOSE.

- 18.2 **LICENSOR MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING (A) THE SCOPE OF THE LICENSE OR OTHER RIGHTS GRANTED HEREUNDER TO LICENSEE OR (B) WHETHER OR NOT LICENSEE'S CONSTRUCTION, MAINTENANCE, OWNERSHIP, USE OR OPERATION OF THE PIPELINE WILL VIOLATE OR INFRINGE UPON THE RIGHTS, INTERESTS AND ESTATES OF THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY LEASES, USE RIGHTS, EASEMENTS AND LIENS OF ANY THIRD PARTY.**
19. Disclaimer of Warranty for Quiet Enjoyment. **LICENSOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.**
20. Eviction at Risk of Licensee. In case of the eviction of Licensee by anyone owning, claiming title to, or claiming any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable (i) to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or (ii) for any damage Licensee sustains in connection with the eviction.

LIENS AND TAXES

21. Liens and Charges. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this **Section 21** or any other Section of this License.
22. Taxes. Licensee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed by any governmental or quasi-governmental body upon the Pipeline or any other improvements constructed or installed on the Premises by or for Licensee (collectively, the "**Improvements**") or any Taxes levied or assessed against Licensor or the Premises that are attributable to the Improvements.

DEFAULT, TERMINATION, AND SURRENDER

23. Default and Termination. In addition to and not in limitation of Licensor's right to terminate for failure to provide evidence of insurance as required pursuant to the terms of **Section 15**, the following events are also deemed to be events of default pursuant to which Licensor has the right to terminate as set forth below:
- 23.1 If default shall be made in any of Licensee's covenants, agreements, or obligations contained in this License and Licensee fails to cure said default within thirty (30) days after written notice is provided to Licensee by Licensor, or in case of any assignment or transfer of this License in violation of **Section 26** below, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Notwithstanding the foregoing, Licensor shall have the right to terminate this License immediately if Licensee fails to provide evidence of insurance as required in **Section 15**.
- 23.2 Should Licensee not comply fully with the obligations of **Section 17** regarding the handling or transporting of hazardous waste or hazardous material, notwithstanding anything contained in any other provision of this License, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee.

- 23.3 Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this **Section 23** shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.
- 23.4 In addition to and not in limitation of Licensor's rights to terminate this License for failure to provide evidence of insurance or occurrence of defaults as described above, this License may be terminated by either party, at any time, by serving thirty (30) days' written notice of termination upon the other party. Such termination shall not release either party hereto from any liability or obligation under the License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or thereafter in case by the terms of the License it is provided that anything shall or may be done after termination hereof.

24. Surrender of the Premises.

- 24.1 On or before expiration or termination of this License for any reason, Licensee shall, at its sole cost and expense:
- 24.1.1 if so directed by Licensor in writing, remove the Improvements, the Pipeline and all appurtenances thereto, or, at the sole discretion of Licensor, fill and cap or otherwise appropriately decommission the Pipeline with a method satisfactory to Licensor;
- 24.1.2 report and restore any damage to the Premises or Licensor's other property arising from, growing out of, or connected with Licensee's use of the Premises;
- 24.1.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
- 24.1.4 leave the Premises in substantially the condition which existed as of the Effective Date.
- 24.2 Upon any expiration or termination of this License, if Licensee fails to surrender the Premises to Licensor or if Licensee fails to complete its obligations under **Section 24.1** above (the "**Restoration Obligations**"), Licensee shall have a limited license to enter upon the Premises solely to the extent necessary for Licensee to complete the Restoration Obligations, and all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered and the Restoration Obligations are completed. Neither termination nor expiration shall release Licensee from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Licensee surrenders the Premises and all of the Restoration Obligations are completed.
- 24.3 If Licensee fails to complete the Restoration Obligations within thirty (30) days after the date of such termination of its tenancy, then Licensor may, at its election, either: (i) remove the Pipeline and the other Improvements or otherwise restore the Premises, and in such event Licensee shall, within thirty (30) days after receipt of bill therefor, reimburse Licensor for cost incurred, (ii) upon written notice to Licensee, take and hold the Pipeline and the other Improvements and personal property as its sole property, without payment or obligation to Licensee therefor, or (iii) specifically enforce Licensee's obligation to restore and/or pursue any remedy at law or in equity against Licensee for failure to so restore. Further, if Licensor has consented to the Pipeline and the other Improvements remaining on the Premises following termination, Licensee shall, upon request by Licensor, provide a bill of sale in a form acceptable to Licensor conveying the Pipeline and the other Improvements to Licensor.

MISCELLANEOUS

25. **Successors and Assigns.** All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licensor and Licensee to the same extent as if each such successor and assign was named a party to this License.
26. **Assignment.**
- 26.1 Licensee may not sell, assign, transfer, or hypothecate this License or any right, obligation, or interest herein (either voluntarily or by operation of law, merger, or otherwise) without the prior written consent of Licensor, which consent may not be unreasonably withheld or delayed by Licensor. Any attempted assignment by Licensee in violation of this **Section 26** shall be a breach of this License and, in addition, shall be voidable by Licensor in its sole and absolute discretion.
- 26.2 For purposes of this **Section 26**, the word "assign" shall include without limitation (a) any sale of the equity interests of Licensee following which the equity interest holders of Licensee immediately prior to such sale own, directly or indirectly, less than 50% of the combined voting power of the outstanding voting equity interests of Licensee, (b) any sale of all or substantially all of the assets of (i) Licensee and (ii) to the extent such entities exist, Licensee's parent and subsidiaries, taken as a whole, or (c) any reorganization, recapitalization, merger or consolidation involving Licensee. Notwithstanding the foregoing, any reorganization, recapitalization, merger or consolidation following which the equity interest holders of Licensee immediately prior to such reorganization, recapitalization, merger or consolidation own, directly or indirectly, at least 50% of the combined voting power of the outstanding voting equity interests of Licensee or any successor thereto or the entity resulting from such reorganization, recapitalization, merger or consolidation shall not be deemed an assignment. THIS LICENSE SHALL NOT RUN WITH THE LAND WITHOUT THE EXPRESS WRITTEN CONSENT OF LICENSOR, SUCH CONSENT TO BE IN LICENSOR'S SOLE DISCRETION.
- 26.3 Notwithstanding the provisions of **Section 26.1** above or anything contained in this License to the contrary, if Licensee sells, assigns, transfers, or hypothecates this License or any interest herein in contravention of the provisions of this License (a "**Purported Assignment**") to another party (a "**Purported Transferee**"), the Purported Transferee's enjoyment of the rights and privileges granted under this License shall be deemed to be the Purported Transferee's agreement to be bound by all of the terms and provisions of this License, including but not limited to the obligation to comply with the provisions of **Section 15** above concerning insurance requirements. In addition to and not in limitation of the foregoing, Licensee, for itself, its successors and assigns, shall indemnify, defend and hold harmless Licensor for all Liabilities of any nature, kind or description of any person or entity directly or indirectly arising out of, resulting from or related to (in whole or in part) a Purported Assignment.
- 26.4 The provisions of this **Section 26** shall survive the expiration or earlier termination of this License.
27. **Notices.** Any notice, invoice, or other writing required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Jones Lang LaSalle Brokerage, Inc.
4200 Buckingham Rd, Ste 110
Fort Worth, TX 76155
Attn: Permits/Licenses

with a copy to: BNSF Railway Company
2301 Lou Menk Drive, GOB-3W
Fort Worth TX 76131
Attn: Senior Manager Real Estate

If to Licensee: City of Fargo
200 3rd St N
Fargo, ND 58102

28. Survival. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Pipeline and the other Improvements are removed and the Premises are restored to its condition as of the Effective Date.
29. Recordation. It is understood and agreed that this License shall not be placed or allowed to be placed on public record.
30. Applicable Law. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.
31. Severability. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.
32. Integration. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.
33. Joint and Several Liability. If Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
34. Waiver. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.
35. Interpretation.
- 35.1 This License shall be interpreted in a neutral manner, and not more strongly for or against any party based upon the source of the draftsmanship; both parties hereby agree that this License shall not be subject to the principle that a contract would be construed against the party which drafted the same. Article titles, headings to sections and paragraphs and the table of contents (if any) are inserted for convenience of reference only and are not intended to be a part or to affect the meaning or interpretation hereof. The exhibit or exhibits referred to herein shall be construed with and as an integral part of this License to the same extent as if they were set forth verbatim herein.

- 35.2 As used herein, "include", "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; "writing", "written" and comparable terms refer to printing, typing, lithography and other means of reproducing words in a visible form; references to any person are also to that person's successors and permitted assigns; "hereof", "herein", "hereunder" and comparable terms refer to the entirety hereof and not to any particular article, section, or other subdivision hereof or attachment hereto; references to any gender include references to the masculine or feminine as the context requires; references to the plural include the singular and vice versa; and references to this License or other documents are as amended, modified or supplemented from time to time.
36. Counterparts. This License may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this License may also be exchanged via email or electronic facsimile machines and any email or electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.
37. Licensor's Representative. Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

END OF PAGE – SIGNATURE PAGE FOLLOWS

This License has been duly executed by the parties hereto as of the date below each party's signature; to be effective, however, as of the Effective Date.

BNSF RAILWAY COMPANY a Delaware corporation

By: Jones Lang LaSalle Brokerage, Inc.,
4200 Buckingham Rd, Ste 110
Fort Worth, TX 76155

By: _____

Title: _____

Date: _____

LICENSEE:

CITY OF FARGO a North Dakota municipality

By: 200 3rd St N
Fargo, ND 58102

By: _____

Title: _____

Date: _____

COORDINATE SYSTEM: ND_S

TRACKING NO. 18-8180Z

EXHIBIT "A"
 ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND
CITY OF FARGO

CITY OF FARGO

SCALE: 1 IN = 50 FT
 TWIN CITIES DIV.
 PROSPER SUBDIV.
 L.S. 0034 MP: 0.98
 DATE: 2/28/2019

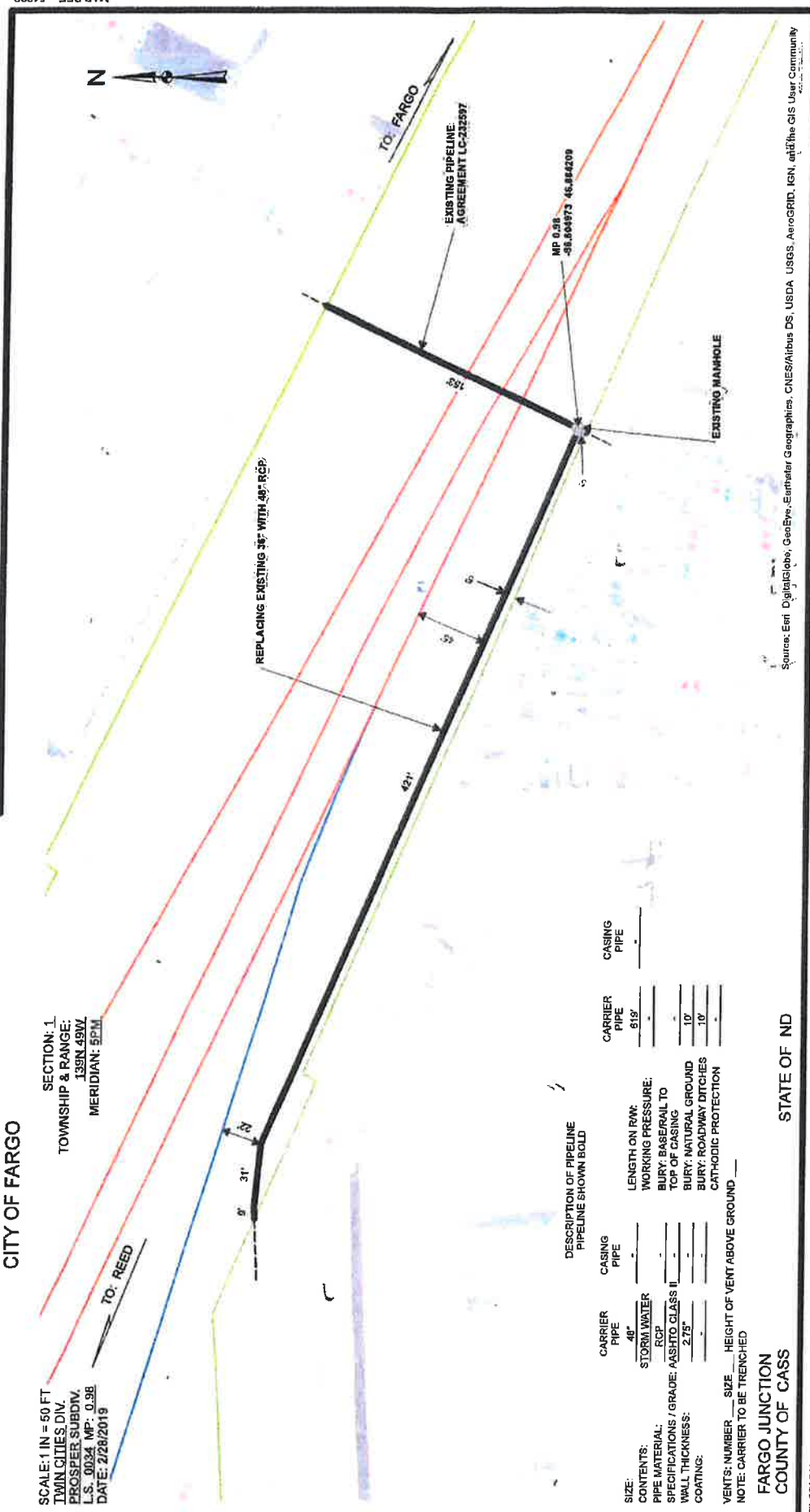
SECTION: 1
 TOWNSHIP & RANGE:
135N 49W
 MERIDIAN: SPM

MAP REF. 531803

TO: REED

TO: FARGO

TRIM LINE



REPLACING EXISTING 36" WITH 48" RCP

DESCRIPTION OF PIPELINE
 PIPELINE SHOWN BOLD

SIZE:	CARRIER PIPE	CASING PIPE	LENGTH ON R/W:	WORKING PRESSURE:	CARRIER PIPE	CASING PIPE
48"	STORM WATER				61"	
	SCP		BURY: BASE/RAIL TO			
			TOP OF CASING			
			BURY: NATURAL GROUND		10'	
			BURY: ROADWAY DITCHES		10'	
			CATHODIC PROTECTION			

VENTS: NUMBER SIZE HEIGHT OF VENT ABOVE GROUND
 NOTE: CARRIER TO BE TRENCHED

FARGO JUNCTION
 COUNTY OF CASS

STATE OF ND

REVISION 2

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

DRAWN BY: JNC DRAWING NO. 74476

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

10

Type: Maintenance Agreement

Location: 32nd Street North

Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed the accompanying correspondence from Transportation Division Engineer, Jeremy Gorden, regarding a proposed Maintenance Agreement between Border States Paving and the City. This Maintenance Agreement allows the Contractor to use the adjacent right of way, located at 32nd Street North, as a truck route provided the Contractor accepts all maintenance responsibilities for the road.

Staff is recommending approval of the Maintenance Agreement.

On a motion by Nicole Crutchfield, seconded by Tom Knakmuhs, the Committee voted to recommend approval of Maintenance Agreement.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Maintenance Agreement with Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: _____

Developer meets City policy for payment of delinquent specials Agreement for payment of specials required of developer Letter of Credit required (per policy approved 5-28-13)

Yes	No
_____	_____
_____	_____
_____	_____

COMMITTEE

Tim Mahoney, Mayor
 Nicole Crutchfield, Director of Planning
 Steve Dirksen, Fire Chief
 Bruce Grubb, City Administrator
 Ben Dow, Director of Operations
 Steve Sprague, City Auditor
 Brenda Derrig, City Engineer
 Kent Costin, Finance Director

Present	Yes	No	Unanimous
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Mike Redlinger

Tom Knakmuhs

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, PE
 Assistant City Engineer

Memorandum

To: Members of PWPEC
From: Jeremy M. Gorden, PE, PTOE
Division Engineer – Transportation
Date: March 13, 2019
Re: Draft Maintenance Agreement for 32nd Street North

Background:

Nancy and I met with Dan and Nancy Thompson from Border States Paving, as well as Lindsay Koffler with MJB Development, last week to further discuss the proposed maintenance agreement. We had a good conversation and we have exchanged some comments/suggestions for the agreement since the meeting. We are at a place now to discuss the agreement with the Committee. Please refer to the attached copy of the revised agreement.

Recommended Motion:

Approve draft Maintenance Agreement and forward on to City Commission for final approval.

JMG/jmg
Attachment

MAINTENANCE AGREEMENT
(Public Right of Way)

This Maintenance Agreement, hereinafter referred to as "Agreement", is made and entered into this _____ day of _____ 2019, by and between Nandan, LLP, a North Dakota Limited Liability Partnership, whose post office address is 97 18th Avenue North, Fargo, ND 58102, hereinafter referred to as "Contractor" and **THE CITY OF FARGO, NORTH DAKOTA**, a North Dakota municipal corporation, 225 4th Street North, Fargo, North Dakota 58102, hereinafter referred to as "City". Fargo Warehouse, LLC, a Foreign Limited Liability Company, whose post office address is 14025 23rd Avenue North, Suite A, Plymouth, MN 55447-4922 and MJB Development, LTD, a North Dakota Business Corporation whose post office address is 5617 19th Ave North, Fargo, ND 58102 are identified as consent parties to this Agreement, as more fully described below.

Preliminary Statements

Contractor is the owner of property adjacent to 32nd Street North between 40th Avenue North and 44th Avenue North (hereinafter the "right of way", "ROW" or road), more specifically defined as follows: Lots 1 & 2, of Block 1 of T.B.L. Subdivision, City of Fargo, County of Cass, State of North Dakota, hereinafter "Contractor's Property ."

Contractor wishes to use the adjacent ROW as a truck route, a use that is more strenuous than its present specification. City is agreeable to allowing such use, provided Contractor accepts all maintenance responsibilities for the road, including but not limited to resurfacing, mill and overlay, and other such repairs as may be necessary to ensure the road is in the present condition. The road is a gravel and partially paved road, completed by the Contractor, and must conform with the standards outlined in the Gravel Roads Construction and Maintenance Guide, published by US Department of Transportation (DOT) and Federal Highway Administration (FHWA), FHWA Publication No. FHWA-OTS- 15-0002.

Agreement

NOW, THEREFORE, in consideration of the above preliminary statements, the terms and conditions of this Agreement and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. This Agreement shall not constitute a partnership or a joint venture by and between Contractor and City. Neither party has a right or obligation to bind the other party to any course of action or commitment as it relates to this Agreement. Each of the parties is independent of the other and although they will coordinate their efforts, neither party is assuming any obligation of the other party.

2. The costs of any repairs within the ROW shall be paid by Contractor. Further, all maintenance of the ROW shall be Contractor's responsibility, as provided in this Agreement.

3. Contractor hereby agrees on behalf of itself, its heirs, personal representatives, successors, and assigns, to maintain the ROW area in good and safe condition in accordance with standards set forth in the Gravel Roads Construction and Maintenance Guide, published by US Department of Transportation (DOT) and Federal Highway Administration (FHWA), FHWA Publication No. FHWA-OTS- 15-0002. This Agreement shall be binding upon Contractor's successors and assigns.

4. Maintenance shall include, but not be limited to, cleaning of the street surfaces, clearing of obstructions, removing snow from the streets and driveway approaches along with the performance of any and all other necessary work required to maintain the ROW in a condition that allows for reasonable and safe access by the public.

5. Should Contractor fail or refuse to perform the aforesaid maintenance to a level of the identified gravel road City may cause the maintenance to be completed, and all associated costs thereof shall be assessed against Contractor's Property upon 30 days' notice to Contractor to cure the failure to comply.

6. Contractor agrees to waive the right to protest, if any, the assessment of any amounts incurred by City to restore the ROW to acceptable gravel road standards, such assessments to be added to the Contractor's Property as an assessment due.

7. Contractor agrees to provide a yearly compliance report by June 1 to the Director of Public Works or designee, evidencing that Contractor has inspected the ROW and the road surface meets the required gravel road standard, as stated herein.

8. In accordance with standard city policy, procedure, practice and ordinances, City will provide street signage and repair, at City cost, upon request and notification from Contractor, as determined necessary by City.

9. Notwithstanding the foregoing, if Contractor or its subcontractors, agents or invitees shall damage the ROW area, or the City finds the ROW to be in a state of disrepair, excluding ordinary wear and tear, then Contractor shall be solely responsible for repair and restoration of the ROW and Contractor and shall bear all the cost and expense of such repair.

10. This Agreement and any amendments hereto may be recorded, and shall constitute a covenant running with the land. The terms hereof shall not be amended or modified, except by written amendment signed by all parties.

11. Contractor shall hold City harmless for any claims or injuries to any and all persons or property arising out of the maintenance responsibilities of this Agreement, and Contractor's use of the ROW. Contractor, its successors and assigns, agrees to hold the City harmless against any and all expenses, demands, claims or losses of any kind that may be sustained by City, its officers, agents and employees, and its property by reason of the use and maintenance of the public ROW. Contractor also agrees to provide to City a certificate of insurance indicating acceptance by its insurer of its obligation to defend and hold City harmless as hereinabove stated, and naming the City as an additional insured.

12. In the event City needs to permanently retake the ROW for public use, including but not limited to necessary access to the property served by the ROW for future development or intended urbanization of said ROW associated with platting of the property or other redevelopment, or Contractor fails to comply with the maintenance terms of this Agreement, City will provide Contractor written notice 120 days' in advance and this Agreement shall be terminated.

13. Fargo Warehouse, LLC and MJB Development, LTD have access to and use the ROW subject to this maintenance Agreement. Contractor agrees and understands that its responsibility to maintain the ROW benefits all property owner's adjacent to the ROW, and is responsible for the continuous, uninterrupted access of these entities to their property. By signing as consent parties to this maintenance Agreement, Fargo Warehouse and MJB Development understand that Contractor is primarily responsible for condition of the ROW.

14. It is understood and agreed by and between the parties that this Agreement for maintenance is subject to any limitation on the authority of City to grant such permission, which may now or hereafter exist.

15. Contractor, successors and assigns, as well as consent parties hereto, shall be exempt from City of Fargo Overdimensional/Overweight permit requirements for their use of 32nd Street North during the term of this Agreement. All other permits are applicable.

16. Contractor and City may terminate this Agreement in accordance with the terms hereof, or without cause by providing notice a year in advance of termination.

IN WITNESS WHEREOF, The parties have executed this instrument and have caused their hands and seals to be affixed hereto the day and year written below.

Dated: _____, 2019.

NANDAN, LLP

By: _____
Dan Thompson, Managing Partner

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this ____ day of _____, 2019, before me, a notary public within and for said county and state, personally appeared Dan Thompson, to me known to be the Managing Partner of Nandan, LLP, the entity described in and who has executed the within and foregoing instrument, and acknowledged to me that entity executed the same.

Notary Public

Dated: _____, 2019.

**THE CITY OF FARGO,
NORTH DAKOTA, a municipal corporation**

By: _____
Dr. Timothy J. Mahoney, MD
Mayor

ATTEST: Steven Sprague, Auditor

Steven Sprague

STATE OF NORTH DAKOTA)
)ss.
COUNTY OF CASS)

On this _____ day of _____, 2019, before me, a notary public within and for said county and state, personally appeared Timothy J. Mahoney, MD, to me known to be the Mayor of the City of Fargo, a municipal corporation, and Steven Sprague, Auditor, the entity described in and who has executed the within and foregoing instrument, and acknowledged to me that entity executed the same.

Notary Public

Dated: _____, 2019.

Consent to Agreement

The undersigned hereby CONSENT to terms of the Agreement.

Fargo Warehouse, LLC, a Foreign Limited Liability Company

By:

Title:

MJB Development, LTD, a North Dakota Business Corporation

By:

Title:

Exhibit A

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.



32nd Street N

1.4,514

This map is not a substitute for accurate field surveys or for locating actual property lines and any adjacent features.

3/13/2019 2:47:06 PM



City of Fargo, ND



March 20, 2019

Board of City Commissioners
City of Fargo
200 North Third Street
Fargo, ND 58102

**Re: Jeffrey L. Johnson & Marsha E. Johnson – Purchase Agreement
Project #FM-19-B**

Dear Commissioners:

Enclosed and delivered to the City Commission office for review and approval please find an original Purchase Agreement signed by **Jeffrey L. Johnson & Marsha E. Johnson**. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of the property located at 747 Royal Oaks Drive North from **Jeffrey L. Johnson and Marsha E. Johnson, Trustees of the Jeffrey L. Johnson Living Trust & Marsha E. Johnson and Jeffrey L. Johnson, Trustees of the Marsha E. Johnson Living Trust** in association with Project #FM-19-B and that the Mayor and City Auditor be instructed to execute the Purchase Agreement on behalf of the City of Fargo.

Please return a copy of the signed original.

Respectfully submitted,

Shawn G. Bullinger
Land Acquisition Specialist

C: Jody Bertrand
Nancy J. Morris

PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into by and between, **Jeffrey L. Johnson and Marsha E. Johnson, Trustees of the Jeffrey L. Johnson Living Trust dated March 4, 1999, and any amendments thereto, and Marsha E. Johnson and Jeffery L. Johnson, Trustees of the Marsha E. Johnson Living Trust dated March 4, 1999, and any amendments thereto**, the identified owners of the property located at 747 Royal Oaks Drive North in Fargo, North Dakota hereinafter "Seller", whether one or more, and the **CITY OF FARGO**, a North Dakota municipal corporation, hereinafter "City" or "Buyer",

WITNESSETH:

WHEREAS, Seller is the owner of real estate situated in the County of Cass and State of North Dakota described as follows:

That part of Lot One (1), in Block One (2), of Broadway North Third Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota, lying Northeasterly of the following described line: Commencing at the Northeast corner of said Lot One (1); thence South 51°30'00" West (assumed bearing) along the Northwesterly line of said Lot One (1), for a distance of 85.64 feet to the true point of beginning; thence South 45°32'45" East for a distance of 20.67 feet to the exterior wall of the centerline of a party wall extended; thence continue South 45°32'45" East, along the centerline of said party wall, for a distance of 37.61 feet to the exterior wall of the extended centerline of said party wall; thence continue South 45°32'45" East a distance of 55.98 feet to a point of intersection with the Southeasterly line of said Lot One (1) and there terminating.

Property Address: 747 Royal Oaks Drive North, Fargo, ND.

WHEREAS, the City of Fargo is currently engaged in acquiring properties to mitigate future flood damages; and,

WHEREAS, Seller accepted Buyer's offer to purchase in accordance with the terms herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements of the parties, it is hereby agreed as follows:

1. **Subject Matter**. The subject matter of this agreement is the real estate described, other buildings located thereon, and all items affixed to the property.
2. **Purchase Price**. The purchase price for the Property is Four Hundred and Three Thousand Three Hundred and Twenty-Five dollars (\$403,325.00), which sum includes relocation and moving expenses.
3. **Payment of Purchase Price**. The mortgage, if any, as well as any liens or encumbrances, will be paid and Seller shall receive the balance of the purchase price, less any

escrow amounts, in cash on the date of closing.

4. Salvage. Seller shall be allowed to remove from the property personal property, appliances, washer and dryer, and other property not permanently affixed to the structure. Seller shall remove and install all items in a professional manner, and if necessary engage a professional licensed contractor. Seller agrees to remove all salvage and install all replacement items prior to giving City possession of the property.

5. Abstract. Seller shall furnish Buyer an abstract of title to the subject property and Buyer shall pay for the cost of continuation of said abstract to a recent date. Said abstract must show good and marketable title in Seller free and clear of all liens and encumbrances (other than those that will be handled at closing).

6. Taxes and Utilities. Taxes and installments of special assessments for the year of closing shall be prorated between the parties to the date of closing based upon current total true value as calculated by the County of Cass, ND, as of the date of closing. Prior year taxes and assessments must be paid by Seller in advance of closing.

7. Deeds. Seller shall sign warranty deeds prepared by Buyer. Buyer will take title as follows: City of Fargo, North Dakota, a municipal corporation.

8. Closing Date and Transfer of Possession. Closing shall take place at a time and date to be agreed by the parties, but not later than April 30, 2019. The City shall take possession of the real estate no later than the last day of the month of closing, unless other arrangements have been made. If City does not take possession on the date of closing, \$1,000 will be required of Seller at closing and retained until such time as the possession of the property is secured by the City in satisfactory condition. Seller agrees the \$1,000 deposit may be forfeited if the property is not delivered in satisfactory condition.

A separate Occupancy Agreement may be entered into between the parties should Seller desire to continue to reside in the dwelling longer than the end of the month of closing. If Seller elects to occupy the premises beyond the end of the month of closing, rent shall be paid to the City in the amount of \$1,000/month beginning on the 1st day of the month following closing. The deposit shall be retained until such time Seller vacates the premises and remits the garage door openers and keys to the City. In any event, occupancy shall terminate on or before May 31, 2019, unless an extension is agreed to in writing signed by both parties at least 30 days in advance of this Occupancy Deadline.

If Seller vacates the property prior to closing, the end of the month of closing, or prior to the expiration of the time period contained in an Occupancy Agreement, Seller shall immediately notify Buyer so that appropriate measures can be taken to secure the premises.

9. Warranty. Seller provides no express warranties on the subject property. Buyer understands and agrees that the property is a used home and is being purchased "AS IS". Buyer shall make any inspection it deems necessary concerning the condition of said used home.

10. Inspection and Photographs. Seller agrees to allow City to enter the Premises for purposes of inspection, including but not limited to asbestos testing and mitigation.

(Signatures on following page.)

DATED this 20 day of March, 2019.

SELLER:

Jeffrey L. Johnson
Jeffrey L. Johnson, Trustee

Marsha E. Johnson, Trustee
Marsha E. Johnson, Trustee

DATED this ___ day of _____, 2019.

BUYER:

City of Fargo, a North Dakota
municipal corporation

Timothy J. Mahoney, M.D. Mayor

ATTEST:

Steve Sprague, City Auditor

REPORT OF ACTION

12

CONTRACTOR SELECTION COMMITTEE

2019 Flood Emergency Traffic Control Contractor Assistance

Date of Hearing: March 21, 2019

<u>Routing</u>	<u>Date</u>
City Commission	3-25-2019
Consultant File	
Project File	X
Petitioners	X
Selection Committee	X

Proposal Received for:

2019 Flood Emergency Traffic Control Contractor Assistance - City Wide

Proposals were received from the following contractors:

1. Northstar Safety Inc.
2. 3D Specialties Inc.

The Selection Committee evaluated proposals based on the criteria outlined within the RFP:

<u>Criteria</u>	<u>Points</u>
1. Past Performance	25
2. Cost Proposal	25
3. Available Equipment and Manpower	25
4. Work Experience	25

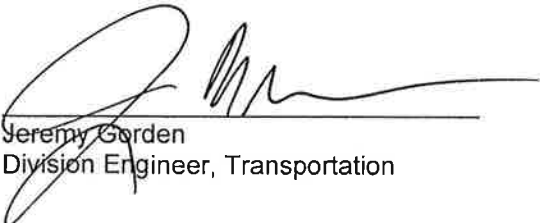
Following review of the proposals, the Selection Committee met to jointly rank the firms for selection of the preferred contractor. The top firm was identified as 3D Specialties Inc.

The work will be paid by unit rates for installation.

Recommended Motion:

Concur with contractor selection and recommend contract award to 3D Specialties Inc.

<u>Committee:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Jeremy Gorden, Division Engineer, Transportation	X	X		X
Al Schumacher, Signals and Lighting Operations Manager	X	X		



 Jeremy Gorden
 Division Engineer, Transportation



1110 25th Ave N • PO Box 1615 • Fargo, ND 58107-1615
 800-726-4064 • Office 701-293-8599 • Fax 701-293-7811
 sales@3dspecialties.com • www.3dspecialties.com

March 20, 2019

Attn: City of Fargo Auditor
 City of Fargo, North Dakota

RE: 2019 Emergency Traffic Control Contractor Assistance Citywide.
 Following please find our per unit day (P.U.D.) rental rates for our traffic control materials.

<u>Quantity</u>	<u>Description</u>	<u>P.U.D.</u>
1	Type III Barricade, 8 foot or 6 foot	\$1.85
1	Delineator Drum w/base	\$.70
1	28" Tube markers, 2 ea. 4" Hi bands	\$.30
1	Type C Arrow Panel w/Trailer	\$25.00
1	Portable Changeable Message Board	\$70.00
1	48"x30" Road Closed (sign only) on Type III	\$2.85
1	60"x30" Road Closed to Thru Traffic (sign only) on Type III	\$2.85
1	48"x24" Detour (sign only) M4-10 R/L on Type III	\$1.60
1	Stop Sign, 30" w/skid	\$.60
1	Do Not Enter 30"x30" Sign w/skid	\$.60
1	One Way sign 36"x12" w/skid	\$.60
1	Standard No Parking (sign only)	\$.60
1	Standard No Parking sign w/skid/post	\$1.10
1	Detour Sign 30"x24", M4-9, w/skid	\$1.10
1	24"x24" Standard Sign w/skid	\$1.10
1	24"x30" Standard Sign w/skid	\$1.10
1	30"x30" Standard Sign w/skid	\$1.10
1	36"x12" Standard Sign w/skid	\$1.10
1	36"x36" Standard Sign w/2 skids	\$1.10
1	48"x18" Standard Sign w/2 skids	\$1.10
1	48"x24" Standard Sign w/2 skids	\$1.10
1	48"x30" Standard Sign w/2 skids	\$1.50
1	48"x48" Standard Sign w/2 skids	\$1.50
1	48"x60" Standard Sign w/2 skids	\$1.50
1	60"x30" Standard Sign w/2 skids	\$1.50

*Labor

\$72.00 per Project Manager Hour.

\$63.00 per Foreman hour includes truck and trailer.

\$47.00 per Second person hour.

1 of 2





1110 25th Ave N • PO Box 1615 • Fargo, ND 58107-1615
800-726-4064 • Office 701-293-8599 • Fax 701-293-7811
sales@3dspecialties.com • www.3dspecialties.com

If City of Fargo requests Concrete Jersey barriers - 1 LF of concrete barrier \$2.70 per LF Per Day
10LF @ \$27.00 per day. No pinning of Concrete Jersey barriers is included.

- Contractor response time of 2 hour or less when given notice by the City of Fargo during hours of 6a.m and 10p.m.
- Daily maintenance will be provided at the labor rates above if required.
- Please call for quotes on non-standard signs that would need to be manufactured.

- 3D Specialties 24 hour contact numbers will be provided after award of proposal.

Project Managers:

Ron Kind (24 hour contact)
Mark Mitchell
Ken Russell

Foreman/Labor Roster:

Trevor Hocking
Kevin Eggen (afterhours)
Chris Jendro
Thom Stumbo
Seth Mark (afterhours)
Kelly Holmlund
Ryan Cory
Keith Neuberger (afterhours)
Dakota Qualley
Josh Bucklin

Dakota Fence and 3D Specialties has 109 Fargo employees available to assist with any traffic control emergency's required by the City of Fargo

Sincerely,

Ronald Kind
3D Specialties, Inc.
7011-293-8599

2 of 2



13

March 20, 2019

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. PR-19-A1

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, March 20, 2019, for Street Rehabilitation & Incidentals, Project No. PR-19-A1, located at various locations Citywide.

The bids were as follows:

Asphalt Surface Technologies Corp.	\$70,885.00
Roadway Services, Inc.	\$71,140.00
Engineer's Estimate	\$75,000.00

The special assessment escrow is not required.

This office recommends award of the contract to Asphalt Surface Technologies Corp. in the amount of \$70,885.00 as the lowest and best bid.

Sincerely,



Tom Knakmuhs
Assistant City Engineer

TAK/klb

ENGINEER'S STATEMENT OF ESTIMATED COST

PROJECT # PR-19-A1

Street Rehabilitation & Incidentals

Crack fill on roads in various areas of Fargo

WHEREAS, bids have been opened and filed for the above described Project for City of Fargo, North Dakota; and WHEREAS, an estimate of the cost of work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Tom Knakmuhs, do hereby certify as follows:

That I am the Assistant City Engineer for the City of Fargo, North Dakota;

That the following is detailed statement of the estimated cost of the job described as:

Street Rehabilitation & Incidentals Project # PR-19-A1 of the City of Fargo, North Dakota.

Line Description	Unit	Quantity	Unit Price (\$)	Amount (\$)	
Paving					
1 Mobilization	LS	1.00	2,000.00	2,000.00	
2 Repair Crack - Fill	LB	24,000.00	1.78	42,720.00	
3 Repair Crack - Rout and Fill	LF	5,000.00	0.61	3,050.00	
4 Repair Crack - Level	LF	5,500.00	3.93	21,615.00	
5 Traffic Control - Minor	LS	1.00	1,500.00	1,500.00	
			Paving Total	70,885.00	
			Total Construction in \$	70,885.00	
			Engineering	6.00 %	4,253.10
			Legal & Misc	3.00 %	2,126.55
			Contingencies	10.00 %	7,088.50
			Interest	4.00 %	2,835.40
			Total Estimated Costs	87,188.55	
			Street Rehabilitation Funds - 401	87,188.55	
			Unfunded Costs	0.00	

IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 03/20/2019



Tom Knakmuhs

Assistant City Engineer



COVER SHEET
CITY OF FARGO PROJECTS

(141)

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Project as it will appear in the Contract:

Street Lighting Rehabilitation & Incidentals

Project No. SL-19-A

Call For Bids	<u>March 25</u>	, <u>2019</u>
Advertise Dates	<u>April 1, 8 & 15</u>	, <u>2019</u>
Bid Opening Date	<u>May 1</u>	, <u>2019</u>
Substantial Completion Date	<u>October 31</u>	, <u>2019</u>
Final Completion Date	<u>November 30</u>	, <u>2019</u>

N/A PWPEC Report (Attach Copy) **Part of 2019 CIP Revision**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

N/A Notice to Property Owners (Dan Eberhardt)

Project Engineer Jim Mohr

Phone No. 241-1545

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

N/A Create District (Attach Copy of Legal Description)

N/A Order Plans & Specifications

N/A Approve Plans & Specifications

N/A Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

N/A Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT
STREET LIGHTING REHABILITATION & INCIDENTALS
PROJECT NO. SL-19-A

Nature and Scope

This project calls for the repair of miscellaneous street lighting items at various locations within the City of Fargo.

Purpose

The project's goal is to repair the street lighting system so that it is fully functional to the residents and traveling public.

Feasibility

The estimated cost of construction is approximately \$155,958.00. The cost breakdown is as follows:


<u>Estimated Construction Cost:</u>	<u>\$ 155,958.00</u>
Plus Engineering Fees 6%	\$ 9,357.48
Plus Interest Fees 4%	\$ 6,238.32
Plus Legal and Misc. Fees 3%	\$ 4,678.74
Total Estimated Cost:	<u>\$ 176,232.54</u>

Project Funding Summary:

Infrastructure Sales Tax	\$ 155,000.00
Street Lighting Traffic Control Device Utility Funds	\$ 21,232.54

We believe this project to be cost effective.




Jeremy Gorden, P.E.
Division Engineer - Transportation

COVER SHEET
CITY OF FARGO PROJECTS



This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of the Project as it will appear in the Contract:

Storm Sewer, Storm Sewer Repairs, PC Concrete Paving & Incidentals

Project No. UR-19-A

Call For Bids March 25, 2019

Advertise Dates April 1, 8 & 15, 2019

Bid Opening Date May 1, 2019

Substantial Completion Date September 15, 2019

Final Completion Date October 1, 2019

N/A PWPEC Report (Attach Copy) – **Part of 2019 CIP**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

N/A Notice to Property Owners (Dan Eberhardt)

Project Engineer Roger E. Kluck, P.E. C.F.M.

Phone No. (701) 241-1537

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

N/A Create District (Attach Copy of Legal Description)

N/A Order Plans & Specifications

N/A Approve Plans & Specifications

N/A Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

N/A Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT

STORM SEWER, STORM SEWER REPAIRS, PC CONCRETE PAVING & INCIDENTALS

PROJECT NO. UR-19-A1

Nature & Scope

This project is broken up into three areas of construction. Area 1 completes the increased sizing of storm sewer pipe on Great Northern Drive/8th Avenue North from 18th Street to Drain 3. Area 2 repairs storm sewer outfalls to the river across Elm Street near El Zagal golf course. Area 3 installs a storm sewer line across 12th Avenue North at 26th St N in the southeast quadrant of the intersection to correct right of way ponding.

Purpose

This is the first project under the new storm sewer utility fee to utilize these new funds to make necessary storm water improvements and repairs to correct problems that have been occurring.

The Area 1 project completes the replacement of existing storm sewer pipe with a larger pipe to address flooding during larger rain events in the intersection of 21st St North and 8th Avenue North. The Great Northern Drive/8th Avenue North storm sewer was modeled to determine the cause for localized flooding in larger rain events and it was determined that increasing the pipe size from 36 inch to 48 inch from 21st Street to Drain 3 would alleviate the problem. This past year the first section from 21st Street to 18th Street on Great Northern Drive was completed as part of utility relocations for a new XCEL transmission line.

The Area 2 project addresses issues with existing storm sewer outfalls on Elm Street near El Zagal golf course. Three storm sewer lines are showing settlement due to joint separations. One line thru Elm Street is being completely replaced to the river and two other lines are receiving spot repairs where concrete pipe joints have been found to be separated.

The area 3 project installs a storm sewer inlet and drainpipe to address ponding in the right of way of the intersection of 12th avenue north at 26th street north. 12th avenue north in this area is a rural section and the combination of development and ditch siltation has hindered flow patterns. The addition of an inlet and drainage pipe to the north side of the avenue will provide a better flow path to existing underground storm sewers.

Feasibility

The estimated construction cost is approximately \$889,870.00. This project will be funded solely using Storm Sewer Utility Funds. The project's cost breakout is as follows:

<u>Storm Sewer Utility Project Cost:</u>	\$ 889,870.00
Plus 6% Engineering Fees:	\$ 53,392.20
Plus 3% Legal & Misc Fees:	\$ 26,696.10
Plus 4% Interest Fees:	\$ 35,594.80
Total Estimated Bison Meadows Assessed Cost:	\$ 1,005,553.10

Project Funding Summary:

Storm Sewer Utility (100%)	\$ 1,005,553.10
----------------------------	-----------------

We believe this project to be cost effective.



[Handwritten Signature]
 Tom Knakmuhs, P.E.
 Assistant City Engineer

15

March 21, 2019

Honorable Board of City Commissioners
City of Fargo
Fargo, ND

RE: Flood Fight Products and Services

Dear Commissioners:

In preparation for the 2019 flood fight, Engineering sent out Requests for Proposals for the following four categories:

1. Flood Survey Assistance for monitoring water elevations on the Red River and County Drains
2. Washed Sand for sand bags, Pit Run Sand, Class 5 Aggregate Base, Crushed Concrete, and Crushed Rock
3. Rapid Deploy Flood Fighting Products
4. Rapid Deploy Product Installation

The tabulations for 1, 2, and 3 are attached. The tabulation for item 4 will be hand delivered Monday night.

Recommended Motion:

We are requesting approval of the Task Order using MSA for Houston Engineering on Item 1. Item 2 is for supplies, it is for informational purposes, and will be used as needed during the flood fight event. Items 3 & 4, we recommend approval of the Report of Action for each.

Sincerely,

Roger E. Kluck, PE, CFM
Civil Engineer II

REK/jmg
Attachments

This is Task Order No. 1,
consisting of 3 pages.

Task Order

In accordance with paragraph 1.1 of the Task Order Agreement Between Owner and Engineer For Master Professional Services, dated February 15, 2019 ("Agreement"), Owner and Engineer agree as follows:

1. **Specific Project Data**

A. Title: Project FE-19-C1 Flood Survey Assistance

B. Description: This Task Order is for providing surveying services in anticipation of flooding in 2019 to monitor selected locations for water levels to track the flood progression.

2. **Services of Engineer**

Services to be completed by the Engineer are as specified in the proposal submitted by Houston Engineering, Inc. dated March 20, 2019 . Proposal is attachment A of this task order.

3. **Owner's Responsibilities**

Owner shall have those responsibilities set forth in Master Professional Services Agreement dated February 15, 2019.

4. **Times for Rendering Services**

	<u>Completion Date</u>
<u>Provide flood water elevation surveys</u>	TBD

5. **Payments to Engineer**

A. Owner shall pay Engineer for services rendered as follows:

<i>Category of Services</i>	<i>Compensation Method</i>	<i>Lump Sum, or Estimate of Compensation for Services</i>
<i>Basic Services:</i>		
<i>Land Survey Manager</i>	<i>Hourly</i>	<i>\$165.00</i>
<i>2-person Survey Crew</i>	<i>Hourly</i>	<i>\$178.00</i>

B. The terms of payment are set forth in Article 3 of the Master Services Agreement.

6. **Consultants: N/A**

7. **Other Modifications to Agreement:**

[Supplement or modify Agreement and Exhibits, if appropriate.]

8. **Attachments:**

Attachment A – Proposal submitted by Houston Engineering, Inc. on March 20, 2019

Attachment B – Project Scoping Request created by City of Fargo, dated March 15, 2019

9. **Documents Incorporated By Reference: N/A**

Approval Requirements

\$15,000 or less – City Engineer

\$15,001 - \$150,000 – PWPEC

Over \$150,000 – PWPEC & Commission

Terms and Conditions: Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is March 26, 2019, _____.

OWNER:

ENGINEER:

By: _____

By: _____

Name: Timothy J. Mahoney

Name: Jerry Bents

Title: Mayor

Title: Vice President

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Brenda Derrig

Name: Jim Schlieman

Title: City Engineer

Title: Lead Surveyor/Manager

Address: 225 4th St North , Fargo ND 58102

Address: 1401 21st Avenue North Fargo, ND 58102

E-Mail Address: bderrig@cityoffargo.com

E-Mail Address: jschlieman@houstoneng.com

Phone: 701-241-1549

Phone: 701-499-2095

Fax: 701-241-8101

Fax: 701-237-5101

Revised Submittal requesting 2 person crew
RFP for Surveying Services

	Survey Firm	Quote for Land Survey Manager	Quote for 2- personSurvey Crew
1	Apex Engineering		\$ 230.00
2	Bolton & Menk	\$150.00	\$205.00
3	Houston Engineering	\$165.00	\$178.00
4	KLJ	\$150.00	\$250.00
5	*Mead & Hunt	\$156.00	\$230.00

* Administrative/Accounting Charge \$79.00

Low Quote



Project Scoping Request

To: Prospective Consultants

REK, PE, CFM

From: Roger E. Kluck, PE, CFM

CC: Nathan Boerboom, Brent Wacha

Date: March 15, 2019

Re: City of Fargo Project No. FE-19-C1 – 2019 Flood Survey Assistance

Per the City of Fargo Master Services Agreement, the City is requesting quotes from contract holders to assist the City with **Surveying Services for Collecting Data at River and Legal Drain Water Monitoring Locations**. This request is for providing on-going surveying assistance. The proposal submitted shall be as defined and provide complete costs for water elevation data collection surveying services at pre-determined locations throughout the City. It is unknown at this time what flood the City may experience this spring. Therefore, the issuance of a contract does not guarantee that any services will be required. The City reserves the right to not procure any services from the selected engineer and no payment will be made if this is the case.

All responses to this scoping request must be submitted by **11:30 PM, March 20, 2019**, at which time the submittals will be opened and reviewed. Any quote received is valid from the date submitted until the end of the flood event or as directed by the City. Late submittals cannot be accepted and will be not be considered. All responses may be emailed or may be placed in an envelope securely sealed therein and labeled: "**City of Fargo Project #FE-19-C1 – RFP for Survey Assistance**". Any hard copy responses shall be brought to the Auditor's Office. The City reserves the right to reject any or all submittals or accept what is, in its judgment, the submittal which is in the City's best interest. The City further reserves the right, in the best interests of the City, to waive any technical defects or irregularities in any and all submittals. Discussion may be conducted with responsible Offerors who submit responses determined to be reasonably susceptible of being selected for award for purpose of classification to assure full understanding of, and responsiveness to the solicitation requirements. Scoping response shall identify proposed staff assigned to the Project.

The Consultant, as directed by the City's Survey Coordinator, shall collect high water mark data at defined locations City wide as shown on the attached map.

The Consultant chosen will collect high water marks twice daily at defined locations, as shown on the attached map. Observations shall begin once the river reaches flood stage of 30-feet at the Fargo gauge or as directed by the Survey Coordinator and continue until the Fargo Gauge goes below a flood stage of 30-feet or as directed by the Survey Coordinator.

The detailed deliverables shall include the following:

1. Description shall be of a format that includes point identifier, date and time of observation.
2. Survey team will make daily or more often as needed reports to the City Survey Supervisor on progress.

3. Document activity, tracking time and staff assignments.
4. Accuracy of +/- 0.15 feet horizontal and vertical is required.
5. A spreadsheet detailing the daily readings at each location to be provided at the conclusion of each day observations. The surveyor will record the time of each observation.
6. At conclusion of the event the consultant shall supply a separate .csv file of the raw survey data for each day's observations. The .csv file shall be in PNEZD format using City of Fargo projection.
7. Written report detailing daily activity include a .csv file in PNEZD or other Autodesk Civil 3D Compatible version (current City of Fargo Version is 2017) and be in City of Fargo Horizontal projection and using NAVD 88 vertical datum.
8. Document activity, tracking time and staff assignments.
9. The Consultant shall have the City Survey Supervisor or his designate sign their time sheet daily. The time sheets to be signed shall be in triplicate, with one Copy to the City, one copy attached to monthly billing, and one copy submitted with final records submittal.

The scoping request response shall include the following items and shall be emailed or hand delivered to the City:

1. Available equipment and manpower. Provide a listing of available survey crews to provide the survey assistance requested for the 2019 flood fight.
2. Cost Proposal: The Consultant shall provide an hourly supervisor rate and hourly crew (fully equipped including vehicle) rate based on providing the services outlined. Bid proposal sheet is included with this request.

Questions and Answers:

All questions related to this survey request shall be submitted by email to Roger E. Kluck, PE, CFM (rkluck@fargoND.gov) and Brent Wacha, RLS (bwacha@fargoND.gov). The question period shall expire March 18, 2019. Answers to questions will not be given after the date specified.

Project Timetable:

The City reserves the right to modify the timeline if necessary.

Scoping Request Sent Out	3/14/2019
Questions Due	3/18/2019 11:00 AM
Answers Due	3/18/2019 5:00 PM
Quotes Due	3/20/2019 11:30 AM
City Commission Approves Consultant	TBD
Assignment of Task & Notice to Proceed	TBD

High Water Mark Collection
Project #FE-19-C1 Survey Assistance
2019 Flood

Cost Proposal

Lead Surveyor/Manager 1 Ea @	_____
Survey Team as determined by Consultant (Hourly Crew Rate fully equipped including vehicle)	_____
Total	_____

Please attach the following:

- Provide brief description of approach to services requested
- List of proposed staff with their qualifications and pertinent experience
- Basic hourly fee structure for services outside of those requested

Consultant

Firm Name	_____
Name, Title (typed)	_____
Signature	_____
Date	_____

Roger Kluck

From: Jim Schlieman <jschlieman@houstoneng.com>
Sent: Wednesday, March 20, 2019 9:54 AM
To: Brent Wach; Roger Kluck
Subject: City of Fargo Project No. FE-19-C1 RFP for Survey Assistance
Attachments: HEI_City of Fargo Project #FE-19-C1 – RFP for Survey Assistance_3-20-19.pdf

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Roger/Brent:


Please find attached our quote for the Flood Survey Assistance RFP.

Do not hesitate to contact me with questions.

Thank you for the opportunity!

Jim

Jim Schlieman
Sr Project Mgr - Land Surveying | Principal
Houston Engineering, Inc.
O 701.237.5065 | D 701.499.2095 | F 701.237.5101

 1401 21st Avenue N • Fargo, ND 58102

www.houstoneng.com



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Fargo Office

701.287.8089 701.287.8101
1240 25th Street South Fargo ND 58102

VIA Email: rkluck@fargoND.gov, bwacha@fargoND.gov

March 20, 2019

Roger E. Kluck, PE, CFM
City of Fargo
225 4th Street North
Fargo, ND 58102

Brent Wacha, RLS
City of Fargo
1240 25th Street South
Fargo, ND 58102

Subject: City of Fargo Project #FE-19-C1 – RFP for Survey Assistance

Dear Roger and Brent:

Houston Engineering, Inc. (HEI) has been a Fargo-based surveying and civil engineering firm for more than 50 years, and we have had several opportunities to help the City protect against flooding events. With more than 100 staff that live and work in the community, our team is ready to do whatever it takes for as long as needed to help protect our homes and infrastructure.

HEI is an excellent fit for the City of Fargo's needs due to our:

- **Experience**—Our team has helped fight every major flood the City has faced for the last five decades. We have extensive experience in every stage of the flood fight, from preparation to recovery. More information about our team's flood-fighting experience can be found starting on page 4.
- **Manpower**—All staff members identified in our proposal will be available 24 hours a day, 7 days a week as needed throughout this spring's flood response. We have the ability to provide up to 10 local survey crews with an additional 10 crews from other offices as needed. This means that we have the ability to react quickly once the 30-foot gauge is reached and be as flexible as needed as the river rises and falls. The City can rely on dependable survey services no matter how severe this year's flooding may be.
- **Competitive Rates**—Due to our commitment to helping the City meet this challenge, we have decided to donate any time and money spent on travel and GPS or other equipment costs. We live, work, and travel through Fargo every day, and we are ready to once again help the City through this challenge.

Together we will once again beat the flood threat. What follows is our approach to the services requested, with additional details on our proposed staff starting on page 3 and an hourly fee structure for additional services on page 7.

Scope of Work

For the Survey Assistance tasks, we anticipate providing two-man survey crews to acquire survey data for locations specified by the City twice daily. Our significant local manpower ensures that the data will be acquired in a timely and accurate fashion. Where possible, our crews will be instructed to place a lath or similar stake to ensure consistency in location of water level survey shots. Where stakes are not feasible, our crews will use the stakeout capabilities of their GPS equipment to ensure the survey shots are taken at the same location as previous observations. Our crews will be available to provide around-the-clock services to effectively monitor water levels.

Our survey crews will also utilize point description codes that conform to the requirements listed in the Project Scoping Request. We will work hand in hand with the City Survey Supervisor to ensure we provide what the City needs, when the City needs it. HEI will provide deliverables as detailed in the Project Scoping Report and will

Roger E. Kluck, Brent Wacha

March 20, 2019

Page 2

work closely with the City Survey Supervisor to meet any additional needs or challenges that may arise as quickly as possible.

Ability to Take On Additional Tasks

As a full-service engineering and surveying firm based in Fargo, we have the resources and expertise to take on additional tasks as needed in an effort to once again serve the City in this year's flood fight. No matter what services the City may need, we at HEI will serve in any way we can.

We are eager to get started on this project. With more than 200 employees and five of our offices in North Dakota, we have the team resources, experience, and expertise to positively impact another successful flood fight. Please contact Jim Schlieman with any questions at 701.499.2095 or jschlieman@houstoneng.com.

Sincerely,

HOUSTON ENGINEERING, INC.



James A. Schlieman, PLS, CFedS

Lead Surveyor/Manager; Primary Point of Contact

Direct: 701.499.2095

jschlieman@houstoneng.com

ORGANIZATIONAL CHART



**Curt Skarphol, PE,
PLS, CFedS, CFM**
Lead Surveyor/Manager



**Jim Schlieman,
PLS, CFedS**
*Lead Surveyor/Manager;
Primary Point of Contact*



**Chuck Rebsch,
PLS**
Lead Surveyor/Manager



Jay Kulla, CST
Survey Crew Chief



**Jeremy Wurgler,
PLS, CST**
Survey Crew Chief



**Ryan Haring,
LSI, CST**
Survey Crew Chief



Dan Sunram, CST
Survey Crew Chief



AVAILABLE MANPOWER

Our lead surveyors and crew chiefs have helped the City in its flood fighting efforts several times in the past. We also have numerous additional surveyors and experienced staff in our Fargo office along with even more crews in nearby offices who can step up to meet any needs that Fargo might have should the City need their help.

Lead Surveyors/Managers	Total Years of Experience	Years Assisting the City of Fargo Flood Fight Efforts
Jim Schlieman, PLS, CFedS	17	2011, 2010, 2009
Curt Skarphol, PE, PLS, CFedS, CFM	24	2011, 2010, 2009, 1997
Chuck Rebsch, PLS	35	2011, 2010, 2009, 1997
Proposed Survey Crew Chiefs		
Jay Kulla, CST	39	2011, 2010, 2009, 1997
Jeremy Wurgler, PLS, CST	27	2011, 2010, 2009, 1997
Ryan Haring, LSI, CST	15	2011, 2010, 2009
Dan Sunram, CST	13	2011, 2010, 2009
Additional Fargo-Based Surveyors and Staff Available to the City		
Mike Buerkley	29	2011, 2010, 2009, 1997
Chad Qualley	19	2011, 2010, 2009
Jerry Wallace, PE	15	2011
Dustin Buchholtz, CST	12	2011, 2010, 2009
Patrick Johanneck, LSIT	6	
Cody Zarak	4	
Brett Barber	3	
Chase DeVine	2	
Christopher Gulan	2	



PROPOSED STAFF



Jim Schleman, PLS, CFedS, Lead Surveyor/Manager and Primary Point of Contact, is responsible for project management in HEI's Surveying Department, working with all types of surveys throughout his 17 total years of experience at HEI. Jim is one of three Lead Surveyors/Managers who will help lead services for the City. As HEI's Corporate Survey Manager, Jim will be the City's Primary Point of Contact, allowing for a consistent voice as the City prepares for and potentially defends Fargo against the flooding Red River.



Curt Skemmel, PE, PLS, CFedS, CFM, Lead Surveyor/Manager helps coordinate field and office work in HEI's surveying department and has assisted the City of Fargo with flood fighting services since the flood of 1997. Curt's experience leading survey efforts out of HEI's Fargo office and his nearly 25-year-career has included numerous flood protection and emergency service projects for the City, and he is ready to take on another.



Chuck Roberts, PLS, Lead Surveyor/Manager, has more than 35 years of experience at HEI. As Survey Coordinator for HEI, his responsibilities include overseeing HEI's crew chiefs and coordinating with office personnel as necessary to develop the client's final product. Like numerous others at HEI, Chuck has assisted with Fargo's major flood fights since 1997 and is ready to take on another should 2019 take a turn for the worse.



Jay Kura, CST, Survey Crew Chief has helped with flood fighting efforts again and again since 1997. His 39 years of experience will lend to our team's ability to work quickly as directed throughout Fargo.



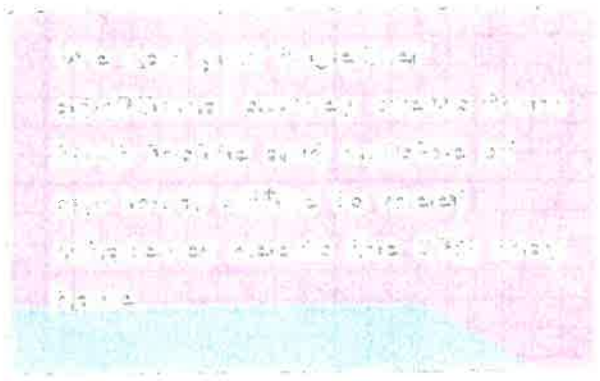
Jeremy Wurgler, PLS, CST, Survey Crew Chief, has more than 25 years of experience and has been a crew chief for nearly every type of survey project. Jeremy's familiarity with the area will be essential for quick responses throughout this flood event.



Ryan Haring, LSI, CST, Survey Crew Chief, has 15 years of experience and is practiced in operating the latest types of surveying equipment. Ryan's experience as a survey crew chief includes directing survey crews in flood elevation surveys throughout 2009, 2010, and 2011. He will be on the front lines as needed to get the job done.



Dan Sunney, CST, Survey Crew Chief, has served as Survey Crew Chief for numerous projects throughout the Red River Valley, including flood elevation surveys, flood protection and mitigation projects, and emergency road raises. Dan's 13 years of experience helps to round out our first line of veteran surveyors ready to serve the City of Fargo.



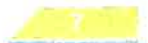
HOURLY FEE STRUCTURE

The following is a schedule of hourly rates and charges for engineering and surveying services offered by Houston Engineering, Inc. for 2019. The items listed in **green** are the applicable pay rates for the anticipated staff committed to this project. All items that are **struck through** are items or services that we will provide to the City without cost in order to better assist you during this flood fight.

Labor Category	2019 Rate per Hour
Engineer I	\$121.00
Engineer II	134.00
Engineer III	151.00
Project Engineer	168.00
Project Manager	184.00
Senior Project Manager	202.00
Legislative/Grant Specialist	\$171.00
Expert Witness	222.00
Scientist I	\$121.00
Scientist II	134.00
Scientist III	152.00
Project Manager - Environmental	178.00
Senior Project Manager - Environmental	202.00
Planner	\$133.00
Senior Planner	184.00
Land Surveyor I	\$121.00
Land Surveyor II	139.00
Land Surveyor III	153.00
Project Manager – Land Surveying	165.00
Senior Project Manager – Land Surveying	184.00
Construction Engineer	\$139.00
Senior Construction Engineer	165.00
Technician Intern	\$82.00
Technician I	95.00
Technician I	95.00
Senior Technician	121.00
GIS Analyst I	\$90.00
GIS Analyst II	105.00
GIS Analyst III	121.00
Sr GIS Analyst	139.00
Project Manager - GIS	152.00
Senior Project Manager - GIS	178.00
Right-of-Way Technician	\$110.00
Right-of-Way Specialist	184.00
Designer I	\$127.00
Designer II	136.00
Senior Designer	146.00
Engineering Specialist	155.00
Landscape Architect	\$129.00



Labor Category	2019 Rate per Hour
Software Engineer I	\$105.00
Software Engineer II	121.00
Software Engineer III	139.00
Senior Software Engineer	152.00
Hydrogeologist I	\$121.00
Hydrogeologist II	134.00
Hydrogeologist III	152.00
Senior Hydrogeologist	190.00
Surveyors: One-person crew (plus equipment)	\$147.00
Two-person crew (plus equipment)	178.00
Three-person crew (plus equipment)	222.00
Four-person crew (plus equipment)	248.00
CAD Technician I	\$82.00
CAD Technician II	95.00
CAD Supervisor	108.00
Drone Visual Observer	\$49.00
Drone Pilot	129.00
Computer Technician	\$146.00
Communications Specialist	\$82.00
Senior Communications Specialist	90.00
Administrative Assistant	\$77.00
Senior Administrative Assistant	82.00
<u>Chargeable Expenses for 2019</u>	
Subsistence	Actual Cost
Travel Vehicles-	
2-wheel drive	IRS Standard Mileage Rate
4-wheel drive	IRS Standard Mileage Rate + \$0.20 per mile
GPS Equipment	\$25.00 per hour per unit
Robotic Total Station	\$40.00 per hour
All-Terrain Vehicle/Snowmobile/Boat	\$15.00 per hour
ATV with Tracks	\$30.00 per hour
Hydrone RCV	\$50.00 per hour
Small UAS	\$25.00 per hour
Delivery, Postage, Printing	Actual Cost
Cost of surveying materials, special equipment, and other materials required for the job	Actual Cost
Sub-Consultants	Actual Cost + 10%



Project No. FE-19-C1 Scoping Request

High Water Mark Collection
Project #FE-19-C1 Survey Assistance
2019 Flood

Cost Proposal

Lead Surveyor/Manager 1 Ea @ \$165/hour

Survey Team as determined by Consultant (Hourly Crew
Rate fully equipped including vehicle) \$178/hour (two-person crew)

Total Variable – Dependent on Needs

Please attach the following:

- Provide brief description of approach to services requested
- List of proposed staff with their qualifications and pertinent experience
- Basic hourly fee structure for services outside of those requested

Consultant

Firm Name Houston Engineering, Inc.

Name, Title (typed) James A. Schlieman, PLS, CFedS

Signature 

Date 3/20/19



REPORT OF ACTION
VENDOR SELECTION COMMITTEE
Rapid Deploy Products

Date of Hearing: March 21, 2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/19</u>
Consultant File	<u> </u>
Project File	<u> X </u>
Petitioners	<u> </u>
Selection Committee	<u> X </u>

Proposals Received for:

<u>Project</u>	<u>Location</u>
FE-19-E1	201 Flood – Rapid Deploy Products

Proposals were received from the following Vendors:

- Flood Defense Group
- Trap Bag
- Jacobs Trading Co
- Aqua Fence

The Selection Committee evaluated proposals based on the criteria outlined within the RFP:

Criteria

1. Evaluation was based upon price, availability and delivery of material, and ease of installation

Following review of the proposals, the Selection Committee ranked the firms for selection of the preferred contractor.

The Committee then tabulated Committee member proposal rankings. Based upon the sensitivities of the flood schedule and delivery dates the City has awarded the products and placed the order. We are looking for Commission approval of this action. Based on the tabulated ranking, the Committee selected the following as the preferred contractor for the project:

<u>Project</u>	<u>Vendor</u>
FE-19-E1	Trap Bag

RECOMMENDED MOTION:

Concur with vendor selection and recommend contract award for rapid deploy products for the

Contractor Selection Committee
Rapid Deploy Products
March 21, 2019
Page 2

following project:

Project
FE-19-E1

Vendor
Trap Bag

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Brenda Derrig, City Engineer	<u>X</u>	<u>X</u>		
Nathan Boerboom Division Engineer	<u>X</u>	<u>X</u>		
Roger E. Kluck Engineer II	<u>X</u>	<u>X</u>		



Roger E. Kluck, PE, CFM
Engineer II

C:

ADDENDUM 1

Rapid Deployment Products Vendor List

A	B	C	D	E	F
1	Vendor	2 foot product price 4 foot product price			
2	1 Syn-Tex	per unit 10,100' per unit 4,700'		Total bid	
3		NB			Special notes
4					0
5	2 Flood Defense Group	\$18/10,100'	\$25/4,700'	\$299,300	delivery cost extra Approximately \$16,000 per quote
6		3' high product			
7					
8	3 TrapBag	\$10.50/7,000'	\$21.00/4,700'	\$172,200.00	price includes delivery
9					
10					
11	4 Jacobs Trading Co/911 Sandbags	NB	\$24.50/4700'	\$115,500	
12					
13					
14	5 AquaFence	NB	\$250/1500'	\$375,000	
15			\$315/1,750'	\$551,250	
16					
17					
18					
19					
20					
21					Product Chosen



Request for Proposals

FOR

Rapid Deploy Flood Fighting Products

Project #FE-19-E1

Quotes Due:

March 21, 2019

9:00 AM

Office of the City Auditor

c/o City Hall

225 4th Street N

Fargo, ND 58102

(701) 241-1548

Approved:

A handwritten signature in blue ink, appearing to read "Nathan Boerboom", is written over a horizontal line.

Nathan Boerboom

Division Engineer

A handwritten date "3/18/2019" in blue ink is written over a horizontal line.

Date



CITY OF FARGO**REQUEST FOR PROPOSALS – RAPID DEPLOY FLOOD FIGHT PRODUCTS**

The City of Fargo is requesting proposals for providing a rapid deploy flood fight product that may be implemented for a potential 2019 spring flood. This product shall be capable of being installed by City of Fargo authorized contractors. The product submittal shall include documentation of ease of delivery, installation, and removal.

All Proposals must be submitted by **9:00 AM, March 21, 2019**, at which time the submittals will be opened and reviewed. Submittals may be submitted by mail or by email. Email is encouraged. Late submittals cannot be accepted and will be returned unopened to the Offeror. The Proposal shall clearly state that it is for "**City of Fargo – Rapid Deploy Flood Fighting Products Request for Proposals- Project # FE-19-E1**".

The City reserves the right to reject any or all submittals or accept what is, in its judgment, the submittal which is in the City's best interest. The City further reserves the right, in the best interests of the City, to waive any technical defects or irregularities in any and all submittals. Any proposal received is valid from the date submitted until the end of the declared disaster. Discussion may be conducted with responsible Offerors who submit Proposals determined to be reasonably susceptible of being selected for award for purpose of classification to assure full understanding of, and responsiveness to the solicitation requirements.

I. Overview

The City of Fargo is requesting Proposals from qualified vendors to provide rapid deploy flood fight products that the City may implement for a possible 2019 spring flood and deploy with City authorized contractors. The footage listed within this RFP is based on the assumption that the actual protection heights of the rapid deploy products are at a minimum two (2) and four (4) foot height.

II. Background

In recent years, the City of Fargo has been using rapid deploy products as a tool for flood fights, as they significantly reduce the number of sandbags that the City needs to have filled and placed during a flood fight.

III. Scope of Work

The City of Fargo has developed potential locations where rapid deploy products may be deployed for a possible 2019 spring flood. The locations developed are based off 2-foot, 4-foot and 6-foot protection height. These areas were chosen from experience with past flood fights and where the City feels the rapid deploy products are best suited. The City intends to purchase the products from one or more vendors, which will be based on meeting the evaluation criteria listed below, and the cost submitted for the product.

IV. Evaluation Criteria

The following criteria will be required to be submitted with all proposals:

A. Product Cost

1. The cost quoted shall be broken out on a per linear foot price for each type, 2-foot and 4-foot product.

2. Total cost being quoted for all locations shall include all delivery charges. This total cost will be the amount paid to the vendor. No additional payment will be made for **ANY** other miscellaneous charges.
3. The specialty equipment necessary for the installation of the product shall be included in the quote and shall be enough so that 50 linear feet of the product is able to be filled simultaneously.
4. All specialty equipment shall become property of the City.
5. Any specialty equipment necessary for the removal of the product shall be included in the quote supplied to the City.
6. Specialty equipment shall be classified as any tools/machinery that is unique to your product.
7. If no specialty equipment is required, please clearly identify in proposal submittal.
8. Proposal shall include clear details explaining ease of delivery, staging, installation, and removal. Products that are easy to work with but still meet performance needs for a flood fight will receive higher points than a product that is more difficult to work with.

B. Product Delivery Timeframe

1. If the order is placed, it is expected that it will be made March 26, 2019.
2. All products must be received on or before April 1, 2019 at 9:00 AM.
3. If the quoted product will be delivered on multiple deliveries, the vendor shall provide a breakdown of when and how much will be delivered on each delivery occurrence.
4. The delivery of product shall be made to the City of Fargo Central Garage, which is located at 402 23rd Street North, Fargo, ND 58102.

C. Additional Submittal Requirements

1. Indicate the linear footage that is on each pallet along with the pallet dimensions (length, width, height).
2. Specify the weight of each pallet.
3. Indicate how many pallets can be stacked on top of each other.
4. Indicate the type of hauling unit whether flatbed or van.
5. Guaranteed delivery time from date of order to delivery to Fargo unloading site.

D. Fill Material for Product

1. Specify the volume of fill material needed on a per linear foot basis for the product. Please include the volume for all three heights requested. The submittal shall also include the type of fill material to be used for optimum performance in filling and material removal.
2. An estimate of cost to fill the product will be done by the City based on the material the vendor specifies as the fill material for their product and the volume provided.

E. Describe past flood fight applications for the quoted project.

V. Questions and Answers

All questions related to this Request for Proposals for Rapid Deploy Flood Fight Products must be submitted by email to Roger E. Kluck, PE, CFM (rkluck@FargoND.gov) or Steve Sly CFM (ssly@FargoND.gov). The question period shall expire at noon March 20, 2019. Answers to questions will be given at 5:00 PM March 20, 2019.

VI. Project Timetable

The City reserves the right to modify the timeline if necessary.

RFP – emailed to Vendors	3/19/2019
Questions Due	3/20/2019 12:00 Noon
Quotes Answered	3/20/2019 at 5:00 PM
Open Proposals	3/21/2019 at 9:00 AM
Determine order of materials	3/26/2019
Product Delivery	4/1/2019 at 9:00 AM

Discussion may be conducted with responsible Offerors who submit Proposals determined to be reasonably susceptible of being selected for award for purpose of classification and to assure full understanding of, and responsiveness of the Proposal to the solicitation requirements.

VII. Summary

The City of Fargo is accepting Proposals for rapid deploy flood fight products that can be used for a possible spring flood. Any interested vendor is encouraged to submit a proposal, according to the requirements listed within this RFP, for supplying their product to the City of Fargo.

The City reserves the right to reject any or all Proposals or accept what is, in its judgment, the Proposal which is in the City's best interest. The City further reserves the right, in the best interests of the City, to waive any technical defects or irregularities in any and all Quotes submitted. Therefore, the issuance of the RFP does not guarantee that any of the products listed will be needed or purchased. The City reserves the right to not procure any services from a selected vendor or vendors and no payments will be made if that is the case.

Submit Proposals in accordance with the conditions set forth. Late proposals will not be accepted. Submitters are encouraged to submit proposals by email.

Attachment A

Request for Proposals - Rapid Deploy Products

Product Description		Height/Length	Unit Cost	Total Cost
		2'/13,700		
		4'/11,500		

Authorized Representative/Date

Address

Company

Phone

Fax



Public Health
Prevent. Promote. Protect.
Fargo Cass Public Health

16

FARGO CASS PUBLIC HEALTH
1240 25th Street South
Fargo, ND 58103-2367
Phone 701-241-1360
Fax 701-241-1366
FargoCassPublicHealth.com

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING *DF*
DIRECTOR OF PUBLIC HEALTH

DATE: MARCH 19, 2019

RE: CONTRACT WITH THE NORTH DAKOTA DEPARTMENT OF HEALTH
FOR TITLE X FAMILY PLANNING PROGRAM FOR \$147,451
CONTRACT NO. G17.1167 CFDA 93.217

The attached contract with the North Dakota Department of Health for \$147,451 is for the Title X Family Planning Program services in the clinic.

No budget adjustment is necessary.

If you have any questions, please contact me at 241-1380.

Suggested Motion:

Move to approve the contract with North Dakota Department of Health to provide services.

DF/lls
Enclosure





NOTICE OF GRANT AWARD
SFN 53771 (1-2016)

NORTH DAKOTA DEPT. OF HEALTH (NDDoH)
600 E BOULEVARD AVE, DEPT. 301
BISMARCK, ND 58505-0200

GRANT NUMBER	CFDA NAME	CFDA NUMBER	START DATE	END DATE
G17.1167	Family Planning - Services	93.217	4/1/2019	3/31/2020

FEDERAL AWARD DATE	FEDERAL AWARDING AGENCY	FAIN NUMBER	GRANT TYPE: PROGRAM or R&D
	Department Of Health And Human Services		Program

THIS AWARD IS NOT EFFECTIVE AND EXPENDITURES RELATED TO THIS AWARD SHOULD NOT BE INCURRED UNTIL ALL PARTIES HAVE SIGNED THIS DOCUMENT.

TITLE OF PROJECT/PROGRAM	NDDoH PROJECT CODE	4561 HLH3110 01
GRANTEE NAME	PROJECT DIRECTOR	Cora Rabenberg
ADDRESS	ADDRESS	600 E. Boulevard Ave., Dept. 301
CITY/STATE/ZIP	CITY/STATE/ZIP	Bismarck, ND 58505-0200
CONTACT NAME	CONTACT NAME	Cora Rabenberg
TELEPHONE NUMBER	TELEPHONE NUMBER	701.328.4535
EMAIL	EMAIL	crabenberg@nd.gov

Amount Awarded	NDDoH Cost Share	Grantee Cost Share	Total Costs
Previous Funds Awarded	\$147,451	\$0	\$147,451
Total Funds Awarded	\$0	\$0	\$0
	\$147,451		\$147,451

SCOPE OF SERVICE

Grantee to provide Title X Family Planning voluntary comprehensive education, medical and counseling services to enable women and men to freely determine the number and spacing of their children. Grantee will provide services from the Fargo clinic and Correctional Center locations. Project must follow the North Dakota Family Planning Program's Policy and Procedure and Protocol manuals as provided. Grantee will attend two face-to-face delegate director meetings. Grantee is required to operate within the approved FY2019-2020 budget.

REPORTING REQUIREMENTS

Monthly, quarterly, semi-annual and annual reports are to be submitted to the state office as outlined by the North Dakota Family Planning Program Policies, Procedures and Protocols. Failure to submit the required reports and to attend the two face-to-face delegate director meetings will result in the reevaluation of services and funding. Reimbursement will be processed upon Department approval of expenditures and reports. Request for reimbursement must be submitted using the Program Reporting System (PRS). Expenditure report for the period ending June 30, 2019, must be received by July 15, 2019. Expenditure report for the period ending March 31, 2020, must be received by April 15, 2020.

INDIRECT RATE (check one)

Subrecipient waived indirect costs

De minimis rate of 10%

Negotiated/Approved rate of _____ %

See Attachment A for further requirements.

SPECIAL CONDITIONS

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the North Dakota Department of Health as signed by Grantee for the period of July 1, 2017 to June 30, 2019 [Accounting Use Only] Requirements received and (2) applicable State and Federal regulations.

EVIDENCE OF GRANTEE'S ACCEPTANCE		EVIDENCE OF NDDoH ACCEPTANCE	
DATE	SIGNATURE	DATE	SIGNATURE
3/13/2019	<i>Debi Fleming</i>		
TYPED NAME/TITLE OF AUTHORIZED REPRESENTATIVE		TYPED NAME/TITLE OF AUTHORIZED REPRESENTATIVE	
Debi Fleming, Director of Public Health		Colleen Pearce, Director, Division of Family Health and Nutrition	

DATE	SIGNATURE	DATE	SIGNATURE
08			
TYPED NAME/TITLE OF AUTHORIZED REPRESENTATIVE		TYPED NAME/TITLE OF AUTHORIZED REPRESENTATIVE	
Timothy J. Mahoney, Mayor, City of Fargo		Brenda M. Weisz, CFO	

If attachments are referenced, they must be returned with the signed award. If you did not receive attachments as indicated, contact the Program Director identified above.

ATTACHMENT A

Special Conditions

- Voluntary Participation
 - Family planning services are to be provided solely on a voluntary basis (Sections 1001 and 1007, Public Health Services (PHS) Act; 42 Code of Federal Regulations (CFR) 59.5 (a)(2)).
- Prohibition of Abortion
 - Grantee and sub-recipients must be in full compliance with Section 1008 of the Title X statute and 42 CFR 59.5(a)(5), which prohibit abortion as a method of family planning.
- Structure and Management
 - Grantee must have a written agreement with each sub-recipient and establish written standards and guidelines for all delegated project activities consistent with the appropriate section(s) of the Title X Program Requirements, as well as other applicable requirements (45 CFR parts 74 and 92).
 - A Grantee who wishes to subcontract any of its responsibilities or services, a written agreement that is consistent with Title X Program Requirements and approved by the Department of Health must be maintained by the Grantee (45 CFR parts 74 and 92).
 - Grantee must ensure that services provided through a contract or other similar arrangements are paid for under agreements that include a schedule of rates and payment procedures maintained by the Grantee. Grantee must be prepared to substantiate that these rates are reasonable and necessary (42 CFR 59.5(b)(9)).
- Project Services and Clients
 - All projects must provide for medical services related to family planning and the effective usage of contraceptive devices and practices (including physician's consultation, examination, prescription, and continuing supervision, laboratory examination, contraceptive supplies) as well as necessary referrals to other medical facilities when medically indicated (42 CFR 59.5(b)(1)). This includes, but is not limited to emergencies that require referral. Efforts may be made to aid the client in finding potential resources for reimbursement of the referral provider, but projects are not responsible for the cost of this care.
 - Grantee must comply with applicable legislative mandates set out in the U.S. Department Health & Human Services (HHS) appropriations act. A Grantee must have written policies in place that address these legislative mandates: "None of the funds appropriated in the Act may be made available to any entity under Title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary of Health and Human Services that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities." "Notwithstanding any other provision of law, no provider of services under Title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest."
- Confidentiality
 - Every project must have safeguards to ensure client confidentiality. Information obtained by project staff about an individual receiving services may not be disclosed without the individual's documented consent, except as required by law or as may be necessary to provide services to the individual, with appropriate safeguards for confidentiality. Information may otherwise be disclosed only in summary, statistical, or other form that does not identify the individual (42 CFR 59.11).



Public Health
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Fargo Cass Public Health

17

FARGO CASS PUBLIC HEALTH
1240 25th Street South
Fargo, ND 58103-2367
Phone 701-241-1360
Fax 701-241-1366
FargoCassPublicHealth.com

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: MARCH 21, 2019

RE: CONTRACT WITH THE NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES FOR MOBILE OUTREACH PROGRAM CONTRACT NO. #810-11191 CFDA NO. N/A, \$290,000

This is a request to approve the attached Purchase of Service Agreement with the North Dakota Department of Human Services, Behavioral Health Division for mobile outreach program. The reimbursement shall be \$24,166 per month except December, which will be \$24,174. Total payment will not exceed \$290,000.

The following budget adjustments are required for this contract:

2019 Revenue:		
NDDHS Detox	101-0000-334-10-18	\$290,000
2019 Expense:		
Temp Seasonal	101-6013-451-14-00	\$233,073
Health Ins	101-6013-451-20-01	\$ 19,602
Dental Ins	101-6013-451-20-03	\$ 1,348
LT Disability	101-6013-451-20-04	\$ 373
FICA	101-6013-451-21-01	\$ 13,977
Medicare	101-6013-451-21-02	\$ 3,272
Pension	101-6013-451-22-04	\$ 15,355
Fuel	101-6013-451-62-10	\$ 3,000

If you have questions, please contact Desi Fleming at 241-1380.

Suggested Motion: Move to approve the contract with the North Dakota Department of Human Service for substance abuse prevention.

DF/lls
Enclosure



PURCHASE OF SERVICE AGREEMENT

The state of North Dakota, acting through its North Dakota Department of Human Services, Behavioral Health Division (State), has determined the services identified in the Scope of Service paragraph below should be purchased.

City of Fargo (Vendor), 1240 25th Street South, Fargo, ND 58103-2367, proposes to provide those services.

State and Vendor therefore enter into the following:

1. TERM OF THE AGREEMENT

This Agreement runs from January 1, 2019, through December 31, 2019. This Agreement will not automatically renew.

2. SCOPE OF SERVICE

Vendor shall expand the implementation of a community outreach program to provide assistance to individuals needing intoxication or withdrawal management services during the highest use times – for 16 hours during each 24-hour period. Vendor shall maintain a vehicle to conduct outreach and engagement services, including any tracking devices consistent with local community stakeholders (radios, etc.). Vendor shall ensure the program is staffed appropriately. Vendor shall ensure individuals who are intoxicated and in crisis situations receive appropriate services and engagement for possible treatment, ensuring services are recovery-oriented, trauma-informed, and person-centered. Vendor shall maintain an advisory committee consisting of local community representatives, such as local first responders, hospital emergency room representatives, the withdrawal management unit, and other public and private treatment providers to advise Vendor. Vendor shall maintain procedures adhering to state and federal regulations to respond to situations when possible involving individuals who are under the influence of substances and submit to State any changes to that procedure. Vendor shall ensure staff are trained in the following topic areas: substance use disorders, intoxication and withdrawal management, recovery oriented and trauma-informed care, and overdose prevention, including the administration of naloxone. Vendor shall provide State with monthly reports with both process and outcome measures, including the cost-benefit of reduced ambulance trips, inappropriate emergency room stays, and unnecessary interactions with law enforcement. Vendor shall attend meetings and training requested by State.

3. COMPENSATION

State, upon receipt and approval of SFN 1763 Request for Reimbursement, monthly reports, and any additional information requested by State, shall pay Vendor for completing the scope of service. From January through November 2019, Vendor shall submit monthly reimbursements of \$24,166, with a final payment for December 2019 of \$24,174. Total payment under this Agreement may not exceed \$290,000. Vendor shall submit its request for reimbursement to State monthly. Vendor shall submit its final payment request to State no later than 10 days after the expiration or termination of this Agreement.

4. TERMINATION

a. Termination by Mutual Agreement or Notice

This Agreement may be terminated at any time by mutual consent of both parties executed in writing, or upon 30-days' written notice by either party, with or without cause.

b. Early Termination in the Public Interest

State is entering into this Agreement for the purpose of carrying out the public policy of the state of North Dakota, as determined by its Governor, Legislative Assembly, and Courts. If this Agreement ceases to further the public policy of the state of North Dakota, State, in its sole discretion, by written notice to Vendor, may terminate this Agreement in whole or in part.

c. Termination for Lack of Funding or Authority

State may terminate the whole or any part of this Agreement, effective upon delivery of written notice to Vendor or on any later date stated in the notice, under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination

d. Termination for Cause

State may terminate this Agreement effective upon delivery of written notice to Vendor, or any later date stated in the notice:

- 1) If Vendor fails to provide services required by this Agreement within the time specified or any extension agreed to by State; or
- 2) If Vendor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of State provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. NONPERFORMANCE

Failure by Vendor to perform the terms of this Agreement constitutes a breach of contract and will result in the termination of the Agreement. If a breach by Vendor renders the Agreement impossible of performance by Vendor and is caused by circumstances beyond the control of Vendor, and through no fault of Vendor, the Agreement will be terminated and State may set off, against any liability or obligations owed to Vendor under this Agreement or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach.

6. FORCE MAJEURE

Vendor shall not be held responsible for delay or default caused by fire, flood, riot, acts of God, or war if the event is beyond Vendor's reasonable control, and Vendor gives notice to State immediately upon occurrence of the event that caused, or is reasonably expected to cause, the delay or default.

7. VENDOR'S UNDERSTANDING OF TERM OF FUNDING

Vendor understands that this Agreement is a one-time agreement, and acknowledges that it has received no assurances that this Agreement may be extended beyond its expiration date.

8. VENDOR ASSURANCES

This Agreement will be construed according to the laws of the state of North Dakota. In connection with furnishing supplies or performing work under this Agreement, persons who contract with or receive funds to provide services to State are obligated and agree to comply with all local, state, and federal laws, regulations, and executive orders related to the performance of this Agreement, including the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the North Dakota Human Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1970, Section 504 of the

Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act of 1990, Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992, and the Pro-Children Act of 1994.

By signing this Agreement Vendor certifies that neither Vendor, Subcontractor, nor their principals are presently debarred, declared ineligible, or voluntarily excluded from participation in transactions with the state or federal government by any department or agency of the state or federal government.

Vendor must be an approved vendor with the Office of Management and Budget within the state of North Dakota as required by North Dakota Century Code § 5444.4-09.

9. AUTHORITY TO CONTRACT

Vendor may subcontract with qualified vendors of services, provided that any subcontract acknowledges the binding nature of this Agreement, and incorporates this Agreement, together with its attachments, as appropriate. Vendor is solely responsible for the performance of any subcontractor. Vendor may not contract for or on behalf of or incur obligations on behalf of State. Vendor may not assign or otherwise transfer or delegate any right or duty without State's express written consent.

10. INDEPENDENT ENTITY

Vendor is an independent entity under this Agreement. Vendor, its employees, agents, or representatives are not employees of State for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. No part of this Agreement may be construed to represent the creation of an employer/employee relationship between State and Vendor. Vendor retains sole and absolute discretion in the manner and means of carrying out Vendor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.

11. INDEMNITY

State and Vendor each agree to assume their own liability for any and all claims of any nature, including all costs, expenses, and attorneys' fees which may in any manner result from or arise out of this Agreement.

12. INSURANCE

Vendor shall secure and keep in force during the term of this Agreement, from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with a minimum liability limit of \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 3) Workers compensation coverage meeting all statutory requirements.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Vendor. The amount of any deductible or self-retention is subject to approval by the State.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The insurance required in this Agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without 30 days' prior written notice to the undersigned State representative.
- 4) Vendor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this Agreement. An updated, current certificate of insurance shall be provided in the event of any change to a policy.
- 5) Failure to provide insurance as required in this Agreement is a material breach of contract entitling State to terminate this Agreement immediately.

13. NOTICE

Any notice or other communication required under this Agreement must be given by registered or certified mail and is complete on the date mailed when addressed to the parties at the following addresses:

City of Fargo
1240 25th Street South
Fargo, ND 58103-2367

OR

ND Department of Human Services
Behavioral Health Division
1237 W Divide Ave, Suite 1C
Bismarck, ND 58501

Notice provided under this provision does not meet the notice requirements for monetary claims against State found at North Dakota Century Code § 32-12.2-04.

14. INTEGRATION, MODIFICATION, AND CONFLICT IN DOCUMENTS

This Agreement constitutes the entire Agreement between Vendor and State. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. No alteration, amendment, or modification of this Agreement is effective unless it is reduced to writing, signed by the parties, and attached to the Agreement.

All terms and conditions contained in any end user agreements (e.g., automated click-throughs, shrink wrap, or browse wrap) are specifically excluded and null and void, and shall not alter the terms of this Agreement.

If any inconsistency exists between this Agreement and other provisions of collateral contractual agreements, which are made a part of this Agreement by reference or otherwise, the provisions of this Agreement control.

15. SEVERABILITY

If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement does not contain the illegal or unenforceable term.

16. APPLICABLE LAW AND VENUE

This Agreement is governed by and construed according to the laws of the state of North Dakota. Any action to enforce this Agreement must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

17. ASSIGNMENT

Neither party may assign this Agreement or the party's rights under this Agreement without the written approval of the other party. Approval to assign may not be unreasonably withheld. This Agreement is equally binding on the respective parties and their successors and assigns.

18. SPOILIATION – PRESERVATION OF EVIDENCE

Vendor shall promptly notify State of all potential claims that arise or result from this Agreement. Vendor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.

19. WORKS FOR HIRE

Vendor acknowledges that all work(s) under this Agreement is "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to State all rights and interests Vendor may have in the work(s) it prepares under this Agreement, including any right to derivative use of the work(s). All software and related materials developed by Vendor in performance of this Agreement for State shall be the sole property of State, and Vendor hereby assigns and transfers all its right, title, and interest therein to State. Vendor shall execute all necessary documents to enable State to protect State's intellectual property rights under this section.

20. WORK PRODUCT, EQUIPMENT, AND MATERIALS

All work product, equipment, and materials created for State or purchased by State under this Agreement belong to State and must be delivered to State at State's request upon expiration or termination of this Agreement.

21. CONFIDENTIAL INFORMATION

Vendor shall not use or disclose any information it receives from State under this Agreement that State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by State. State shall not disclose any information it receives from Vendor that Vendor has previously identified as confidential and that State determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota open records law found in North Dakota Century Code chapter 44-04. The duty of State and Vendor to maintain confidentiality of information under this section continues beyond the term of this Agreement, including any extensions or renewals.

22. COMPLIANCE WITH PUBLIC RECORDS LAWS

Vendor understands that, except for disclosures prohibited in this Agreement, State must disclose to the public upon request any records it receives from Vendor. Vendor further understands that any records obtained or generated by Vendor under this Agreement, except for records that are confidential under this Agreement, may be open to the public upon request under certain circumstances under the North Dakota open records law. Vendor agrees to contact State immediately upon receiving a request for information under the open records law and to comply with State's instructions on how to respond to the request.

23. ATTORNEY FEES

If a lawsuit is filed by State to obtain performance due under this Agreement, and State is the prevailing party, Vendor shall pay State's reasonable attorney fees and costs in connection with the lawsuit, except when prohibited by North Dakota Century Code § 28-26-04.

24. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties may enforce their rights and remedies in judicial proceedings. State does not waive any right to a jury trial.

25. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

Vendor shall comply with all laws, rules, and policies, including those relating to nondiscrimination, accessibility, and civil rights. Vendor shall timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation, and workers' compensation premiums. Vendor also shall have and keep current at all times during the term of this Agreement all licenses and permits required by law.

26. ACCESS TO BOOKS AND RECORDS

Vendor shall provide State, the federal government, and their duly authorized representatives access to the books, documents, papers, and records of Vendor, which are pertinent to the services provided under this Agreement, for the purpose of making an audit or examination, or for making excerpts and transcripts. All records, regardless of physical form, and the accounting practices and procedures of Vendor relevant to this Agreement are subject to examination by the North Dakota State Auditor, the Auditor's designee, or federal auditors. Vendor shall maintain all of these records for at least three years following completion of this Agreement and be able to provide them at any reasonable time. State, State Auditor, or Auditor's designee shall provide reasonable notice.

CITY OF FARGO

By _____
Timothy J. Mahoney DATE

Its _____ Mayor _____

By Desi Fleming 3/19/19
Desi Fleming DATE

Its _____ Director of Public Health _____

45-6002069 : _____ Vendor's Federal Taxpayer Identification Number

STATE OF NORTH DAKOTA
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By _____
CHRISTOPHER D. JONES DATE
EXECUTIVE DIRECTOR

By _____
KYLE J. NELSON DATE
CONTRACT OFFICER
Approved for form and content

(18)

To: Fargo City Commission
Bruce Grubb, City Administrator
From: Cindy Gray, Executive Director
Date: March 14, 2019
Re: **Metro COG Articles of Association**

Many of you know that Metro COG has experienced some leadership transitions over the past year and a half. Prior to that, the City of Horace became a dues-paying member of Metro COG and, as such, has been participating in our Executive Committee, Policy Board and Transportation Technical Committee, and has benefitted from the use of Federal transportation planning funds for projects such as the Horace Comprehensive and Transportation Plan and the 76th Avenue S Corridor Study, which has a multi-jurisdictional participation. Both of these are much needed projects that will benefit the metro area as a whole given that Horace's growth has accelerated and a new middle school and high school is being constructed within the city.

The attached amendments to the Articles of Association were prepared to reflect the addition of the City of Horace as a participating member of Metro COG. They were approved by the Policy Board during the leadership transition, but were not presented to each of the participating jurisdictions for their approval. To bring closure to this matter, I am requesting your approval of the Articles of Association, as amended, with the addition of one further change.

The proposed amendments are shown in Attachment 1, and are summarized as follows:

- Page 2 – Article III. Membership.
 - Amend minimum voting membership from six to seven, to recognize that there are seven full members of Metro COG (Cass County, Clay County, Dilworth, Fargo, Horace, Moorhead, West Fargo).
 - Increase the maximum membership from 15 to 16, to allow for the addition of one voting Policy Board member from Horace.
- Page 6 – Article VI. Executive Committee.
 - Amend paragraph 6.01 so it no longer refers to six Policy Board members, but refers to one member from each of the voting member local jurisdictions.

The full amended document is provided as Attachment 2. Metro COG requests that each jurisdiction approve the amendments to ensure that the Articles of Association reflect the addition of the City of Horace as a member of Metro COG and provide a signed signature page (see final pages of Attachment 2) to Metro COG.

Requested Action: Approve the recommended amendments to the Metropolitan Council of Governments Articles of Association.

Articles of Association

Fargo-Moorhead Metropolitan Area
Council of Governments

As amended, January, 2018



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Amendment History

Revised:
April, 1995
March, 2000
July, 2001
May, 2005
December, 2006
September, 2007
August, 2011
September, 2014
December, 2015
January, 2018

**FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS
ARTICLES OF ASSOCIATION**

ARTICLE I. ORGANIZATION

- 1.01. **Name of Organization.** The name of the organization formed by these Articles of Association, hereinafter referred to as the "Articles", is the Fargo-Moorhead Metropolitan Council of Governments, hereinafter referred to as the "Council".
- 1.02. **Statutory Authority.** The undersigned general and special purpose units of local governments, boards, agencies, commissions and authorities enter into this agreement under and by virtue of the power to do so. The Articles shall regulate and govern the affairs of that unincorporated association organized pursuant to the North Dakota Century Code 54-40, and Minnesota Statutes 471.59.
- 1.03. **Purpose.** The Council shall conduct and coordinate technical assistance activities, planning studies and special projects to address transportation and non-transportation problems and issues which are of metropolitan significance or where member jurisdictions request assistance subject to Council approval and availability of financial resources; shall disseminate information regarding comprehensive transportation planning and proposals for improvement of the Metropolitan Planning Area; and shall promote general public support for such plans and programs as the Council may endorse.
- 1.04. **Designated Metropolitan Planning Organization.** The Council shall perform area-wide transportation planning, as required in Federal Legislation, in the urban study boundary as the designated Metropolitan Planning Organization ("MPO") for the greater Fargo-Moorhead Metropolitan area. The MPO is responsible for Continuing, Cooperative and Comprehensive ("3C") transportation planning within the Metropolitan Planning Area Boundary ("MPAB"), as approved by the Council and the Governors of North Dakota and Minnesota, with concurrence of the Federal Highway Administration ("FHWA") and Federal Transit Administration ("FTA").
- 1.05. **Legal Entity.** The Council is hereby established as a separate legal entity by the member jurisdictions, with the power to sue or be sued, to enter into contracts, to hold title to real and personal property, and to do all other acts necessary to carry out required regional and transportation planning processes, subject to its approved Unified Planning Work Program ("UPWP"), budget and available funding.
- 1.06. **Geographic Limits.** The geographic limits within which the Council will perform its normal functions under these Articles shall be those geographic areas of Cass County, North Dakota and Clay County, Minnesota as approved by the Council that comprise the Metropolitan Planning Area ("Area").
- 1.07. **Expansion or Contraction of Geographical Limits.** Upon recommendation of the Council, the geographic limits of the Area may be expanded or contracted upon an

affirmative vote of sixty-six percent (66%) of the total voting membership of the Council.

- 1.08. **Expansion of the MPAB.** Expansion or contraction of the MPAB will require a vote of sixty-six percent (66%) of the total voting membership of the Council, approval of the North Dakota and Minnesota Departments of Transportation and concurrence of the FHWA and FTA.
- 1.09. **Temporary Expansion of Geographic Limits.** The geographic limits of the Area may be expanded temporarily by a special interlocal cooperation agreement upon an affirmative vote of sixty-six (66%) percent of the total membership of the Council.

ARTICLE II. DECLARATION OF POLICY

- 2.01. The Council finds and declares that the people within the Area, have a fundamental interest in the orderly development of the Area.
- 2.02. The Council further finds and declares:
 - a) That the members have a positive interest in the preparation and maintenance of a long term comprehensive plan for the development of the Area to serve as a guide to the political subdivisions within the Area;
 - b) The continuing growth of the Area presents problems that are not confined to the boundaries of any single County or City;
 - c) That the Area, by reason of its governmental jurisdictions, presents special problems of development that can be dealt with best by a Metropolitan Council of Governments;
 - d) That the Area is well adapted to unified consideration; and
 - e) That in order to assure, insofar as possible, the orderly and harmonious development of the Area to provide for the needs of further generations, it is necessary for the people of the Area to perform metropolitan planning and for the Council to serve as a coordinating agency to harmonize the activities of federal, state, and local agencies, and to render assistance and create public interest and participation in the development of the Area.

ARTICLE III. MEMBERSHIP

- 3.01. The MPO voting membership, as reflected in these Articles, must consist of no less than ~~six~~seven members with a maximum of ~~15~~16 members apportioned based on action of the Fargo Moorhead Metropolitan Council of Governments Policy Board, the exact number for each jurisdiction to be determined on an equitable geographic basis based on agreement among the affected units of general purpose local governments as required by federal rules and regulations. In determining the composition of the Policy Board:

- a) The maximum number of Policy Board members shall not be extended without due consideration of the affected units of general government as required by federal rules and regulations and approval by the Governors, or their designees, of the States of North Dakota and Minnesota;
 - b) Representatives from each county shall compose not less than one member each for Cass County, North Dakota and Clay County, Minnesota.
 - c) Representatives from each charter city, the cities of Dilworth, MN; Fargo, ND, Moorhead, MN and West Fargo, ND shall compose not less than one member each;
 - d) No one jurisdiction may maintain more than 50% of the total Policy Board Votes;
 - e) Any authority or agency created by law to perform transportation functions that is not under the jurisdiction of local government representatives on the Policy Board shall be provided voting membership on the Policy Board;
 - f) The governing body of a governing entity and signatory to Articles of Association, and subsequent amendments of the Articles of Association, as the appointing authority and designated for membership on the Policy Board, shall select a member(s) to represent them and serve on the Policy Board;
 - g) Each unit of local government at a minimum shall be represented by its mayor or elected official(s), be it City Commissioner(s) in North Dakota or City Council Member(s) in Minnesota;
 - h) Members assigned to the Policy Board by the appointing authority who are not elected officials shall be permitted within the maximum number of Policy Board composition as stated, and in numbers agreed to by the units of general government and;
 - i) The membership of the Policy Board shall be constant with the Articles of Association that creates the Metro COG.
- 3.02. The above noted representatives shall be appointed annually by their respective governing bodies.
- 3.03. Each governing body shall annually approve a list of alternate members. Such alternates shall have full voting rights in the absence of designated members.
- 3.04. No jurisdictions' dues will exceed fifty percent (50%) of total annual dues. This provision shall be reviewed in conjunction with the United State Census Bureau ("Census Bureau") decennial census, or upon an affirmative vote of sixty-six percent (66%) of the total voting membership of the Council to accept inter-census population estimates from the Census Bureau, American Communities Survey (ACS) or similarly credible source.
- 3.05. Municipalities that are within the Council's Metropolitan Planning Area with a population of 600 or more shall be eligible for Associate Membership on the Council.

Associate Members will be granted ex-officio non-voting status on the Council and Transportation Technical Committee.

- 3.06. Associate Members will not pay dues to the Council. They shall have access to the Council's Federal planning funds through the development of the Unified Planning Work Program ("UPWP"). Associate Members shall be responsible for the non-Federal share of projects it requests which are included in the UPWP. Associate Members are also required to pay all indirect costs associated with projects it requests which are included in the UPWP.
- 3.07. The Council may from time to time extend full membership to an Associate Member. Full membership for Associate Members would be granted on a case by case basis as determined necessary by the Council. An action to authorize full membership requires a resolution of intent from the municipality and final approval by the Council.
- 3.08. **Term of Office.** Members of the Council serve at the discretion of their respective governing bodies.
- 3.09. **Vacancies.** Any vacancy shall be filled as soon as possible, and approval of such appointment shall be by the affected governing body.
- 3.10. **Certification.** Each member and alternate for the upcoming year shall be certified by means of a letter which shall become part of the records of the Council. This letter should be submitted to the Council prior to its January meeting or first meeting of each calendar year. In the event of unanticipated vacancies or membership changes, the local governing body shall certify its appointments to the Council by letter at an official Council meeting.
- 3.11. **Officers.** The Officers shall consist of a Chair, Vice Chair, and Council Secretary.
 - a) *Chair* - The Chair shall preside at all meetings of the Council.
 - b) *Vice Chair* - The Vice Chair shall exercise the functions of the Chair in his or her absence or incapacity.
 - c) *Council Secretary* - The Metro COG Executive Director shall function as Council Secretary and exercise the functions of the authorized recording officer of the Council and shall be empowered to execute official instruments of the Council as authorized by the Council or Executive Committee.
- 3.12. **Member Privileges.** All members of the Council, both voting and Associate members, shall have the privilege to attend all meetings of the Council, Executive Committee or advisory committees or boards to which their membership extends as prescribed in these Articles, have access to federal transportation funds attributable to the Council and to avail their respective organizations of the technical and advisory services provided by the Council.

- 3.13. **Members in Good Standing.** Voting members of the Council shall be members in good standing when the respective member jurisdiction has fulfilled their financial obligations to the Council as prescribed in a separate fiscal agreement. Members in good standing are afforded all privileges identified in 3.12 of this document and any additional privileges approved by the Council.

ARTICLE IV. FUNCTIONS

- 4.01. The Council shall prepare and adopt a plan and recommend policies for the development of the Area. The plan shall be based on existing conditions and probable future growth and shall be made with the general purpose of guiding coordinated and harmonious development that will promote the health, safety, and general welfare of the inhabitants. The plan shall also seek to promote efficiency and economy in the process of land development and population distribution so as to reduce the waste of resources; and it shall promote an efficient and economic utilization and conservation of the means of production of food and water, of drainage course, of sanitary and other facilities, and of natural resources.
- 4.02. The Council shall be the official review agency as promulgated by OMB Circular A-95 and for all local plans and projects that have area-wide implications.
- 4.03. The Council shall act as the official area-wide planning agency for the Metropolitan Area and shall be designated as a consortium of governments for federal legislation dealing with transportation and land use and as the official Area Planning Organization as required by the Department of Housing and Urban Development and Department of Transportation.

ARTICLE V. POLICY BOARD MEETINGS

- 5.01. The Council shall meet at least nine (9) times per year, and shall fix a time and place for the meetings. Special meetings may be called at the discretion of the Council, Policy Board Chair, Council Secretary or Executive Committee.
- 5.02. All meetings will be governed by procedures established under Chapter 44-04 *Duties, Records and Meetings* of the North Dakota Century Code.
- 5.03. The Council shall keep records of all its meetings. The Council records shall be public records available for inspection by any interested parties at reasonable times during regular office hours.
- 5.04. All Council meetings shall be open to the public and in facilities consistent with the Americans With Disabilities Act ("ADA").
- 5.05. **Quorum.** A quorum for the transaction of the Council business shall consist of a majority of the voting members of the Council, except that In the event that fewer than a majority of voting members is present at a regularly scheduled meeting, the Chair of the Policy Board may declare six members in attendance to be a quorum for the purpose of paying bills only.

- 5.06. **Bylaws.** Procedures and responsibilities of the Council shall be established and maintained through the *Metro COG Policy Board Bylaws* ("Bylaws"). The Bylaws shall at a minimum include Council voting representatives, Council appointments, Council terms of office, voting procedures, roles and responsibilities of Council officers, meeting time and day, and accommodations for special Council meetings. In the case of any conflict between these Articles and the Bylaws, these Articles shall control.
- 5.07. **Rules of Order.** Except as otherwise required by these Articles, the Rules of Order shall be in accordance with the latest edition of *Robert's Rules of Order Revised*.

ARTICLE VI. EXECUTIVE COMMITTEE

- 6.01. The executive business of the Council shall be managed by an Executive Committee consisting of ~~six Policy Board members~~; one member from each of the voting member local jurisdictions.
- 6.02. The Executive Committee shall have the power to authorize the expenditure of funds, to enter into contracts, and to execute official instruments after being authorized by the Council. Further powers as delegated by the Council include those enumerated in the *Metro COG Operations Manual* or similar approved document.
- 6.03. The Executive Committee will meet as required to perform the duties assigned.
- 6.04. A meeting of the Executive Committee may be called by the Policy Board Chair, Vice Chair, Council Secretary or any member of the Executive Committee.
- 6.05. The Council Secretary will record the proceedings of the meetings and will provide a summary of those proceedings to the Executive Committee members at the next meeting.

ARTICLE VII. POWERS AND DUTIES

- 7.01. **Comprehensive Metropolitan Plan.** The Council shall prepare, maintain, and regularly review and revise a Plan for the Metropolitan Area. In the preparation of the Plan, the Council shall seek to harmonize the general plans of Cities and Counties within the Area, and the plans and planning activities of federal, state, and other public and private agencies, organizations and instrumentalities within the Area. Before adoption of the Plan or any revision thereto, it shall be referred to each City and County Planning Commission for review, and the Council shall allow a reasonable time for response. The Council shall seek the cooperation and advice of Cities and Counties, state and federal agencies, and organizations and others interested in the functions of the Council.
- 7.02. **Adoption.** After public input meetings and local governing bodies' approval, the Council shall adopt the Plan or portions thereof by majority vote. Any such portion shall correspond generally to one or more of the functional subdivisions of the subject matter which may be included in the Plan.

- 7.03. **Certification of Plan.** The Council shall certify copies of the adopted Plan or portions thereof, to the legislative bodies and planning commissions within the Metropolitan Area, to all public utilities affected by the Plan, and to any state or federal department or agency concerned with or affected by the Plan.
- 7.04. **Review of Local Plans, Proposals and Projects.** Whenever a plan, a portion thereof, amendment, or addition to a plan, has been adopted; or a project proposed by the local governing bodies or their respective planning commissions; the Council may provide comments, either at the request of the member governing body or by its own initiative, on any such plan or project which has a bearing on the Council's Metropolitan Transportation Plan, or other shared interests. The Council will provide its comments in a timely fashion. Such comments shall be considered advisory in nature, and will not constitute a formal approval or disapproval of the issue. Additionally, the Council shall review and comment on all matters referred to it in accordance with Federal or state law.
- 7.05. **Establishment of Committees, Subcommittees, Advisory Committees and Working Groups.** The Council shall have the authority to establish and monitor committees, subcommittee and working groups doing business for, or on behalf of, the Council.
- 7.06. **Transportation Technical Committee.** The Transportation Technical Committee (TTC) is hereby established. The Committee shall be composed of technical experts or their representatives as identified in the *Transportation Technical Committee Bylaws*. The purpose of the Committee is to discuss and coordinate technical transportation matters that are under consideration by the Council. Such matters may include highway, transit, auto/rail, bikeway and pedestrian planning activities. The TTC will act in an advisory capacity to the Council and its respective jurisdictions concerning transportation activities. The Council, by official action, may establish temporary subcommittees of the TTC and add appropriate subcommittee membership to analyze special transportation issues of interest to the Council.
- 7.07. **Other Committees.** Other committees shall be formed as deemed necessary by the Council. The Council shall approve all members of technical committees.
- 7.08. **Other Powers and Duties.** Other powers and duties of the Council shall be:
- a) To conduct studies and research pertaining to planning and development and to make recommendations based on these studies.
 - b) To provide, when possible, technical services to the member units of government.
 - c) Establish work programs and budgets for its operation in compliance with Federal, state and local law.
 - d) To receive and dispense grants and funds from federal, state or local governments or from individuals and foundations within the budget established or amended by the Council.

- e) To enter into agreements or contracts for any service necessary or convenient for carrying out the purposes of the Council.
- f) To recruit, hire and maintain staff personnel to assist the Council and official bodies of the Council.
- g) Provide for appropriate insurance, compensation and bonding coverage for protection of personal property, funds and records of the Council or other governmental or non-governmental agencies or organizations entrusted to the Council.
- h) To acquire, hold, improve, maintain, own, manage, or lease personal or real property, equipment or other facilities and receive and expend funds for providing services and to implement plans.
- i) To provide general administration policy as noted in the *Metro COG Personnel Policies* and the *Metro COG Administrative Policies and Procedures*.
- j) Establish and adopt operating Bylaws for the Council and its committees.
- k) Appoint advisory committee and boards to assist the Council and its members.
- l) Establish policies, goals and objectives to guide the operations of the Council and Metro COG staff.
- m) Establish fees, dues and other financial instruments to be paid by jurisdictions to fund its operations.
- n) Hire, supervise and dismiss the position of Executive Director.
- o) Designate both voting and non-voting members to the Transportation Technical Committee and other Council subcommittees as set forth through these Articles, a separate fiscal agreement and the Bylaws.
- p) To designate both voting and non-voting members to the official bodies of the Council.
- q) To solicit and receive funds from governmental and non-governmental agencies and organizations.
- r) To provide for a fiscal accounting and record system to provide for an annual audit thereof.
- s) The ability to invest idle funds.
- t) To designate an official depository and official depositaries for the receipt, deposit and disbursement of Council, state, federal and other funds entrusted to the Council.
- u) To review and amend these Articles.

7.09. **Other Authority.** The Council shall exercise other powers consistent with the purposes of Metro COG as prescribed in these Articles, Federal and states rules,

regulations and guidance, or other powers provided that such powers may also be legally and independently exercised by each general purpose unit of government.

- 7.10. **Constraints on Authority.** The Council does not have the authority, except under contract with such jurisdictions, to exercise administrative authority over any member jurisdiction, other than to conduct planning studies for or within any general purpose units of government, boards, agencies, commissions, councils and authorities.
- 7.11. **Tax Levy.** The Council does not have the authority to levy taxes for the support of Metro COG operations or to implement programs or projects recommended by adopted studies, plans or reports.

ARTICLE VIII. EXECUTIVE DIRECTOR

- 8.01. The Council shall hire an Executive Director, hereinafter referred to as the "Director," who shall serve at the pleasure of the Council.
- 8.02. The Director shall be the chief administrative officer, authorized recording officer and technical advisor of the Council; direct and administer the preparation, maintenance, review, and revision of the Plan; and administer and execute all other functions and duties determined by the Council, including but not limited, to the following:
- a) Appoint, compensate and establish the numbers and duties of the staff. Compensation shall conform to salary schedules of the member units of government. Appointments and removals must be approved by the Council.
 - b) Serve, or designate personnel to serve, as the Secretary of the Council.
 - c) Serve, or designate personnel to serve, as chair to the Transportation Technical Committee by providing reasonable services to the organization preparing and issuing notices of meetings, distributing reports and performing other activities that the Technical Committee and Council may wish to undertake in the furtherance of their function.
 - d) Complete the specific responsibilities as described in COG's Operations Manual or similar approved document.
 - e) Recruit, hire and maintain staff personnel in support of the Council.

ARTICLE IX. FINANCIAL PROVISIONS

- 9.01. Prior to January 1 of the following year, the Council shall adopt by majority vote a final UPWP and Budget required for the operation of the Council.
- 9.02. **Fiscal Agreement.** Local funds required for the Council's operations, local match for federal transportation funds and projects specific to one or multiple jurisdictions is provided for by a separate Fiscal Agreement. The Fiscal Agreement will be updated annually with the dues structure and related costs for each jurisdiction. In case of any conflict between the Fiscal Agreement and these Articles, these Articles shall control.

- 9.03. **Default on Fiscal Agreement.** In the event that one or more member jurisdiction defaults in their requested dues for the support of the Metro COG annual budget or requested special assessments, the member jurisdiction or jurisdictions are in default and Council members representing those jurisdictions surrender membership in good standing and surrender all voting and other privileges. Members not in good standing may have their membership reinstated upon satisfactory correction of default in requested dues or special assessments. All defaulted dues and special assessments shall be requested of each member jurisdiction remaining in good standing and shall be based on the ratio of the respective remaining jurisdictions' population to the total population of all remaining member jurisdictions according to the latest official census.
- 9.04. **Official Depository.** The Council will designate an official depository for the receipt, deposit and disbursement of its own funds and state, federal and other money entrusted to the Council; to solicit and receive funds from governmental and non-governmental agencies and organizations and to contract with a separate accounting service to provide fiscal accounting and record system to provide for an annual audit thereof, and to invest idle funds.
- 9.05. **Audit and Records.** Books, records, and accounts shall be kept as prescribed by State and Federal law. The Director shall sign all checks and vouchers and have the checks countersigned by the Chair or Vice Chair.

ARTICLE X. CODE OF ETHICS

- 10.01. A standard of conduct shall govern the performance of the Council's officers, board members, employees or agents engaged in the award and administration of contracts. No officer, board member, employee or agent of the Council may participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the Parties set forth below has a financial or other interest in the firm selected for award:
- a) The officer, board member, employee or agent;
 - b) Any member of his or her immediate family;
 - c) His or her partner; or
 - d) An organization that employs, or is about to employ, any of the above..
- 10.02. Furthermore, officers, board members, employees or agents may neither solicit nor accept personal gratuities, favors or anything of monetary value from present or potential contractors or sub-recipients. The only exceptions to the policy include the following unsolicited gifts:
- a) A gift whose value does not exceed twenty-five dollars (\$25.00); or
 - b) The gift or receipt of awards, and memorial plaques or trophies, having nominal intrinsic value; or
 - c) The gift of breakfast, lunch, or dinner; or

- d) A project-related benefit that has been approved by the Executive Committee or Council.

10.03. Violation of these standards renders the sale, lease, or contract voidable by the Council or by a court of competent jurisdiction. Any monies paid as a result of such violation may be recovered by a joint and separate action from the Parties to the sale, lease, or contract and the Council official employee or its agent interested in the same. Any officer, employee, board member or agent of the Council proven to have violated these standards shall be subject to disciplinary action and the proven violations shall constitute just cause for the following actions:

- a) Reprimand;
- b) Suspension; or
- c) Discharge or forfeiture of office.

10.04. Reprimand or suspension shall constitute disciplinary action as authorized by the Executive Director for employees or agents. Discharge or forfeiture of office will be at the discretion of the Council after due and proper hearing for officers and board members. It is expressly understood that members of the Council are representatives of municipal bodies comprising the Fargo-Moorhead Metropolitan Council of Governments and the disciplinary proceedings set forth herein shall be additional to any proceedings undertaken by the individual municipal appointing authorities with respect to each appointed member(s) of the Council.

ARTICLE XI. FILING REPORTS

11.01. To facilitate planning and development of the Area, all governing bodies, planning agencies and others within the Area are requested to file with the Council all public plans, maps, reports, regulations and other documents as well as amendments and revisions thereto that are related to the activities of the Council.

ARTICLE XII. WITHDRAWAL OR DISSOLUTION

- 12.01. In the event of the withdrawal of any member jurisdictions from the Council such member jurisdiction shall forfeit all claims to property and operating capital as reflected in the Metro COG equity record.
- 12.02. In the event of the withdrawal of any member jurisdiction from the Council such member jurisdiction shall forfeit its good standing status and shall not be afforded voting membership on the Council, nor will that jurisdiction receive consideration for federal transportation funds attributable to the Council or Metro COG planning services.
- 12.03. In the event of the complete dissolution of the F-M Metropolitan Council of Governments, except as otherwise required by Federal or state laws, all Metro COG property, which was not acquired with federal funds, will be sold and the proceeds for such sale will be combined with the current Metro COG assets to determine total cash

assets of Metro COG. Any reimbursements due to the federal or state governments as per Federal and State regulations will be subtracted from the available cash assets. All remaining cash assets of Metro COG shall be distributed to those member Jurisdictions paying dues to the Council. The share of total cash assets to be distributed to each Jurisdiction shall be according to the ratio of the current equity record of each respective member jurisdiction to the total equity of all the Jurisdictions. Any Metro COG property on hand acquired with federal funds will be transferred to the successor MPO.

ARTICLE XIII. ADOPTION AND AMENDMENT

- 13.01. These Articles shall become effective upon their adoption by the Council and by the governing bodies of the participating units of government.
- 13.02. These Articles may be amended at any regular meeting of the Council by an affirmative vote of sixty-six percent (66%) of the members present, provided that at least one week's notice in writing is given to all members setting forth such amendment.

ARTICLE XIV. AUTHORITY TO EXECUTE/COUNTERPARTS

- 14.01. Each of the Parties to these Articles represents and warrants it has authority to execute these Articles. These Articles may be executed at different times and in any number of counterparts, each of which, when so executed, shall be deemed to be an original, and all of which taken together shall constitute one and the same agreement.
- 14.02. These Articles and all contracts and agreements entered into under the provisions of these Articles shall be binding upon the Jurisdictions of the undersigned signatories.
- 14.03. **Duration.** Upon the effective date, these Articles shall remain in effect as long the Council of Governments remain sustainable and funded in amounts required to maintain the activities as defined in these Articles.
- 14.04. **Continuation.** The Council shall serve as the Council of Governments and designated MPO under these Articles until such time as a new COG is established or the MPO is formally re-designated in accordance with the method described in 23 C.F.R. 450.310 or as otherwise provided by law.

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the Fargo Moorhead Metropolitan Council of Governments.

ATTEST:

Metro COG Policy Board Chair

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this ____ day of _____, 20__ by the Board of County Commissioners of Cass County, North Dakota

ATTEST:

Cass County Commission Chair

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the Board of County Commissioners of Clay County, Minnesota

ATTEST:

Clay County Commission Chair

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this ____ day of _____, 20__ by the City Council of the City of Dilworth, Minnesota.

ATTEST:

Mayor, City of Dilworth

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the City Commission of the City of Fargo, North Dakota.

ATTEST:

Mayor, City of Fargo

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the City Council of the City of Horace, North Dakota.

ATTEST:

Mayor, City of Horace

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the City Council of the City of Moorhead, Minnesota.

ATTEST:

Mayor, City of Moorhead

IN WITNESS WHEREOF, the undersigned parties have reviewed and caused these revised Articles of Association to be signed by their duly authorized officers. As such, the undersigned parties agree, on behalf of his or her respective jurisdiction, the content, original and amended, of these Articles.

Approved this _____ day of _____, 20__ by the City Commissioners of the City of West Fargo, North Dakota.

ATTEST:

Mayor, City of West Fargo



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March 25, 2018

To: Board of City Commissioners
Fr: Michael Redlinger, Assistant City Administrator
Re: Metro COG Lease Agreement – Civic Center Offices

With the opening of City Hall on September 17, 2018 the former City Commission, Administration, and Human Resources Offices on the second floor of the Civic Center became available for lease to external organizations. The City Commission previously approved a lease agreement with the Downtown Community Partnership for the former Human Resources Office in November 2018. City staff recently identified the Fargo-Moorhead Metropolitan Council of Governments (Metro COG) as a prospective short-term tenant to lease the former City Commission/Administration Office while their office in Case Plaza is remodeled. City staff and the City Attorney's Office have developed a draft short-term lease agreement, a copy of which is attached for the City Commission's consideration and approval.

The salient business points of the short-term lease agreement include:

- **Term:** A 3-month lease agreement (May 1 – July 31, 2019) with an option for a one-month extension (August 1 – 30, 2019).
- **Rent:** \$10,762.50.
- **Parking:** Metro COG will continue to use their available parking spaces at Case Plaza while the remodeling project occurs. On-premise parking will be made available in the temporary Civic Center/Library surface lot for meetings and visitor traffic.
- **Insurance:** Public liability and casualty insurance to be maintained for the premises by the Lessee and Lessor, respectively.
- **Subletting:** Metro COG may not sublet the premises to other entities.

With the approval of this short-term lease, Metro COG and the Downtown Community Partnership will together share the common supply/equipment room; restrooms; and conference room in the Civic Center offices.

Recommended Action: I move to approve the attached Metro COG Lease Agreement.

Attachment: Draft Lease Agreement – City of Fargo/Metro COG Lease Agreement

LEASE AGREEMENT

City of Fargo/FM Metropolitan Council of Governments

THIS AGREEMENT is made and entered into effective the 1st day of May, 2018, by and between CITY OF FARGO, a North Dakota municipal corporation (hereinafter called "Lessor" or "City") and Fargo Moorhead Metropolitan Council of Governments (hereinafter called "Lessee" or "METRO COG").

RECITALS:

- A. City is the owner of real property and a building located on City-owned property commonly referred to as the Civic Memorial Auditorium, the second floor of which building is configured as office space. City desires to lease approximately 3280 square feet, not including common area, on the second floor of the building to METRO COG. The square footage will hereinafter be referred to as the "subject property," "premises" or "demised premises."
- B. Lessee desires to lease the subject property for use as offices for a very short period of time.
- C. Lessor desires to lease the space to Lessee for that use.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties agree as follows:

**ARTICLE I
Premises and Terms**

Section 1.1. Leased Premises.

Lessor does hereby lease unto Lessee the following premises:

Three Thousand Two Hundred Eighty square feet (3280 s.f.) of space on the second floor of the Civic Memorial Auditorium building located in the 200 block of 4th Street North, in Fargo, North Dakota. A copy of the floor plan outlining METRO COG's leased space, denoted as "Suite A", is attached to this agreement as Exhibit "A" and is incorporated by reference hereto.

Section 1.2. Use of Premises.

The premises shall be used and occupied by METRO COG as office spaces and for related purposes.

Section 1.3. Term of Lease, Option to Extend.

- 1.3.1. This Lease shall be for a term of three (3) months commencing on May 1, 2019 and ending on July 31, 2019.
- 1.3.2. This lease shall be extended at the option of the Lessee for one (1) additional term of one month upon written notice to City by METRO COG delivered on or before July 1, 2019. If METRO COG exercises the option for such extension, METRO COG shall pay, in advance, rent to the City in the sum of \$3,587.50 which shall be due on or before August 1, 2019. References herein to “this Lease” or “this Agreement” shall be deemed to include any such extensions.

**ARTICLE II
Rent and Common Area Maintenance Charges**

Section 2.1. Rent.

1. Lessee shall pay in advance monthly rent in the sum of \$3,587.50, said sum including an allocation for common area maintenance, payable on the 1st of each month commencing with May 1, 2019, throughout the term of this lease.

**ARTICLE III
Improvements, Conditions and Maintenance
of the Demised Premises**

Section 3.1. Care and Repair of the Demised Premises.

- 3.2.1. Lessor maintenance. Subject to the Lessor’s right to terminate the lease rather than undertake repairs, Lessor, at its sole expense, shall make all repairs to the structure, including the roof, of the Demised Premises (except those caused by the negligence of Lessee or by an intentional act of Lessee). However, Lessor shall not be required to make any repairs if Lessee is obligated to make them under paragraph 3.1.2 below. Lessee shall promptly notify Lessor of the necessity of any repairs of which Lessee has knowledge and for which Lessor may be responsible under this section.

Lessor shall be responsible for maintenance of the exterior of the building and common area, including all electric wiring and plumbing serving the common area at Lessor’s expense.

- 3.2.2. Lessee maintenance. Lessee shall take good care of the Demised Premises, and, shall be responsible for the cost of all repairs to electric wiring, plumbing, heating and air-conditioning facilities and the fixtures, equipment and appurtenances therein except those repairs required to be made by Lessor under paragraph 3.1.1, above. As to such repairs made to the building as a whole, Lessee shall proportionately share the

responsibility for such cost with other tenants of the Building. Lessee shall be responsible for the cost of all repairs to the Demised Premises when needed to preserve them in good working order and condition. All damage to the structure and/or roof of the Demised Premises caused by the negligence of Lessee or by an intentional act of Lessee shall be the responsibility of Lessee. All damage or injury to the Demised Premises and its fixtures, glass, appurtenances, and equipment or to the Building or its fixtures, glass, appurtenances, and equipment caused by Lessee moving property in or out of the Building or by installation or removal of furniture, fixtures, or other property, be repaired, restored, or replaced promptly by Lessee to the reasonable satisfaction of Lessor at Lessee's expense. All repairs and restorations or replacement required in connection therewith shall be of quality and class at least equal to the original work or installations and done in a good and workmanlike manner.

3.2.3. Unless approved in writing otherwise, Lessor shall perform all repairs to the Demised Premises. Lessor shall make such repairs in a timely manner.

Section 3.2 Services and Equipment

3.2.1 Lessor services. So long as Lessee is not in default under any provision of this Lease, Lessor, at its expense, shall:

3.2.1.1 Supply water and sewer.

3.2.1.2 Provide standard cleaning services for the Common Areas of the Building, except on Saturdays, Sundays and holidays, similar to first class office buildings in the area.

3.2.1.3 Furnish hot and cold water for drinking purposes.

3.2.2 Lessee services and expenses. Lessee shall be responsible for all cleaning of the demised premises, including the cost thereof.

Section 3.3. Alterations, Installation, Fixtures.

Except as hereinafter provided, Lessee shall not make any alterations, additions or improvements in or to the demised premises or add, disturb or in any way change the plumbing or wiring therein [hereinafter referred to as "alterations"] without the prior written consent of the Lessor. Any such approved alterations to the demised premises shall be made by, or under the control of, Lessor unless otherwise approved. Plans for the same must be submitted to Lessor for approval at least ten (10) days prior to the proposed date for starting these alterations. In the event alterations are required by any governmental agency by reason of the use and occupancy of the demised premises by Lessee (including alterations, additions, or changes required for compliance with the Americans with Disabilities Act, 42 U.S.C. Sections 12101-12213, as amended (including administrative, judicial, and legislative interpretations, rulings, and

clarifications relating thereto)), Lessee shall make such alterations at its own cost and expense after first obtaining Lessor's written approval of plans and specifications therefor and furnishing such indemnification as Lessor may reasonably require against liens, costs, damages and expenses arising out of such alterations. Alterations or additions by Lessee must be built in compliance with all laws, ordinances and governmental regulations affecting the premises and Lessee shall warrant to Lessor that all such alterations, additions or improvements shall be in strict compliance with all relevant laws, ordinances, governmental regulations and insurance requirements. Construction of such alterations or additions shall be commenced only upon Lessee obtaining and exhibiting to Lessor the requisite approvals, licenses and permits and indemnification against liens. All alterations, installations, physical additions or improvements to the demised premises by Lessee shall at once become the property of Lessor and shall be surrendered to Lessor upon the termination of this Lease; provided, however, this clause shall not apply to the movable equipment or furniture owned by Lessee which may be removed by Lessee at the end of the term of this Lease if Lessee is not then in default.

Section 3.4. Signs.

No sign, lettering, picture, notice or advertisement installed on or in any part of the premises and visible from the exterior of the subject property shall be allowed. Any sign, lettering, picture, notice or advertisement installed on or in any part of the premises or visible from the exterior of the demised premises shall be approved by Lessor in writing prior to installation and shall be installed at Lessee's sole cost and expense. Any signs shall be maintained by the Lessee at the Lessee's sole expense and shall be anchored to and removed from the building without causing any damage to the same and in a manner approved in writing by Lessor. In the event of a violation of the foregoing by Lessee, Lessor may remove the violation without any liability and may charge the expense incurred by such removal to Lessee. At the termination or expiration of this Lease, Lessee shall cause removal of all of its signs at its expense and shall repair any damage caused by the removal of the signs if requested to do so by Lessor.

Section 3.5. Surrender of Premises.

At the end of the term of this Lease and any renewals and extensions thereof, Lessee shall surrender the demised premises to lessor in clean condition and in as good a condition as at the completion of the initial construction and remodeling of the demised premises at the start of the Lease, reasonable wear and tear excepted.

Section 3.6 Parking.

Lessee's officers, employees and agents will continue to use their parking spaces in the Case Plaza parking lot during the lease term, except for such reasonable use of available parking spaces in the currently existing temporary Civic Center Mall lot or the City Hall South lot for incidental parking for such things as meetings and other short-term periods.

ARTICLE IV

Taxes

Section 4.1. Real Estate Taxes.

Lessor shall be responsible for payment of real estate taxes and installments of special assessments against the property which have been certified for collection during the term of this Lease, if any.

ARTICLE V

Utilities

Section 5.1. Lessor's Obligation for Utilities.

Lessor shall provide the means and conduits to supply water, electricity and sanitary sewer to the premises. Lessor shall not be liable for and Lessee shall not be entitled to, any abatement or reduction of rent by reason of Lessor's failure to furnish any of the foregoing utilities and services when such failure is caused by or results in casualties, riots, strikes, picketing, accidents, breakdowns or any other cause beyond Lessor's reasonable control.

Lessor shall pay, when due, all charges for utilities attributable to the premises, including heat, air conditioning, water, sewer, garbage and/or other utility charges or energy sources furnished to the demised premises during the term of this Lease, or any renewal or extension thereof.

ARTICLE VI

Lessor's Access to the Demised Premises

Section 6.1. Lessor's Access to Demised Premises.

The Lessee agrees to permit the Lessor and the authorized representatives of the Lessor to enter the demised premises at all times during usual business hours for the purpose of inspection of the same and making any necessary repairs to the demised premises and performing any work therein that may be necessary to comply with any laws, ordinances, rules, regulations or requirements of any public authority or of the Board of Fire Underwriters or any similar body that the Lessor may deem necessary to prevent waste or deterioration in connection with the demised premises. Nothing herein shall imply any duty upon the part of the Lessor to do any such work which, under any provision of this Lease, the Lessee may be required to perform and the performance thereof by the Lessor shall not constitute a waiver of the Lessee's default in failing to perform the same. The Lessor may, during the progress of any work in the demised premises, keep and store upon the demised premises the necessary materials, tools and equipment. The Lessor shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business or other damage of the Lessee by reason of making repairs or the performance of any work in the demised premises or on account of bringing materials, supplies and equipment into or through the demised premises during the course thereof and the obligations of the Lessee under this Lease shall not thereby be affected in any manner whatsoever.

Lessor reserves the right to enter upon the demised premises at any time in the event of an emergency and at reasonable hours to exhibit the demised premises to prospective purchasers or others; and to exhibit the demised premises to prospective lessees and to display "for rent" or similar signs on the exterior of the Building or upon the grounds of the Subject Property during the term of this Lease, all without hindrance or molestation by Lessee.

ARTICLE VIII
Damage or Destruction of Leased Premises

Section 7.1. Total or Partial Destruction.

In the event of any damage or destruction to the premises by fire or other cause during the term hereof, then Lessor shall have the option of either repairing such damage or terminating the Lease, in Lessor's sole discretion, effective immediately upon written notice to Lessee.

ARTICLE VIII
[This article intentionally omitted.]

ARTICLE IX
Insurance, Liability and Indemnity

Section 9.1. Public Liability Insurance.

Lessee shall, during the term hereof, keep in full force and effect at its expense a policy or policies of public liability insurance with respect to the demised premises and the business of Lessee, on terms and with companies approved in writing by Lessor, in which both Lessee and Lessor shall be covered by being named as insured parties under a general commercial liability policy with limits of not less than \$1,000,000 per occurrence; and \$3,000,000 in the aggregate. Such policy or policies shall provide that 30 days written notice must be given to Lessor prior to cancellation thereof. Lessee shall furnish evidence satisfactory to Lessor at the time this Lease is executed that such coverage is in full force and effect.

As to the common areas, Lessor shall, during the term hereof, keep in full force and effect at its expense a general commercial liability policy or policies with limits of not less than \$1,000,000 per occurrence; and \$3,000,000 in the aggregate. Such policy or policies shall provide that 30 days written notice must be given to Lessee prior to cancellation thereof. Lessor shall furnish evidence satisfactory to Lessee at the time this Lease is executed that such coverage is in full force and effect.

Section 9.2. Casualty Insurance.

9.2.1 Lessor shall at all times during the term of this Lease, at its expense, maintain a policy or policies of insurance or equivalent casualty coverage with North Dakota State Fire and Tornado Fund insuring the building against loss or damage by fire, explosion or other insurable hazards, provided that Lessor shall not be obligated to insure any furniture, equipment, machinery, goods or supplies not covered by this Lease which Lessee may bring upon the demised premises or any additional improvements which Lessee may construct or install on the demised premises.

9.2.2 Lessee shall not carry any stock of goods or do anything in or about the demised premises which will in any way impair or invalidate the obligation of the insurer under any policy of insurance required by this Lease.

9.2.3 Lessor hereby waives and releases all claims, liabilities and causes of action against Lessee and its agents, servants and employees for loss or damage to, or destruction of, the premises or any portion thereof, including the buildings and other improvements situated thereon, resulting from fire, explosion or other perils included in standard extended coverage insurance, whether caused by the negligence of any of said persons or otherwise. Likewise, Lessee hereby waives and releases all claims, liabilities and causes of action against Lessor and its agents, servants and employees for loss or damage to, or destruction of, any of the improvements, fixtures, equipment, supplies, merchandise and other property, whether that of Lessee or of others in, upon or about the premises resulting from fire, explosion or other perils included in standard extended coverage insurance, whether caused by the negligence of any of said persons or otherwise. The waiver shall remain in force whether or not the Lessor's and Lessee's insurers shall consent thereto.

9.2.4 In the event that the particular use(s) of the demised premises by Lessee causes an increase or additional charge in the premium rate for insurance carried by Lessor on the improvements of which the demised premises are a part, which increase or additional charge is specifically related to the particular use(s) by Lessee, Lessee shall be responsible for reimbursement to Lessor for the amount of such premium increase or additional charge. If Lessee installs any electrical equipment that overloads the power lines to the building or its wiring, Lessee shall, at its own expense, make whatever changes are necessary to comply with the requirements of the insurance underwriter, insurance rating bureau and government authorities having jurisdiction.

Section 9.3. Covenant to Hold Harmless.

Unless the liability for damage or loss is caused by the negligence of Lessor, its agents or employees, Lessee shall hold harmless Lessor from any liability for damages to any person or property in or upon the demised premises and the premises, including the person and property of Lessee and its employees and all persons in the building at its or their invitation or sufferance, and from all damages resulting from Lessee's failure to perform the covenants of this Lease. All property kept, maintained or stored on the demised premises shall be so kept, maintained or stored at the sole risk of Lessee, Lessee agrees to pay all sums of money in respect of any labor, service, materials, supplies or equipment furnished or alleged to have been furnished to Lessee in or about the premises, and not furnished on order of Lessor, which may be secured by any mechanic's, materialmen's or other lien to be discharged at the time performance of any obligation secured thereby matures, provided that Lessee may contest such lien, but if such lien is reduced to final judgment and if such judgment or process thereon is not stayed, or if stayed and said stay expires, then and in each such event, Lessee shall forthwith pay and discharge said judgment. Lessor shall have the right to post and maintain on the demised premises, notice of non-responsibility under the laws of the State of North Dakota.

Section 9.4. Non-Liability of Lessor.

Subject to the terms and conditions of Article X hereof, to the extent any claim exceeds insurance coverage maintained by the Lessor, Lessor shall not be liable for any damage to property of Lessee or of others located on the premises, nor for the loss or damage to any property of Lessee or of others by theft or otherwise; nor shall Lessor be liable for any injury or damage to property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the premises or from the pipes, appliances, or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature. To the extent any claim exceeds insurance coverage maintained by the Lessor, Lessor shall not be liable for any personal injury resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the premises or from the pipes, appliances, or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature. Lessor shall not be liable for any such damage caused by other Lessees or persons in the premises, occupants of adjacent property, of the building, or the public or caused by operations in construction of any private, public or quasi-public work. Lessor shall not be liable for any latent defect in the demised premises. All property of Lessee kept or stored on the demised premises shall be so kept or stored at the risk of Lessee only and Lessee shall hold Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's insurance. This waiver shall not apply to any such loss resulting from (a) Lessor's failure to make a reasonable effort to repair a defect Lessor is obligated to repair under this Lease, within a reasonable time after Lessor receives notice from Lessee of any defect which creates a substantial likelihood of damages to the Premises or persons or property located therein; (b) intentional misconduct or gross negligence of Lessor; (c) loss or damage arising out of Lessor's negligence in making alterations or repairs to the Premises; or (d) claims brought by third parties other than subsidiaries or affiliates of Lessee.

Section 9.5. Waiver of Subrogation.

The Lessor and Lessee mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the leased premises or covered by insurance in connection with the property on or activities conducted on the leased property regardless of the cause of damage or loss, unless such release or discharge voids insurance coverage or causes a loss or decrease in insurance coverage.

**ARTICLE X
Assignment or Subletting**

Section 10.1. Assignment or Subletting.

Lessee agrees to use and occupy the demised premises throughout the entire term hereof for the purpose or purposes herein specified and for no other purposes, in the manner and to substantially the extent now intended, and not to transfer or assign this Lease or sublet said demised premises, or any part thereof, whether by voluntary act, operation of law, or otherwise, without obtaining the prior consent of Lessor in each instance.

Section 10.2. Successors and Assigns.

The terms, covenants and conditions hereof shall be binding upon and inure to the successors and assigns of the parties hereto.

**ARTICLE XI
Default and Overdue Payments of Lessee**

Section 11.1.

11.1.1 In the event of any failure of Lessee to pay any rental due hereunder within ten days after the same shall be due, or any failure to perform any other of the term, condition or covenant of this Lease to be observed or performed by Lessee for more than 30 days after written notice of such failure shall have been given to Lessee, or if Lessee or an agent of Lessee shall falsify any report required to be furnished to Lessor pursuant to the terms of this Lease, or if Lessee or any guarantor of this Lease shall become bankrupt or insolvent, or file any debtor proceedings or any person shall take or have against Lessee or any guarantor of this Lease in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency for the reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's or any such guarantor's property, or if Lessee or any such guarantor makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, or if Lessee shall abandon the demised premises or suffer this Lease to be taken under any writ of execution, then in any such event Lessee shall be in default hereunder, and Lessor, in addition to other rights of remedies it may have, shall have the

immediate right of re-entry and may remove all persons and property from the demised premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Lessee, all without service of notice or resort to legal process without being guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

11.1.2 Should Lessor elect to re-enter the demised premises, as herein provided, or should it take possession of the demised premises pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time to time, without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the demised premises, and relet the demised premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Lessor in its sole discretion may deem advisable. Upon each subletting all rentals received by the Lessor from such reletting shall be applied first to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorneys fees and of costs of such alterations and repairs; third, to the payment of residue and unpaid hereunder, and the rent due, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month be less than that to be paid during that month by Lessee hereunder, Lessee, upon demand shall pay any such deficiency to Lessor. No such re-entry or taking possession of the demised premises by Lessor shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may at any time after such re-entry and reletting elect to terminate this Lease for such previous breach. Should Lessor at any time terminate this Lease for any such breach, in addition to any other remedies it may have, it may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the demised premises, reasonable attorneys fees, and including the worth at the time of such termination the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term over the then reasonable rental value of the demised premises for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

11.1.3 Lessor may, at its option, instead of exercising any other rights or remedies available to it in this Lease or otherwise by law, statute or equity, spend such money as is reasonably necessary to cure any default of Lessee herein and the amount so spent, and costs incurred, including attorneys fees in curing such default, shall be paid by Lessee, as additional rent, upon demand.

- 11.1.4 In the event suit shall be brought for recovery of possession of the demised premises, for the recovery of rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of Lessor or Lessee to be kept or performed, and a breach shall be established, the prevailing party in the suit shall be entitled to recover reasonable attorney's fees and costs incurred as a result of the litigation in addition to any amounts recoverable under this Lease. The prevailing party in the suit shall be entitled to recover interest on all damages, other than such reasonable attorney's fees and costs awarded by the court, in an amount determined by the court, and not by a jury. All damages, including such reasonable attorney's fees and costs awarded by the court, shall accrue interest at the then current legal rate for interest on judgments under North Dakota (not North Dakota) law from the date of entry of judgment.
- 11.1.5 Lessee waives any demand for possession of the demised premises, and any demand for payment of rent and any notice of intent to re-enter the demised premises, or of intent to terminate this Lease, other than the notices above provided in this Article, and waives any and every other notice or demand prescribed by any applicable statutes or laws.
- 11.1.6 No remedy herein or elsewhere in this Lease or otherwise by law, statute or equity, conferred upon or reserved to Lessor or Lessee shall be exclusive of any other remedy, but shall be cumulative, and may be exercised from time to time and as often as the occasion may arise.

Section 11.2. Overdue Payments.

All monies due under this Lease from Lessee to Lessor shall be due on demand, unless otherwise specified, and if not paid when due, shall bear interest at the rate of 12% per annum until paid; but in no event shall said rate of interest exceed the maximum rate of interest set by state or federal usury law.

ARTICLE XII
Certificate of Estoppel and Subordination

Section 12.1. Certificate of Estoppel.

The Lessee agrees at any time and from time to time upon not less than 10 days prior written request by the Lessor to execute, acknowledge and deliver to the Lessor a statement in writing certifying that this Lease is unmodified and in full force and effect, or if modified, in full force and effect, and stating the modifications, and the dates to which the basic rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser of the fee or mortgage or assignee of any mortgagee upon the fee of the demised premises.

Section 12.2. Subordination.

Upon request of Lessor, Lessee will subordinate this Lease and its rights hereunder to the lien of any mortgage, trust deed or other instrument resulting from any method of finance and refinancing, now or hereafter in force against the land and buildings which constitute the premises, and to all advances made or hereafter to be made upon the security thereof, provided, however, that such mortgage or instrument of finance will agree that, in the event any action is taken to foreclose the lien of the mortgage, this Lease and all rights of the Lessee under its terms to use and quiet possession of the premises shall not be disturbed and shall continue in full force and effect so long as Lessee shall faithfully discharge each and every obligation on its part to be kept and performed under the terms of this Lease.

Section 12.3. Event of Sale.

In the event of the sale of the demised premises, Lessor shall be and hereby is relieved of all of the covenants and obligations created hereby accruing from and after the date of sale, and such sale shall result automatically in the purchaser assuming and agreeing to carry out all the covenants and obligations of Lessor herein. Notwithstanding the foregoing provisions of this section, Lessor, in the event of a sale of the demised premises, shall cause to be included in the agreement of purchase and sale a covenant whereby the purchaser of the demised premises assumes and agrees to carry out all of the covenants and obligations of Lessor herein.

ARTICLE XIII
Surrender, Holding Over and Abandonment

Section 13.1. Surrender.

On the expiration date or upon the termination hereof upon a day other than the expiration date, Lessee shall peaceably surrender the demised premises broom-clean in good order, condition and repair, reasonable wear and tear only excepted. On or before the expiration date or upon termination of this Lease on a day other than the expiration date, Lessee shall, at its

expense, remove all trade fixtures, personal property and equipment and signs from the demised premises and any property not removed shall be deemed to have been abandoned. Any damage caused in the removal of such items shall be repaired by Lessee and at its expense. All alterations, additions, improvements and fixtures (other than trade fixtures) which shall have been made or installed by Lessor or Lessee upon the demised premises and all floor covering so installed shall remain upon and be surrendered with the demised premises as a part thereof, without disturbance, molestation or injury, and without charge, at the expiration or termination of this Lease. Upon request by Lessee, Lessor and Lessee shall identify and designate such fixtures as "trade fixtures" from time to time, as such trade fixtures are installed which designation by Lessor shall not be unreasonably withheld. If the demised premises are not surrendered on the expiration date or the date of termination, Lessee shall indemnify Lessor against loss or liability, claims, without limitation, made by any succeeding Lessee founded on such delay. Lessee shall promptly surrender all keys for the demised premises to Lessor at the place then fixed for payment of rent and shall inform Lessor of combinations of any locks and safes on the demised premises.

Section 13.2. Holding Over.

In the event Lessee remains in possession of the demised premises after the expiration date of this Lease and without the execution of a new lease, it shall be deemed to be occupying the demised premises as a Lessee from month to month at a rate equal to one-third (1/3) of the fixed rent sum for the initial 3-month term, subject to all the conditions, provisions and obligations of this Lease insofar as the same can be applicable to a month-to-month tenancy.

Section 13.3. Abandonment.

In the event Lessee shall remove its fixtures, equipment or machinery or shall vacate the demised premises or any part thereof prior to the expiration date of this Lease, or shall discontinue or suspend the operation of its business conducted on the demised premises for a period of more than 30 consecutive days (except during any time when the demised premises may be rendered unleaseable by reason of fire or other casualty), then in any such event Lessee shall be deemed to have abandoned the demised premises and Lessee shall be in default under the terms of this Lease.

**ARTICLE XIV
Rules and Regulations**

Section 14.1. Rules and Regulations.

Lessee shall observe and comply with reasonable rules and regulations as Lessor may prescribe, on written notice to Lessee, for the safety, care and cleanliness of the building and to regulate, restrict or prohibit smoking on the Subject Property.

**ARTICLE XV
Mechanics' Liens**

Section 15.1. Mechanics' Liens.

- 15.1.1 Lessee will not permit to be created or to remain undischarged in any lien, encumbrance or charge (arising out of any work done or materials or supplies furnished by any contractor, subcontractor, mechanic, laborer or materialmen, or any mortgage, conditional sale, security agreement or chattel mortgage, or otherwise by or for Lessee) which might be or become a lien or encumbrance or charge upon the subject premises or any portion thereof or the income and interest of Lessor in the demised premises or any portion thereof that might be impaired. If any lien or notice of lien on account of any alleged debt of Lessee or any notice of contract by a party engaged by Lessee or Lessee's contractor to work on the premises shall be filed against the demised premises or subject property or any portion thereof, Lessee shall within 10 days after demand from Lessor, cause the same to be discharged of record by payment, deposit, bond, order of a Court of competent jurisdiction or otherwise. If Lessee shall fail to cause such lien or notice of lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge such lien by deposit or by bonding proceedings or in any such event Lessor shall be entitled if Lessor so elects to compel the prosecution of an action for the foreclosure of any such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowance. Any amount so paid by Lessor and all costs and expenses, including attorney's fees, incurred by Lessor in connection therewith shall constitute additional rent payable by Lessee under the Lease and shall be paid by Lessee to Lessor on demand. Nothing herein contained shall obligate Lessor to pay or discharge any lien created by Lessee.
- 15.1.2 Lessee shall pay promptly all persons furnishing labor and materials with respect to any work performed by Lessee or Lessee's contractor in the premises. No work which Lessor permits Lessee to do shall be deemed to be for the immediate use and benefit of Lessor, so that no mechanic's or other liens should be allowed against the estate of Lessor by reason of any consent given by Lessor to Lessee to improve the premises.
- 15.1.3 Prior to the commencement of any work or the delivery of any material to the premises by a contractor, subcontractor or materialmen, Lessee shall deliver to the Lessor a recordable waiver of lien affidavit from each such contractor which waiver of lien shall provide, among other things, that the contractor waives any and all lien rights that he may have against Lessor's interest in the property or any portion thereof.
- 15.1.4 The provisions of this section shall apply with respect to Lessee's work or any other work performed on the premises at any time during the term hereof.

**ARTICLE XVI
Garbage and Rubbish Removal**

Section 16.1. Garbage and Rubbish Removal

Lessor shall be responsible for the removal of all garbage and rubbish generated from demised premises by the Lessee and/or Lessee's customers and clients except medical waste. With the exception of medical waste, Lessor will promptly remove all garbage and rubbish from the subject premises and will not store any of the same on the premises except for such temporary storage in dumpsters to facilitate weekly or other reasonable periodic removal.

**ARTICLE XVII
Miscellaneous**

Section 17.1. Notices.

Any notice required or permitted under this Lease shall be deemed sufficiently given or secured if sent by certified return receipt mail to Lessee at the main offices for Lessee, at the Case Plaza Building, One Second Street North, Fargo, North Dakota 58102 and to the Executive Director, Metro COG, 1 2nd Street North, Fargo, North Dakota and to Lessor by delivery to the following:

City Auditor
Fargo City Hall
225 4th Street North
Fargo, North Dakota 58102

and to:

City Administrator
Fargo City Hall
225 4th Street North
Fargo, North Dakota 58102

and either party may, by like written notice at any time, designate a different address to which notices shall subsequently be sent or rent to be paid.

Section 17.2. Intent of Parties.

Except as otherwise provided herein, the Lessee covenants and agrees that if it shall at any time fail to pay any such cost or expense, or fail to take out, pay for, maintain or deliver any of the insurance policies above required, or fail to make any other payment or perform any other act on its part to be made or performed as in this Lease provided, then the Lessor may, but shall not be obligated to do so, and without notice to or demand upon the Lessee and without waiving or releasing the Lessee from any obligations of the Lessee in this Lease contained, pay any such cost or expense, effect any such insurance coverage and pay premiums therefor, and may make

any other payment or perform any other act on the part of the Lessee to be made and performed as in this Lease provided, in such manner and to such extent as the Lessor may deem desirable, and in exercising any such right, to also pay all necessary and incidental costs and expenses, employ counsel and incur and pay reasonable attorneys' fees. All sums so paid by Lessor and all necessary and incidental costs and expenses in connection with the performance of any such act by the Lessor, together with interest at the Contract Interest Rate from the date of making of such expenditure by Lessor, shall be deemed additional rent hereunder, and shall be payable to lessor on demand. Lessee covenants to pay any such sum or sums with interest as aforesaid and the Lessor shall have the same rights and remedies in the event of nonpayment thereof by Lessee as in the case of default by Lessee in the payment of the base rent payable under this Lease.

In the event the Lessor fails to perform any covenant or obligation to be kept by Lessor under this Lease, Lessee at its option may cure the Lessor's failure to perform Lessor's covenants and obligations, having first given Lessor reasonable notice of such failure to perform, and a reasonable opportunity for Lessor to so perform. Lessee shall be entitled to an offset against future rents equal to the reasonable costs, including interest at the Contract Interest Rate from the date of payment, incurred by Lessee to complete performance of the Lessor's covenants and obligations under the Lease.

Section 17.3. Consents by Lessor.

17.3.1. Whenever provision is made under this Lease for Lessee securing the consent or approval by Lessor, such consent or approval shall only be in writing.

17.3.2. The following persons are authorized to act on behalf of Lessor/Lessee:

As to Lessor, any one or more of the following are authorized to act or make decisions:

City Administrator

As to Lessee, any on or more of the following are authorized to act or make decisions: its Executive Director.

Section 17.4. No Agency Relationship.

The Lease does not create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee, the sole relationship between the parties being that of Lessor and Lessee.

Section 17.5. Governmental Regulations.

Lessee shall at Lessee's sole cost and expense comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force or which may hereafter be in force, pertaining to the said premises and shall faithfully observe in

the use of the premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force.

Section 17.6. Waiver.

The waiver by the Lessor of any breach or default of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach of the Lessee of any term, covenant or condition of this Lease, regardless of Lessor's knowledge of said preceding breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Lessor unless such waiver is in writing by Lessor.

Section 17.7. Force Majeure.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive government laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required during the term of this Lease, the performance of such act shall be excused for the period of the delay. The provisions of this section shall not operate to excuse Lessee from the prompt payment of rent, additional rent or any other payments required by this Lease.

Section 17.8. Entire Agreement.

This Lease and the schedules, if any, attached hereto and forming a part hereof, constitute the entire agreement between Lessor and Lessee affecting the demised premises and there are no other agreements, either oral or written, between them other than are herein set forth. All negotiations, considerations, representations and understandings between the parties are incorporated herein. No subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and executed in the same form and manner in which this Lease is executed.

Section 17.9. Interpretation of Lease.

Unless specifically stated herein, this Lease shall be construed and interpreted in accordance with the laws of the State of North Dakota.

Section 17.10. Time is of the Essence.

Time is of the essence of each provision in this Lease.

Section 17.11. Construction.

If any agreement, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application or such agreement, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each agreement, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 17.12. Captions.

The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or described the scope of this Lease nor the intent of any provision thereof.

[Remainder of page intentionally blank.]

Dated the day and year first set forth above.

LESSOR:

CITY OF FARGO,
a North Dakota municipal corporation

By: Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steven Sprague, City Auditor

LESSEE:

Fargo Moorhead Metropolitan Council of
Governments

By: Cynthia Gray
Its: Executive Director



FARGO POLICE DEPARTMENT

222 Fourth Street North, Fargo, North Dakota 58102

David E. Todd, Chief of Police

March 13, 2019

20

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Fargo Police Summer Camp Mentor position

Dear Commissioners:

The Fargo Police Department asks the City of Fargo to approve allowing the department to hire a summer camp mentor for the Fargo Police Department Community Trust Officer Summer Youth Camp.

The Fargo Police Department summer youth camp mentor works with the community trust officers, the summer camp director, and the lead mentor to host summer camp. The mentor contributes to the camp curriculum and schedule development. The success and expansion of this summer camp is necessitating the addition of this mentor position to allow us to properly supervise and mentor the kids.

This position is a seasonal employee, and is not eligible for benefits. The job class description has been written and approved through the Human Resources Department.

The cost of the mentor position will be reimbursed to the city through donations to the Badges of Unity nonprofit under the DMF umbrella by the Creative Plains Art Foundation and therefore is a budget neutral endeavor for the city. The Creative Plains Art Foundation is donating \$14,700 each year for the next three years to fund these positions and this proposal has been approved by the City of Fargo Finance Committee.

Thank you for your consideration.

Recommended Motions:

Approve the Fargo Police Department's request for a summer camp mentor to be funded through the Badges of Unity fund, making it a budget neutral request.

Please contact me if you have any questions or concerns.

Sincerely,

David E. Todd
Chief of Police

ADMINISTRATION
Phone: 701-241-1427
Fax: 701-297-7789

INVESTIGATIONS
Phone: 701-241-1405
Fax 701-241-1407

RECORDS
Phone: 701-241-1420
Fax: 701-241-8272

NON EMERGENCY
Phone: 701-235-4493



Job Class: Summer Camp Mentor
Department: Police
Supervisor: Police Sergeant
FLSA Status: Non-exempt
Grade: Non-classified
Revision Date: 9/18/18
Prepared by: Matt Niemeyer

Job Summary

The Fargo Police Department Summer Camp Mentor works with the Community Trust Officers, the Summer Camp Director, and the Lead Mentor to host Summer Camp. The Mentor contributes to the camp curriculum and schedule development. In most circumstances, the Mentor will work directly with youth on a daily basis and assist the Camp Director or Lead Mentor in running their group. This position is a seasonal employee, and is not eligible for benefits.

Scope of Responsibility:

The Fargo Police Department Summer Camp Mentor will work with Community Trust Officers, the Camp Director, and Lead Mentor to organize and prepare for summer camp. The Mentor will contribute material and ideas they deem valuable and appropriate for camp. The Mentor will be responsible for the kids in their group, and will assist with other groups and tasks as necessary to maintain the overall safety and daily progress of camp.

The Mentor will administer necessary discipline, corrections, and re-direction for the children in their group within camp policy. When necessary, the Mentor will confer with the Director, Camp Operator, and/or the Lead Mentor to determine an appropriate course of action to correct re-occurring behavior problems; to ensure consistency in these situations for all children in camp.

Essential Duties and Responsibilities

- Will work with other camp staff members to develop new curriculum topics and materials.
- Provide a safe and healthy environment, both physically and mentally, for all camp participants.
- Ensures children are aware of rules, and daily scheduled routines.
- Attend all staff meetings and planning sessions.
- Participate in facility clean-up as necessary.
- Participate in the planning, development, and facilitation of daily activities for camp participants.
- Report all suspicions of child abuse to the proper authorities.
- Help ensure that camp participants' whereabouts are accounted for.
- Document all accidents and inform the Community Trust Officers, the Supervising Sergeant, and/or the Camp Director.
- Support daily social-emotional development of camp participants.
- Establish a relationship with each participant, consider participants' needs during camp activities, and treat every participant and team member with respect and dignity.
- Demonstrates excellent teamwork skills with other team members.
- Facilitate discussion groups and lead group activities.
- Will prioritize engaging with camp participants.

- Will promote positive social interaction amongst the participants.

Minimum Qualifications:

- Experience in working with at-risk youth, and youth affected by adverse childhood experiences and trauma.
- Has been trained in Trauma Sensitive Schools training, or an equivalent program, and experience in crisis management with youth.
- Have excellent leadership, interpersonal, and communication skills.
- Ability to work up to 40 hours weekly.
- Demonstrate responsibility and dependability.
- Must exhibit patience and understanding.
- Be able to receive and follow detailed instructions.
- Be alert at all times, and keep safety in mind.
- Must be able to work under pressure in a moderately disruptive environment.

Physical Demands & Working Conditions:

Work is performed in a normal office environment as well as indoor and outdoor recreation spaces. Work is generally light with considerable variety. Daily work involves monitoring camp participants' well-being, regular computer and phone use, and moving between buildings and rooms. There is moderate attention to detail and deadlines. Driving is occasionally required. The job will likely involve dealing with and calming individuals who are emotionally charged over an issue. Occasional light lifting up to 25 pounds is likely.

Activities include stooping, standing, walking, lifting, fingering, grasping, feeling, talking, hearing/listening, seeing/observing,

Light Work: Physical demands are normally those associated with light work: Exerting up to 25 pounds of force occasionally and/or 10 pounds of force frequently, and/or negligible amount of force constantly to move objects.

Some requirements in this job description may exclude individuals who pose a direct threat or significant risk to the health and safety of themselves or other employees. All requirements are subject to modification to reasonably accommodate individuals with disabilities.

Requirements are representative of minimum levels of knowledge, skills, and experience required. To perform this job successfully, the worker must possess the abilities and aptitudes to perform each duty proficiently.

This document does not create an employment contract, implied or otherwise, other than an "at will" employment relationship. The City Administrator retains the discretion to add duties or change the duties of this position at any time.



4141 28th Avenue South
Fargo, ND 58104

DATE: 11/15/2018 _____

FOR: CREATIVE PLAINS FOUNDATION

DESCRIPTION	AMOUNT	
2019 Summer Camp Director Wages	\$6,278.15	
2019 Lead Mentor Wages	\$4,456.71	
2019 Mentor Wages	\$3,342.53	
2019 Project Supplies, Cleaning Supplies, Camp Shirts	\$622.61	
PLEASE MAKE YOUR CHECK PAYABLE TO: IMPACT FOUNDATION THANK YOU!		Amount Due: 14,700.00



PUBLIC WORKS/OPERATIONS

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1453
FAX: (701) 241-8100

21

March 13, 2019

The Honorable Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

RE: 2019 Tennant Sweeper / Scrubber (PBC19871)

Commissioners:

A cost evaluation process was started in January for the purchase of a new Sweeper / Scrubber for Central Garage. North Dakota and Minnesota State bids along with local vendors were researched and evaluated. It was determined that utilizing a purchasing consortium was the best solution for the purchase. The Minnesota State bids has contract number S-871(5) (Industrial sweeper/scrubber Equipment) available that meets all of the City of Fargo purchasing guidelines.

The review committee, consisting of Ben Dow and Tanner Smedshammer, determined which proposals met the specifications required. A proposal synopsis is attached for your clarification and consideration. It is our recommendation to purchase from Tennant Sales and Service Company using the Minnesota State bids contract. Funding for this project is included in the 2019 Central Garage Budget.

SUGGESTED MOTION:

Approve the recommendation to purchase one (1) Tennant M20 Sweeper/Scrubber thru the Minnesota State bids Contract for the total amount of \$59,777.42.

Respectfully Submitted,

Tanner Smedshammer
Fleet Management Specialist





Tennant Sales and Service Company
 701 N. Lilac Drive
 Minneapolis, MN 55422 USA
 Tel: 1-800-553-8033
 Fax: 1-763-513-2142

Quotation

Ship-To
 CITY OF FARGO
 CENTRAL GARAGE
 402 23RD ST N
 FARGO ND 58102-4114

Customer Number 3962546
 CITY OF FARGO
 CENTRAL GARAGE
 402 23RD ST N
 FARGO ND 58102-4114

Quotation Number 24778958
Quotation Date 03/12/2019
Valid Until 05/12/2019
PO Number M20 QUOTE
Buyer TANNER SMEDSHAMMER
Tel 701-241-1460
Delivery Terms
 FOB SHIPPING PT FRT PPD & ADD
Payment Terms
 Net 30 Days
Currency US Dollars

Bill-To
 CITY OF FARGO
 CENTRAL GARAGE
 402 23RD ST N
 FARGO ND 58102-4114

Qty	Unit	Material	Description	Unit Price	Extended Value
Notes MN STATE CONTRACT NO: 135743, S-871(5)					
1	PC	M-M20	M20 SCRUBBER/SWEEPER		
		Reference Number:	M20-LP		
		Machine as equipped			
		Source Plant	3200 Plant		
		Trim Level	Membrane Panel		
		Cleaning Technology	Conventional		
		Squeegee Material	Urethane		
		Power Source	LPG		
		LPG Tank	Full		
		UL/ETL Rating	UL Type LP		
		Side Brush Type	Scrubbing		
		Dust Control System	Dry		
		Front Tire(s)	High Traction		
		Rear Tire(s)	Solid Rubber		
		Warning Lights and Alarms	AV BU Alarm-Strobe on Tank		
		Cleaning Tool	Heavy Duty Polypropylene Brush		
		Side Cleaning Tool	Polypropylene Brush		
		Warranty	Standard Warranty		
		Ultimate Performance Guarantee	Yes		

Prepared By: Jim Schaefer, Customer Service Representative



Tennant Sales and Service Company
 701 N. Lilac Drive
 Minneapolis, MN 55422 USA
 Tel: 1-800-553-8033
 Fax: 1-763-513-2142

Quotation

Ship-To
 CITY OF FARGO
 CENTRAL GARAGE
 402 23RD ST N
 FARGO ND 58102-4114

Customer Number 3962546
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Payment Terms
 Net 30 Days
Currency US Dollars

Bill-To
 CITY OF FARGO
 CENTRAL GARAGE
 402 23RD ST N
 FARGO ND 58102-4114

Qty	Unit	Material	Description	Unit Price	Extended Value
		Operator Manual	English		
		Operator Video	Yes		
		Packaging	Pad Wrap		
			Gov Price Adjustment	-6.00 %	-3,815.58
			Price	59,777.42	59,777.42
			Net Value	59,777.42	59,777.42
		Subtotal			59,777.42
		Total			59,777.42



PUBLIC WORKS/OPERATIONS

22

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1453
FAX: (701) 241-8100

March 15th, 2019

The Honorable Board of City Commissioners
City of Fargo
225 North Fourth Street
Fargo, ND 58102

RE: Lease contract approval for (1) 2019 Excavator (RFP18309)

Commissioners:

On November 19th, 2018, the Commission granted a request to purchase one (1) Excavator. A lease quote with eight equal payments was requested as an additional finance tool. CapFirst Equipment Finance has provided the City of Fargo the lowest financing quote.

The review committee, consisting of Terry Ludlum and Tanner Smedshammer, is recommending an award to CapFirst Equipment Finance for \$49,068.00 per year for eight years. A copy of lease contract #40001796 is attached for review and consideration. The complete contract is available at the commission office for viewing and signatures. Funding for this project is included in the 2019 Solid Waste Operational Budget.

SUGGESTED MOTION:

Approve (RFP18309) an 8-year municipal lease to CapFirst Equipment Finance for the amount of \$49,068.00 per year.

Respectfully Submitted,

Tanner Smedshammer
Fleet Management Specialist





4165 30th Ave S Suite 100
Fargo, ND 58104

March 15, 2019

City of Fargo, North Dakota
Attn: Tim Mahoney / Mayor
200 3rd St N
Fargo, ND 58102

RE: Lease with Option to Purchase Agreement No. 40001796

Dear Mr. Mahoney:

Enclosed please find the following documentation for the lease of the 2019 John Deere Excavator:

- Invoice for the documentation fee and first lease payment
- Lease with Option to Purchase Agreement No. 40001796
- Exhibit A - Equipment Description
- Exhibit B - Rental Payments
- Exhibit C - Certificate of Acceptance
- Exhibit D - Resolution
- Insurance Coverage Information

Please fill in the name and address of your insurance agent where indicated. It is important that you request a certificate of insurance be forwarded to our office just as soon as possible.

- Certificate of Incumbency
- 8038-G -- We will take care of filing this form with the IRS. Please sign both originals where indicated in **blue ink**.

Please sign and seal all documents where indicated and return all of the executed documents along with a check for the advance payment to my attention. You can reach me at (701) 639-7209 if you have any other questions pertaining to the documentation. Thank you.

Sincerely,
CapFirst Equipment Finance, Inc.

A handwritten signature in blue ink, appearing to read 'David Suppes'.

David Suppes
President



4165 30th Ave S Suite 100
Fargo, ND 58104

INVOICE

Invoice#: 1st Advance Payment
Invoice Date: 03/15/2019

Remit To:

Invoice to:

CAPFIRST EQUIPMENT FINANCE, INC. 4165 30 th Ave S Suite 100 Fargo, ND 58104	City of Fargo, North Dakota Attn: Steven Sprague 200 3rd St N Fargo, ND 58102
---	--

LEASE#	AMOUNT
40001796	
First Advance Payment:	\$49,318.00
Total Amount Due:	\$49,318.00

EXHIBIT A
EQUIPMENT

Lessee: CITY OF FARGO, NORTH DAKOTA
200 3rd St N
Fargo, ND 58102

Date of Lease: March 15, 2019
Lease #: 40001796

The Equipment which is the subject of the attached Lease with Option to Purchase Agreement is as follows:

Installation Site: 200 3rd St N, Fargo, ND 58102

QTY.	SERIAL NO.	DESCRIPTION
1	1FF350GXKKF813403	2019 John Deere 350G LC FT4 Excavator
1	AKRPLR8ST330395	JRB 350CPLR Power Latch Coupler
1	J000110431-1	JRB 350 48" HD Bucket
1	J000110425-1	Paladin Brand 300 Frost Ripper
1	WG82699	Magnum RSG 30 Sorting Grapple

Description of Financed Amount:

Cost of above Equipment	\$333,000.00
Cost of related charges:	
Transportation	\$ N/A
Physical Modifications (specify)	\$ N/A
Other (Specify)	\$ N/A
Add: Sales or other tax, if applicable	\$ N/A
Less: Trade - In, if applicable	\$0.00
Net Financed Amount:	\$333,000.00

EXHIBIT B

SCHEDULE OF RENTAL PAYMENTS

Lessee: CITY OF FARGO, NORTH DAKOTA
 200 3rd St N
 Fargo, ND 58102

Date of Lease: March 15, 2019
 Lease #: 40001796

RENTAL PAYMENTS

Rental Payment Date	Rental Payment	Interest	Principal	Purchase Option Price*
3/15/2019	\$49,068.00	0.00	\$49,068.00	\$303,987.00
3/15/2020	\$49,068.00	\$14,194.88	\$34,873.12	\$264,494.00
3/15/2021	\$49,068.00	\$12,451.44	\$36,616.56	\$223,758.00
3/15/2022	\$49,068.00	\$10,620.83	\$38,447.17	\$181,738.00
3/15/2023	\$49,068.00	\$8,698.70	\$40,369.30	\$138,395.00
3/15/2024	\$49,068.00	\$6,680.48	\$42,387.52	\$93,686.00
3/15/2025	\$49,068.00	\$4,561.36	\$44,506.64	\$47,570.00
3/15/2026	\$49,068.00	\$2,336.31	\$46,731.69	\$0.00

*After payment of Rental Payment due on such date.

23

March 21, 2019

Honorable Board of City Commissioners
 City of Fargo
 200 3rd Street North
 Fargo ND 58102

RE: Proposals for Transportation and Handling of Filled Sandbags and "At-The-Ready" Services.

Dear Commissioners:

Proposals were due to on Wednesday, March 20, 2019, for the Transportation and Handling of Filled Sandbags and "At-Ready-Services" for filled sandbags used in the primary line of protection during the 2019 Red River flood event. The proposals were submitted based on a 5-day, 12-hour per day sandbag production schedule to prepare 1,000,000 filled sandbags. Given current National Weather Service (NWS) projections, it is anticipated that sandbag production may take approximately ten days. The evaluation of proposals relative to sandbag production is as follows:

Description	Hours	Reile's Transportation		Industrial Builders	
		Unit Price	Comparative Total	Unit Price	Comparative Total
Tractor/Trailer (8)	120	\$81.46/hr	\$78,201.60	\$135.00/hr	\$129,600.00
Forklift (8)	120	\$51.60/hr	\$49,536.00	\$85.00/hr	\$81,600.00
Bid Evaluation Total			\$127,737.60		\$211,200.00

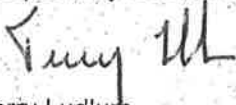
Based upon the above-described evaluation, staff would respectfully request authorization to enter into a formal agreement with Reile's Transfer and Delivery Inc., for Transportation and Handling of Filled Sandbags and At-The-Ready Services for filled sandbags used during the 2019 Red River Flood Event. Please note that the evaluation shown does not include services used during handling and deployment of filled sandbags, whose exact costs will be based on NWS projections.

Your consideration in this matter is greatly appreciated.

Suggested Motion:

Authorize staff to enter into a formal agreement with Reile's Transfer and Delivery Inc., for Transportation and Handling of Filled Sandbags and At-The-Ready Services for filled sandbags used in the primary line of protection during the 2019 Red River Flood Event.

Respectfully Submitted,



Terry Ludlum
 Solid Waste Utility Director

Cc: Bruce Grubb, City Administrator
 Dean Mertz, Reile's General Manager

2019 RED RIVER FLOOD
CITY OF FARGO DIVISION OF SOLID WASTE
REQUEST FOR PROPOSALS
TRANSPORTATION AND HANDLING AND "AT-THE-READY" SERVICES

			Reile's Transfer	Industrial Builders
Bid Item	Quantity	Unit	Unit Price	Unit Price
1. Tandem Tractor with Flatbed Trailer and Operator	8	Each	\$81.46/hour	\$135.00/hour
2. 5,000 LB Capacity Forklift with Operator	8	Each	\$51.60/hour	\$85.00/hour
3. Tandem Tractor with Flatbed Trailer and Operator - "At-The-Ready"	8	Each	\$81.46/hour	\$135.00/hour
4. 5,000 LB Capacity Forklift with Operator - "At-The-Ready"	8	Each	\$51.60/hour	\$85.00/hour
5. Manual Labor	TBD	Per Person	\$31.00/hour	\$25.00/hour

TBD-To Be Determined
Overtime rates as quoted.

PROPOSAL FORM

2019 RED RIVER FLOOD -
 CITY OF FARGO DIVISION OF SOLID WASTE
 REQUEST FOR PROPOSALS (RFP)
 TRANSPORTATION AND HANDLING OF FILLED SANDBAGS AND "AT-THE-READY" SERVICES

DESCRIPTION	QUANTITY (MIN)	UNITS	RATE
Tandem Tractor with Flatbed Trailer and Operator	8	Each	\$81.46 /hour*
5,000 LB Capacity Forklift with Operator	8	Each	\$51.60 /hour*
Tandem Tractor with Flatbed Trailer and Operator – "At the Ready"***	8	Each	\$81.46 /hour*
5,000 LB Capacity Forklift with Operator – "At the Ready"***	8	Each	\$51.60 /hour*
Manual Labor	To Be Determined	Per Person	\$31.00 /hour*

*Dollar per hour per unit.

***"At the Ready" shall mean on-call availability 24/7 as requested.

Overtime Rates:

Transportation: \$101.82 per Hour

Material Handling & Labor Rates: \$77.40 per Hour

Contracting Firm: Reilo's Transfer & Delivery, Inc

Authorized Representative (Print): Dean A. Montz

Title: Transportation Manager

Signature: *Dean Montz*

Date: 3/19/19

PROPOSAL FORM

2019 RED RIVER FLOOD -
 CITY OF FARGO DIVISION OF SOLID WASTE
 REQUEST FOR PROPOSALS (RFP)
 TRANSPORTATION AND HANDLING OF FILLED SANDBAGS AND "AT-THE-READY" SERVICES

DESCRIPTION	QUANTITY (MIN)	UNITS	RATE
Tandem Tractor with Flatbed Trailer and Operator	8	Each	\$ 135 ⁰⁰ /hour*
5,000 LB Capacity Forklift with Operator	8	Each	\$ 85 ⁰⁰ /hour*
Tandem Tractor with Flatbed Trailer and Operator – "At the Ready"***	8	Each	\$ 135 ⁰⁰ /hour*
5,000 LB Capacity Forklift with Operator – "At the Ready"***	8	Each	\$ 85 ⁰⁰ /hour*
Manual Labor	To Be Determined	Per Person	\$ 25 ⁰⁰ /hour*

*Dollar per hour per unit.

***"At the Ready" shall mean on-call availability 24/7 as requested.

Contracting Firm: INDUSTRIAL BUILDERS, INC.

Authorized Representative (Print): ROGER HABERMAN

Title: V.P. CONST.

Signature: 

Date: 3-19-19

March 21, 2019

24

The Honorable Board of City Commissioners
City of Fargo
Fargo, ND 58102

Re: FAA Aerial Mosquito Spraying Authorization for Airborne Custom Spraying

Commissioners:

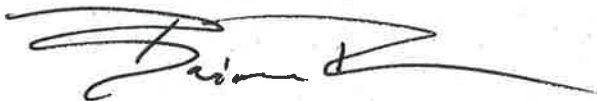
Enclosed please find the necessary authorization paperwork needed in order to comply with FAA and the North Dakota State Health Department NPDES permit for Airborne Custom Spraying to perform aerial mosquito control over the City of Fargo.

In 2009, the Sixth Circuit Court of Appeals determined that pesticide applications for both ground and aerial applications must be covered by an NPDES permit. As the contracted agent for aerial mosquito control applications for the City of Fargo, Airborne Custom Spraying is required to file a notice of intent for any possible aerial applications over the City of Fargo. The enclosed Authorization Application allows Airborne Custom Spraying to file the necessary paperwork needed in order to perform aerial spraying within the City of Fargo

RECOMMENDED MOTION: I/we hereby move to approve the execution of the enclosed Authorization Application for Airborne Custom Spraying.

Please return the signed original.

Respectfully submitted,



Benjamin Dow
Director of Operations



APPLICATION FOR AERIAL APPLICATION FOR PESTICIDE OVER A CITY

North Dakota Department of Health
Division of Air Quality
SFN 14493 (9-09)

PERMISSION IS REQUESTED TO CONTRACT FOR AERIAL APPLICATION OF PESTICIDE:

Form with fields: NAME OF CITY (Fargo), TO SPRAY FOR CONTROL OF (Mosquitoes), REQUEST DATE, NAME OF CITY CONTACT (R. Tim Mahoney), TITLE (Mayor), TELEPHONE # (701-241-1310), MAILING ADDRESS (402 23rd St North), CITY (Fargo), STATE/ZIP CODE (ND, 58102), E-MAIL ADDRESS (T.Mahoney@FargoND.gov)

AERIAL APPLICATOR SERVICE INFORMATION:

Form with fields: NAME OF APPLICATOR SERVICE (Airborne Custom Spraying, Inc.), NAME OF PILOT (Rob Aslesen, Dean Solum and/or Ben Aslesen), TELEPHONE # ((218) 456-2465), MAILING ADDRESS (2288 150th Street), CITY (Halstad), STATE/ZIP CODE (MN, 56548)

PESTICIDE INFORMATION:

Form with fields: CHEMICAL NAME (Either or - Trumpet EC #5481-481^1 / Dibrom #5481480^2), % CONCENTRATION (78^1 / 87.4^2 / 31^3 / 12.65^4 / 96.5^5), RATE OF APPLICATION (1 oz^1 / .75 oz^2 / .31 oz^3 / 32 oz^4 / 3 oz^5), METHOD (ULV, SPRAYER, OTHER (SPECIFY)) (Aerial - ULV), DATE OF APPLICATION (Between 5/1/2019 & 10/31/2019), METHOD PUBLIC NOTICE (check all that apply) (Radio, Newspaper, Television, Website, Posted Notification, Telephone, Other (Specify))

SIGNATURE OF CITY CONTACT

Form with fields: SUBMIT YOUR APPLICATION TO: (North Dakota Department of Health, Division of Air Quality, 918 E Divide, 2nd Floor, Bismarck, ND 58501-1947, Fax Number: 701-328-5185, Telephone: 701-328-5188), TO BE COMPLETED BY THE NORTH DAKOTA DEPARTMENT OF HEALTH APPROVAL BY (Signature: _____, Date: _____)

Approval from the Department of Health is required for aerial spraying of pesticides over a city [NDAC 33-15-10-01]. This application form must be completed before approval will be granted. Aircraft spraying and loading equipment must be dedicated for the use of only those chemical pesticides approved for residential ULV spraying and no other chemical pesticides will be used in the spraying or loading equipment. If a public health emergency exists, these requirements may be waived.

The aerial applicator must also be registered by the State of North Dakota Aeronautics Commission (701-328-9650) and must have Federal Aviation Administration (FAA) approval to conduct a spraying operation over a city congested area. To receive this approval the aerial application can contact the FAA Flight Standards District Office, 1801 - 23rd Ave. North, Room 211, Fargo, ND, 58502, 701-232-8949.

The North Dakota Department of Health will not be held liable for any accidents, misapplications, errors in mixing, etc. These are the sole responsibility of the pesticide applicator.

If the application of pesticide is not completed within five days of the date proposed, please contact this office. An extension may be granted.



AUTHORIZATION APPLICATION

I understand that Airborne Custom Spraying is required to obtain the approval for aerial spraying over the city of Fargo, ND by an authorized representative.

By the powers granted to me, I hereby give my approval for the low flying aircraft waivers required by the Federal Aviation Administration to Airborne Custom Spraying.
(This application must be signed by the Mayor of this city.)

City Mayor's Authorized Signature

Printed Name

Date

Please complete application as soon as possible and return to
Airborne Custom Spraying for processing and filing.

Expiration Date: *October 31, 2019*



Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

March 21, 2019

25-1

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

Subject: Advertisement for Bid – Near-Term Ozone Improvements at Water Treatment Plant

Dear Commissioners:

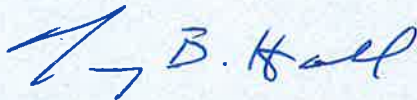
Water Utility staff is seeking approval to advertise bidding for a Near-Term Ozone Improvements project at the Lime Softening Water Treatment Plant (LSWTP) – Project WA1862. When available, the bid advertisement will be provided to the COF Auditor' Office. The Near-Term Ozone Improvements project is in the Water Utility Capital Improvement Plan (CIP) and will be funded through a federal State Revolving Fund (SRF) loan. The North Dakota Department of Health, North Dakota Industrial Commission, and Fargo City Commission have already approved this loan as a part of several projects. This project is a line item in the 2019 budget.

The Near-Term Ozone Improvements project is intended to address severe corrosion in piping in the Lime Softening Water Treatment Plant (LSWTP) ozone system. The project will also improve worker safety when performing maintenance on some ozone system components.

With the intention of completing the Near-Term Ozone Improvements project in Winter 2019-20, a task order for the design and bidding of this project was approved by the Fargo City Commission on December 3, 2018. Water Utility staff is now in position to bid the project.

Your consideration is greatly appreciated in this matter.

Sincerely,



Troy B. Hall
Water Utility Director

C: Bruce Grubb, City Administrator

SUGGESTED MOTION:

Approve the Advertisement for Bid for Near-Term Ozone Improvements in the Lime Softening Water Treatment Plant (Project WA1862).



Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

25-2

March 21, 2019

Honorable Board of City Commissioners
City of Fargo
200 3rd Street North
Fargo, ND 58102

Subject: Advertisement for Bid – Raw Water Valve Improvements at Water Treatment Plant

Dear Commissioners:

Water Utility staff is seeking approval to advertise bidding for a WTP Raw Water Valve Improvement project at the Lime Softening Water Treatment Plant (LSWTP) – Project WA1951. Please see the attached Advertisement for Bid. The WTP Raw Water Valve Improvement project is in the Water Utility Capital Improvement Plan (CIP) and will be paid for using Fund 501/Division 3055 for Water Infrastructure improvements. Project WA1951 is a line item in the 2019 budget.

With the intention of completing WTP Raw Water Valve Improvement in late-2019, a task order for the design and bidding of this project was approved by the City of Fargo (COF) Utility Committee on February 11, 2019. Water Utility staff is now in position to bid the project.

Your consideration is greatly appreciated in this matter.

Sincerely,

Troy B. Hall
Water Utility Director

C: Bruce Grubb, City Administrator

SUGGESTED MOTION:

Approve the Advertisement for Bid for WTP Raw Water Valve Improvements for the Lime Softening Water Treatment Plant (Project WA1951).

SECTION 00 11 13 – ADVERTISEMENT FOR CONSTRUCTION BIDS

**Fargo WTP Raw Water Valve Improvements
CITY OF FARGO Project NO. WA????**

NOTICE IS HEREBY GIVEN, that the City of Fargo, North Dakota, will receive sealed Bids at the Auditor's Office until April 24, 2019 at the hour of 11:30 a.m. local time, for the purpose of furnishing all materials, labor, equipment, and skill required for the construction of the Fargo WTP Raw Water Valve Improvements, and incidental items, for said City, as is more fully described and set forth in the Plans and Specifications which are now on file in the office of the City Engineering Department. Bids will be opened in the Meadowlark Room, located on the 2nd floor at 225 4th Street North, shortly after the bid deadline and read aloud.

Bids shall be mailed or delivered to the City Auditor, City of Fargo, 225 4th Street North, Fargo, ND 58102.

The Work is comprised of a single Contract: Contract No. 1 – General Construction. The Work for is generally described as follows:

Contract No. 1: General Construction:

Work generally consists of general construction associated with the furnishing and installation of new buried piping, process piping, valves, actuators, pipe supports, concrete valve vaults, sump pumps, and associated appurtenances; electrical equipment and Work including bringing power to electrically actuated valves, control panel modifications, sump pumps, unit heaters, lighting, power, and conduit; and modifications to the existing buried raw water piping at the Fargo Water Treatment Plant (WTP).

All bids shall be contained in a sealed envelope plainly marked showing that such envelope contains a Bid for the Project. Also refer to Section 00 21 13 for preparation of bid information.

All Bids shall be prepared according to the Instructions to Bidders contained within the Project Manual. Each Bid shall be accompanied **by a separate envelope** containing a Bid Security in the form of a Bidder's Bond executed by the Bidder as principal and by a surety company authorized to do business in the State of North Dakota, payable to the City of Fargo, in a sum equal to five percent (5%) of the full amount of the Bid. A certified check in lieu of a surety company in the amount of 5% of the total project cost **will not** be accepted. This is to serve as a guarantee that the successful Bidder will enter into a Contract within fifteen (15) days of Notice of Award, in accordance with the terms of the principal's Bid and Contractor's Bond as required by law and regulations and determinations of City of Fargo for the performances of such Work. Only Bids that are accompanied by such a Bond will be considered.

Contracts shall be awarded on the basis of the low Bid submitted by a qualified, responsible, and responsive Bidder deemed most favorable to the City's interest.

The City of Fargo reserves the right to reject any and all Bids, to waive any informality in any Bid, to hold all Bids for a period not to exceed forty-five (45) days from the date of opening Bids.

All Work shall be performed in accordance with the Bidding Documents on file in the Office of City of Fargo, ND where they may be seen and examined. Bidders must be licensed for the full amount of the Bid as required by North Dakota Century Code 43-07-05. Each Bid shall contain a copy of

the Contractor's license or certificate of renewal thereof issued by the Secretary of State. All Bids must be submitted on the Bid Form furnished by the Engineer. No Bid will be read or considered that does not fully comply with the above provisions and other provisions contained within the Bidding Documents, and any deficient Bid submitted will be returned to the Bidder unopened.

Contracts shall be awarded on the basis of the low Bid submitted by a responsible and responsive Bidder deemed most favorable to the Owner's interest.

All Bids shall be contained in a sealed envelope plainly marked showing that such envelope contains a Bid for the Project. In addition, the Bidder shall place upon the exterior of such envelope the following information:

1. Project Name and Work covered by the Bidder (General).
2. The name of the Bidder.
3. Acknowledgement of all Addenda.
4. Separate envelope containing Bid Bond and a copy of Contractor's License or Renewal Certificate.

Complete digital project Bidding Documents are available at www.questcdn.com. You may download the digital plan documents for Thirty Dollars (\$30.00) by inputting Quest project #6200613 on the website's Project Search page. Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership registration, downloading, and working with this digital project information.

Copies of the Bidding Documents may also be seen and examined at the office of the Engineer, **Advanced Engineering and Environmental Services, Inc.**, 4170 28th Avenue South, Fargo, ND 58104. The Bidding Documents are available in the form of printed plans and specifications and/or PDF compact discs (CDs) from Advanced Engineering and Environmental Services, Inc. The costs are \$40.00 for CDs and \$200.00 for printed documents, for each set of Documents obtained. Payment for Bidding Documents is **NON-REFUNDABLE**. All Work shall be done according to the Bidding Documents. Bidding Documents may also be examined at the offices of AE2S in Bismarck, Grand Forks, and Williston, ND; Moorhead and Maple Grove, MN, and Builders' exchanges in Grand Forks, Bismarck, Minot, Grand Forks, and Fargo, ND, in Rapid City, SD, and in Minneapolis, MN.

The work for each contract must be completed no later than the following:

Substantial Completion:	November 1, 2019
Final Completion:	November 30, 2019

All Bids will be made on the basis of cash payment for such work. After Bid opening, the Owner will return Bid security of all except the three lowest responsible Bidders. When the Contract is awarded, the remaining unsuccessful Bidder's Bonds will be returned. The Owner reserves the right to reject any or all Bids, and further reserves the right to award the Contract in the best interests of the Owner. The Owner reserves the right to hold the three (3) low Bids for a period of forty-five (45) days after the date of the Bid opening to complete financial arrangements.

Dated this 25th day of March 2019.

By: /s/ Steve Sprague, City Auditor
Fargo, North Dakota

March 12, 2019

28-1

Honorable Board of
City Commissioners
225 4th Street N
Fargo, ND 58102

Re: Concur with Low Bid and Recommend Award
Main Avenue Reconstruction Project – Red River to Broadway
City of Fargo Improvement District No. BR-18-A1
NDDOT Project No. CPU-NHU-8-010(043)940

Dear Commissioners:

Bids were opened by the NDDOT on Friday, March 8 for the Main Avenue Reconstruction project.

The bids were as follows:

Dakota Underground Company	\$10,295,720.11
Strata Corporation	\$11,586,690.97
KPH, Inc.	\$12,577,247.00
Engineer's Estimate	\$ 9,917,260.38

There are Special Assessments associated with this project and no protests have been received, therefore the protests should be declared insufficient. Fargo's construction cost share of this project is \$3,629,179.87.

Recommended Motion

Declare protests to be insufficient, and concur with low bid and recommend the NDDOT award the low bid to Dakota Underground Company in the amount of \$ 10,295,720.11 as the best bid.

Sincerely,



Jeremy M. Gorden, PE, PTOE
Transportation Division Engineer

JMG/jmg
Attachments

PORTLAND CEMENT CONCRETE PAVEMENT, CURB & GUTTER, STORM SEWER, SANITARY SEWER
WATERMAIN, SIDEWALK, STREET LIGHTING, LANDSCAPING, TRAFFIC SIGNALS & INCIDENTALS

Improvement District No. BR-18-A
NDDOT Project No. CPU-NHU-8-081(043)940

FARGO MAIN AVENUE FROM BROADWAY TO 2ND STREET

I. Project Cost Summary

	Federal NDDOT Participant	Federal NDDOT Non-Participant	Subtotal	Federal Funding Share	NDDOT Share	Fargo Share
A. Construction:						
Street Reconstruction	7,411,044.71	1,232,538.40	8,643,583.11	5,997,758.48	672,181.76	1,973,642.87
Water Main Replacement	0.00	830,111.00	830,111.00	0.00	-	830,111.00
Sanitary Sewer	0.00	822,026.00	822,026.00	0.00	-	822,026.00
B. Special Items:						
1. Private Utility Adjustments:	100,000.00	-	100,000.00	80,930.00	9,070.00	10,000.00
2. Preliminary Engineering	1,400,000.00	-	1,400,000.00	1,133,020.00	126,980.00	140,000.00
3. Construction Engineering	685,511.40	-	685,511.40	554,784.38	62,175.88	68,551.14
4. Consulting Engineering Fees	0.00	370,551.00	370,551.00	0.00	-	370,551.00
5. City Incentive	0.00	500,000.00	500,000.00	0.00	-	500,000.00
6. Railroad Flagging	0.00	34,000.00	34,000.00	0.00	-	34,000.00
C. Cost Subtotals:	9,596,556.11	3,789,226.40	13,385,782.51	7,766,492.86	870,407.64	4,748,882.01

II. Cost Participation

A. Federal - Regional Highway funds	7,766,492.86
B. NDDOT funds	870,407.64
C. Local funds	4,748,882.01

III Fargo Cost Summary

Fargo Non-Federal or State Construction Cost \$ 3,625,779.87

A. Fees (on Fargo construction cost only)

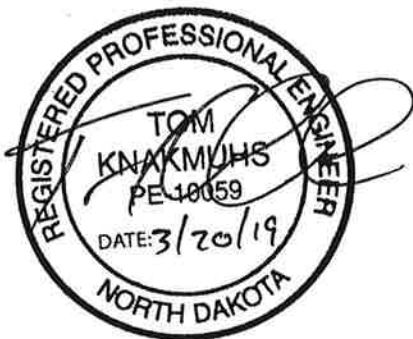
1. Engineering:	6.0%	\$ 217,546.79
2. Legal:	3.0%	\$ 108,773.40
3. Contingency:	10.0%	\$ 362,577.99
4. Administration:	2.9%	\$ 103,431.87
5. Interest:	4.0%	\$ 145,031.19
6. Subtotal - Fees:		\$ 937,361.24

B. Fargo Cost Distribution

1. Total Fargo Project Cost:	\$ 5,686,243.25
2. Funding Sources:	
Special Assessments - Street Reconstruction:	\$ 1,809,928.80
Special Assessments - Water Main Replacement:	\$ 120,735.00
Special Assessments - Sanitary Sewer Replacement:	\$ 120,735.00
Water Utility Funds:	\$ 900,301.53
WasteWater Utility Funds:	\$ 890,356.98
Street Sales Tax Fund:	\$ 1,844,185.94

Note 1: Sewer, water, structural soils on this project is not eligible for federal cost participation.

IN WITNESS THEREOF, I have hereunto set my hand and seal



Date 3/20/19


Tom Knakmuhs, PE
Assistant City Engineer



North Dakota Department of Transportation

Thomas K. Sorel
Director

Doug Burgum
Governor

March 8, 2019

Ms. Brenda Derrig
City Engineer
225 4th St. N
Fargo, ND 58102

PROJECT: CPU-NHU-8-010(043)940, PCN 22352 – FARGO MAIN AVE FROM
BROADWAY TO 2ND ST

Bids for the construction on the above noted project were taken at our bid opening of March 8, 2019. A copy of the Contract Detail Estimate is enclosed.

The low bid for PCC Pavement, Curb & Gutter, Storm Sewer, Watermain, Sidewalk, Street Lighting, Landscaping, Traffic Signals, and Incidentals was submitted by Dakota Underground Company of Fargo, ND in the amount of \$10,295,720.11 (with Option 2, Concrete Pipe). According to the agreement with the City of Fargo, the City's share of the project is estimated to be \$3,991,757.86.

Before we can award to the low bidder, we need the City of Fargo to **concur**, in writing, in the estimated amount by March 26, if possible.

Questions should be addressed to the Construction Services Division at (701)328-2566.

A handwritten signature in black ink, appearing to read "Phillip Murdoff".

PHILLIP MURDOFF, P.E. - CONSTRUCTION SERVICES ENGINEER

80/pm/lp
Enclosure

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Contract with DAKOTA UNDERGROUND COMPANY FARGO, ND

Signed Date:

County(s): CASS

Location: US BUSINESS 10, FARGO MAIN AVE (BROADWAY TO 2ND STREET)

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Roadway: URBAN

RP 940.129 TO RP 940.580

Type: PORTLAND CEMENT CONCRETE PAVEMENT, CURB & GUTTER, STORM SEWER, SIDEWALK, STREET LIGHTING, LANDSCAPING, TRAFFIC SIGNALS, AND INCIDENTALS

Participating: Y

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
103 0100	CONTRACT BOND	0.780	L SUM	\$55,000.00	\$42,900.00
103 0200	ESCROW OF BID DOCUMENTATION	0.780	L SUM	\$2,000.00	\$1,560.00
105 0100	UTILITY COORDINATOR	0.780	L SUM	\$30,000.00	\$23,400.00
105 0200	POTHOLE UTILITY	17.000	EA	\$1,000.00	\$17,000.00
105 0500	UTILITY RESOLUTION-UNDERGRND POWER LINE-CONFLICT	2.000	EA	\$2,500.00	\$5,000.00
105 0501	UTILITY RESOLUTION-UNDERGRND POWER LINE-PIP	5.000	EA	\$2,000.00	\$10,000.00
105 0600	UTILITY RESOLUTION - FIBER OPTIC - CONFLICT	6.000	EA	\$2,500.00	\$15,000.00
105 0601	UTILITY RESOLUTION - FIBER OPTIC - PIP	28.000	EA	\$2,000.00	\$56,000.00
105 0700	UTILITY RESOLUTION - GAS LINE - CONFLICT	4.000	EA	\$2,500.00	\$10,000.00
105 0701	UTILITY RESOLUTION - GAS LINE - PIP	10.000	EA	\$2,000.00	\$20,000.00
107 0100	RAILWAY PROTECTION INSURANCE	0.780	L SUM	\$2,500.00	\$1,950.00
108 0001	CRITICAL PATH METHOD SCHEDULE	0.780	L SUM	\$15,000.00	\$11,700.00
201 0380	REMOVAL OF TREES 18IN	6.000	EA	\$1,000.00	\$6,000.00
202 0136	REMOVAL OF PAVEMENT	20,113.000	TON	\$22.00	\$442,486.00
202 0174	REMOVAL OF PIPE ALL TYPES AND SIZES	3,493.000	LF	\$35.00	\$122,255.00
202 0210	REMOVAL OF MANHOLES	17.000	EA	\$2,000.00	\$34,000.00
202 0235	REMOVAL OF CATCH BASIN	29.000	EA	\$600.00	\$17,400.00
202 0260	REMOVAL OF PAVERS	108.000	SY	\$50.00	\$5,400.00
202 0285	REMOVAL OF FOUNDATIONS-ALL SIZES	4.000	EA	\$2,000.00	\$8,000.00
202 0288	EXCAVATION & DISPOSAL OF CONTAMINATED SOIL	2,000.000	CY	\$90.00	\$180,000.00
202 0312	REMOVE EXISTING FENCE	325.000	LF	\$16.00	\$5,200.00
203 0101	COMMON EXCAVATION-TYPE A	5,864.000	CY	\$17.00	\$99,688.00
203 0109	TOPSOIL	483.000	CY	\$50.00	\$24,150.00
203 0113	COMMON EXCAVATION-WASTE	285.000	CY	\$15.00	\$4,275.00
216 0100	WATER	388.000	M GAL	\$30.00	\$11,640.00
230 0300	SUBGRADE PREPARATION-TYPE A	31.300	STA	\$1,770.00	\$55,401.00
251 0300	SEEDING CLASS III	0.620	ACRE	\$5,250.00	\$3,255.00
253 0201	HYDRAULIC MULCH	1.240	ACRE	\$1,900.00	\$2,356.00
265 0100	STABILIZED CONSTRUCTION ACCESS	1.000	EA	\$27,850.00	\$27,850.00
302 0101	SALVAGED BASE COURSE	7,061.000	CY	\$44.00	\$310,684.00
430 0500	COMMERCIAL GRADE HOT MIX ASPHALT	145.000	TON	\$188.00	\$27,260.00
550 0305	9IN NON-REINF CONCRETE PVMT CL AE-DOWELED	15,476.000	SY	\$78.30	\$1,211,770.80
550 0330	NON-REINF CONCRETE PVMT CL AE-DOWELED-COLORED	377.000	SY	\$103.00	\$38,831.00
702 0100	MOBILIZATION	0.780	L SUM	\$634,000.00	\$494,520.00
704 0100	FLAGGING	4,250.000	MHR	\$42.00	\$178,500.00
704 1000	TRAFFIC CONTROL SIGNS	3,686.000	UNIT	\$2.10	\$7,740.60
704 1052	TYPE III BARRICADE	37.000	EA	\$126.00	\$4,662.00
704 1054	SIDEWALK BARRICADE	9.000	EA	\$65.00	\$585.00
704 1055	PEDESTRIAN LONGITUDINAL BARRICADE	3,146.000	LF	\$10.50	\$33,033.00
704 1060	DELINEATOR DRUMS	35.000	EA	\$42.00	\$1,470.00
704 1072	FLEXIBLE DELINEATORS	37.000	EA	\$53.00	\$1,961.00
704 1500	OBLITERATION OF PAVEMENT MARKING	500.000	SF	\$5.25	\$2,625.00
704 2108	TEMPORARY CURB RAMP	8.000	EA	\$420.00	\$3,360.00

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
704 4011	PORTABLE CHANGEABLE MESSAGE SIGN	2.000	EA	\$4,200.00	\$8,400.00
706 0400	FIELD OFFICE	1.000	EA	\$25,000.00	\$25,000.00
706 0500	AGGREGATE LABORATORY	1.000	EA	\$10,000.00	\$10,000.00
708 1540	INLET PROTECTION-SPECIAL	109.000	EA	\$200.00	\$21,800.00
708 1541	REMOVE INLET PROTECTION-SPECIAL	109.000	EA	\$50.00	\$5,450.00
709 0100	GEOSYNTHETIC MATERIAL TYPE G	17,452.000	SY	\$3.00	\$52,356.00
714 0210	PIPE CONC REINF 15IN CL III-STORM DRAIN	22.000	LF	\$72.00	\$1,584.00
714 1312	PIPE CONC REINF 60IN CL III-STORM DRAIN	46.000	LF	\$440.00	\$20,240.00
714 9720	UNDERDRAIN PIPE PVC PERFORATED 4IN	5,115.000	LF	\$8.50	\$43,477.50
720 0125	ALIGNMENT MONUMENTS	3.000	EA	\$315.00	\$945.00
720 0130	IRON PIN R/W MONUMENTS	3.000	EA	\$315.00	\$945.00
722 0100	MANHOLE 48IN	8.000	EA	\$3,100.00	\$24,800.00
722 0107	MANHOLE 54IN	8.000	EA	\$4,000.00	\$32,000.00
722 0110	MANHOLE 60IN	3.000	EA	\$7,500.00	\$22,500.00
722 0115	MANHOLE 66IN	1.000	EA	\$7,000.00	\$7,000.00
722 0130	MANHOLE 84IN	2.000	EA	\$8,100.00	\$16,200.00
722 1100	MANHOLE RISER 48IN	48.000	LF	\$190.00	\$9,120.00
722 1106	MANHOLE RISER 54IN	65.000	LF	\$255.00	\$16,575.00
722 1110	MANHOLE RISER 60IN	31.000	LF	\$242.00	\$7,502.00
722 1115	MANHOLE RISER 66IN	7.000	LF	\$405.00	\$2,835.00
722 1130	MANHOLE RISER 84IN	41.000	LF	\$450.00	\$18,450.00
722 3510	INLET-TYPE 2	25.000	EA	\$2,550.00	\$63,750.00
722 3520	INLET-TYPE 2 DOUBLE	12.000	EA	\$4,250.00	\$51,000.00
722 3753	INLET SPECIAL-TYPE 2 54IN	1.000	EA	\$5,100.00	\$5,100.00
722 3825	INLET SPECIAL-TYPE 2 DOUBLE 84IN	2.000	EA	\$9,700.00	\$19,400.00
722 4050	INLET MOUNTABLE CURB-TYPE A	1.000	EA	\$2,200.00	\$2,200.00
722 6200	ADJUST MANHOLE	4.000	EA	\$800.00	\$3,200.00
748 0100	CURB & GUTTER	380.000	LF	\$40.00	\$15,200.00
748 0190	CURB & GUTTER-TYPE I 30IN	7,148.000	LF	\$26.00	\$185,848.00
748 0520	CURB-TYPE I	575.000	LF	\$50.00	\$28,750.00
748 0540	CURB	473.000	LF	\$69.00	\$32,637.00
748 0560	CURB CONC MEDIAN	1,794.000	LF	\$65.00	\$116,610.00
750 0030	PIGMENTED IMPRINTED CONCRETE	1,924.000	SY	\$103.00	\$198,172.00
750 0096	SIDEWALK PAVING BLOCKS	2,089.000	SF	\$28.00	\$58,492.00
750 0100	SIDEWALK CONCRETE	93.000	SY	\$63.00	\$5,859.00
750 0115	SIDEWALK CONCRETE 4IN	4,144.000	SY	\$48.00	\$198,912.00
750 0140	SIDEWALK CONCRETE 6IN	500.000	SY	\$52.00	\$26,000.00
750 0210	CONCRETE MEDIAN NOSE PAVING	28.000	SY	\$130.00	\$3,640.00
750 1000	DRIVEWAY CONCRETE	559.000	SY	\$57.00	\$31,863.00
750 2115	DETECTABLE WARNING PANELS	555.000	SF	\$53.00	\$29,415.00
754 0110	FLAT SHEET FOR SIGNS-TYPE XI REFL SHEETING	494.700	SF	\$22.10	\$10,932.87
754 0112	FLAT SHEET FOR SIGNS-TYPE IV REFL SHEETING	163.400	SF	\$23.10	\$3,774.54
754 0206	STEEL GALV POSTS-TELESCOPING PERFORATED TUBE	886.500	LF	\$19.00	\$16,843.50
754 0592	RESET SIGN PANEL	16.000	EA	\$53.00	\$848.00
754 0593	RESET SIGN SUPPORT	2.000	EA	\$2,810.00	\$5,620.00
754 8020	DYNAMIC MESSAGE SIGN	1.000	EA	\$210,000.00	\$210,000.00
754 9003	SALVAGE SIGN-TYPE D	2.000	EA	\$700.00	\$1,400.00
762 0112	EPOXY PVMT MK MESSAGE	80.000	SF	\$16.00	\$1,280.00
762 0113	EPOXY PVMT MK 4IN LINE	2,183.000	LF	\$2.75	\$6,003.25
762 0115	EPOXY PVMT MK 8IN LINE	442.000	LF	\$4.90	\$2,165.80

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
762 0122	PREFORMED PATTERNED PVMT MK-MESSAGE(GROOVED)	1,027.000	SF	\$36.65	\$37,639.55
762 1250	PREFORMED THERMO PLASTIC PVMT MK 4IN LINE	485.000	LF	\$9.35	\$4,534.75
762 1280	PREFORMED THERMO PLASTIC PVMT MK MESSAGE	96.000	SF	\$38.00	\$3,648.00
762 1309	PREFORMED PATTERNED PVMT MK 8IN LINE-GROOVED	2,190.000	LF	\$12.60	\$27,594.00
762 1317	PREFORMED PATTERNED PVMT MK 16IN LINE-GROOVED	114.000	LF	\$27.30	\$3,112.20
762 1325	PREFORMED PATTERNED PVMT MK 24IN LINE-GROOVED	1,982.000	LF	\$34.20	\$67,784.40
762 1344	PREF PATT PVMT MK 7IN LINE CONTRAST-GROOVED	7,292.000	LF	\$11.45	\$83,493.40
770 0020	CONCRETE FOUNDATION-HIGHWAY LIGHTING	28.000	EA	\$840.00	\$23,520.00
770 0100	PULL BOX	11.000	EA	\$840.00	\$9,240.00
770 0320	1.5IN DIAMETER RIGID CONDUIT	5,295.000	LF	\$6.30	\$33,358.50
770 0505	UNDERGROUND CONDUCTOR NO6-TYPE RHW	12,950.000	LF	\$1.60	\$20,720.00
770 0605	UNDERGROUND CONDUCTOR NO6-TYPE THW	6,475.000	LF	\$1.31	\$8,482.25
770 1003	ORNAMENTAL LIGHT STANDARD	29.000	EA	\$2,520.00	\$73,080.00
770 4210	LED LUMINAIRE	37.000	EA	\$1,260.00	\$46,620.00
770 4501	TEMPORARY LIGHTING SYSTEM	1.000	EA	\$47,250.00	\$47,250.00
770 4514	REVISE LIGHT FIXTURE	4.000	EA	\$525.00	\$2,100.00
770 4521	REVISE LIGHT STANDARD	4.000	EA	\$1,050.00	\$4,200.00
770 4567	REMOVE LIGHTING SYSTEM	1.000	EA	\$5,250.00	\$5,250.00
772 2800	INTERIM TRAFFIC SIGNALS	2.000	EA	\$47,250.00	\$94,500.00
772 3125	REMOVE TRAFFIC SIGNAL SYSTEM	1.000	EA	\$4,200.00	\$4,200.00
772 9200	IT SYSTEM	1.000	EA	\$168,000.00	\$168,000.00
772 9300	SURVEILLANCE CAMERA SYSTEM	2.000	EA	\$13,020.00	\$26,040.00
772 9811	TRAFFIC SIGNAL SYSTEM - SITE 1	1.000	EA	\$244,020.00	\$244,020.00
772 9812	TRAFFIC SIGNAL SYSTEM - SITE 2	1.000	EA	\$218,920.00	\$218,920.00
920 1237	STRUCTURAL ENGINEER	200.000	MHR	\$370.00	\$74,000.00
920 1238	HISTORIAN	200.000	MHR	\$210.00	\$42,000.00
930 9543	RETAINING WALL	570.000	SF	\$141.00	\$80,370.00
970 0002	LANDSCAPE EDGING	74.000	LF	\$11.00	\$814.00
970 0003	LANDSCAPE FABRIC	1,331.000	SY	\$43.40	\$57,765.40
970 0008	LANDSCAPE PREPARATION	1,331.000	SY	\$17.60	\$23,425.60
970 0060	PLANTING SOIL	1,107.000	CY	\$110.00	\$121,770.00
970 0095	HERBICIDE WEED CONTROL	0.620	ACRE	\$840.00	\$520.80
970 0300	BENCH	13.000	EA	\$1,300.00	\$16,900.00
970 0320	TRASH RECEPTACLE	8.000	EA	\$1,170.00	\$9,360.00
970 0450	BIKE RACKS	7.000	EA	\$875.00	\$6,125.00
970 0600	CAST IRON TREE GRATES	38.000	EA	\$1,620.00	\$61,560.00
990 1929	RELOCATE STATUE	1.000	EA	\$3,500.00	\$3,500.00
				Subtotal	\$7,018,381.71

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Type: OPTION 2 Include in Preliminary Estimate: YES

PIPE CONCRETE REINFORCED

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
714 0210	PIPE CONC REINF 15IN CL III-STORM DRAIN	1,220.000	LF	\$72.00	\$87,840.00
714 0315	PIPE CONC REINF 18IN CL III-STORM DRAIN	237.000	LF	\$80.00	\$18,960.00
714 0620	PIPE CONC REINF 24IN CL III-STORM DRAIN	351.000	LF	\$113.00	\$39,663.00
714 0825	PIPE CONC REINF 30IN CL III-STORM DRAIN	842.000	LF	\$150.00	\$126,300.00
714 0910	PIPE CONC REINF 36IN CL III-STORM DRAIN	517.000	LF	\$180.00	\$93,060.00
714 1312	PIPE CONC REINF 60IN CL III-STORM DRAIN	61.000	LF	\$440.00	\$26,840.00
Subtotal Option 2					\$392,663.00
Subtotal					\$7,411,044.71
Eng and Contg					\$741,104.47
Total					\$8,152,149.18

Length 0.4510 Miles

Estimated Cost		<u>Construction</u>
		\$8,152,149.18
NHU FEDERAL FUNDS	80.93%	\$6,597,534.33
NHU STATE FUNDS	9.07%	\$739,399.93
NHU FARGO CITY FUNDS	10.00%	\$815,214.92

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Roadway: URBAN

RP 940.129 TO RP 940.580

Type: CITY WATERMAIN, SANITARY SEWER, AND LANDSCAPING

Participating: Y

Spec	Code	Item Description	Quantity	Unit	Unit Price	Amount
103	0100	CONTRACT BOND	0.220	L SUM	\$55,000.00	\$12,100.00
103	0200	ESCROW OF BID DOCUMENTATION	0.220	L SUM	\$2,000.00	\$440.00
105	0100	UTILITY COORDINATOR	0.220	L SUM	\$30,000.00	\$6,600.00
107	0100	RAILWAY PROTECTION INSURANCE	0.220	L SUM	\$2,500.00	\$550.00
108	0001	CRITICAL PATH METHOD SCHEDULE	0.220	L SUM	\$15,000.00	\$3,300.00
202	0136	REMOVAL OF PAVEMENT	968.000	TON	\$22.00	\$21,296.00
202	0174	REMOVAL OF PIPE ALL TYPES AND SIZES	3,707.000	LF	\$35.00	\$129,745.00
202	0210	REMOVAL OF MANHOLES	15.000	EA	\$2,000.00	\$30,000.00
203	0101	COMMON EXCAVATION-TYPE A	184.000	CY	\$17.00	\$3,128.00
203	0109	TOPSOIL	22.000	CY	\$50.00	\$1,100.00
230	0300	SUBGRADE PREPARATION-TYPE A	1.700	STA	\$1,770.00	\$3,009.00
251	0300	SEEDING CLASS III	0.030	ACRE	\$5,250.00	\$157.50
253	0201	HYDRAULIC MULCH	0.060	ACRE	\$1,900.00	\$114.00
302	0101	SALVAGED BASE COURSE	372.000	CY	\$44.00	\$16,368.00
550	0305	9IN NON-REINF CONCRETE PVMT CL AE-DOWELED	928.000	SY	\$78.30	\$72,662.40
702	0100	MOBILIZATION	0.220	L SUM	\$634,000.00	\$139,480.00
708	1540	INLET PROTECTION-SPECIAL	4.000	EA	\$200.00	\$800.00
708	1541	REMOVE INLET PROTECTION-SPECIAL	4.000	EA	\$50.00	\$200.00
709	0100	GEOSYNTHETIC MATERIAL TYPE G	982.000	SY	\$3.00	\$2,946.00
714	7040	SANITARY SEWER SERVICE CONNECTION	11.000	EA	\$1,950.00	\$21,450.00
714	7048	PIPE PVC 6IN SEWER	324.000	LF	\$95.00	\$30,780.00
714	7150	PIPE PVC 12IN SEWER	1,738.000	LF	\$225.00	\$391,050.00
714	8510	CASING PIPE 30IN	232.000	LF	\$600.00	\$139,200.00
714	9680	PLUG PIPE-ALL TYPES & SIZES	19.000	EA	\$1,000.00	\$19,000.00
714	9720	UNDERDRAIN PIPE PVC PERFORATED 4IN	351.000	LF	\$8.50	\$2,983.50
722	0110	MANHOLE 60IN	2.000	EA	\$7,500.00	\$15,000.00
722	0300	MANHOLE SANITARY	8.000	EA	\$6,500.00	\$52,000.00
722	3200	MANHOLE DROP	2.000	EA	\$1,850.00	\$3,700.00
722	3315	6IN PVC SEWER PLUG	1.000	EA	\$50.00	\$50.00
722	3320	12IN X MANHOLE SEWER CONNECTION	5.000	EA	\$1,500.00	\$7,500.00
722	6695	AIR RELIEF VALVE & MANHOLE	1.000	EA	\$70,000.00	\$70,000.00
724	0210	FITTINGS-DUCTILE IRON	9,084.000	LBS	\$15.00	\$136,260.00
724	0270	REMOVE GATE VALVE & BOX	22.000	EA	\$400.00	\$8,800.00
724	0290	GATE VALVE & BOX 4IN	4.000	EA	\$2,050.00	\$8,200.00
724	0300	GATE VALVE & BOX 6IN	12.000	EA	\$2,350.00	\$28,200.00
724	0310	GATE VALVE & BOX 8IN	3.000	EA	\$2,800.00	\$8,400.00
724	0314	GATE VALVE & BOX 12IN	5.000	EA	\$5,100.00	\$25,500.00
724	0315	GATE VALVE & BOX 10IN	1.000	EA	\$4,500.00	\$4,500.00
724	0317	GATE VALVE & BOX 16IN	3.000	EA	\$13,400.00	\$40,200.00
724	0410	HYDRANT-INSTALL 5IN	7.000	EA	\$5,700.00	\$39,900.00
724	0430	REMOVE HYDRANT	7.000	EA	\$500.00	\$3,500.00
724	0610	WATER SERVICE LINE 1IN COPPER	193.000	LF	\$82.00	\$15,826.00
724	0613	WATER SERVICE LINE 1 1/4IN COPPER	74.000	LF	\$95.00	\$7,030.00
724	0616	WATER SERVICE LINE 1 1/2IN	63.000	LF	\$105.00	\$6,615.00
724	0636	WATER SERVICE LINE 6IN	355.000	LF	\$85.00	\$30,175.00

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Spec Code	Item Description	Quantity	Unit	Unit Price	Amount
724 0641	WATER SERVICE LINE 8IN	62.000	LF	\$100.00	\$6,200.00
724 0670	TEMPORARY WATER SERVICE	1.000	L SUM	\$50,000.00	\$50,000.00
724 0790	WATERMAIN 4IN PVC	161.000	LF	\$103.00	\$16,583.00
724 0808	PLUG 12IN WATERMAN	1.000	EA	\$1,500.00	\$1,500.00
724 0810	WATERMAIN 6IN PVC	50.000	LF	\$135.00	\$6,750.00
724 0840	WATERMAIN 10IN PVC	69.000	LF	\$142.00	\$9,798.00
724 0850	WATERMAIN 12IN PVC	1,450.000	LF	\$110.00	\$159,500.00
724 0852	WATERMAIN 16IN PVC	1,078.000	LF	\$118.00	\$127,204.00
724 0856	WATERMAIN 14IN	3.000	LF	\$330.00	\$990.00
724 0905	CURB STOP & BOX 1IN	5.000	EA	\$1,520.00	\$7,600.00
724 0906	CURB STOP & BOX 1 1/4IN	2.000	EA	\$1,660.00	\$3,320.00
724 0907	CURB STOP & BOX 1 1/2IN	1.000	EA	\$1,800.00	\$1,800.00
724 0944	CONNECTION TO EXISTING MAIN	10.000	EA	\$3,265.00	\$32,650.00
724 0955	WATER SERVICE CONNECTION 1IN	5.000	EA	\$1,250.00	\$6,250.00
724 0957	WATER SERVICE CONNECTION 1 1/4IN	2.000	EA	\$1,530.00	\$3,060.00
724 0958	WATER SERVICE CONNECTION 1 1/2IN	1.000	EA	\$1,700.00	\$1,700.00
724 0970	WATER LINE CONNECTION 4IN	4.000	EA	\$2,460.00	\$9,840.00
724 0975	WATER LINE CONNECTION 6IN	4.000	EA	\$2,940.00	\$11,760.00
724 0980	WATER LINE CONNECTION 8IN	3.000	EA	\$3,500.00	\$10,500.00
724 9028	FORCEMAIN 16IN	352.000	LF	\$248.00	\$87,296.00
748 0190	CURB & GUTTER-TYPE I 30IN	349.000	LF	\$26.00	\$9,074.00
750 0115	SIDEWALK CONCRETE 4IN	179.000	SY	\$48.00	\$8,592.00
750 0140	SIDEWALK CONCRETE 6IN	4.000	SY	\$52.00	\$208.00
750 0200	CONCRETE MEDIAN PAVING	9.000	SY	\$60.00	\$540.00
750 1000	DRIVEWAY CONCRETE	24.000	SY	\$57.00	\$1,368.00
750 2115	DETECTABLE WARNING PANELS	12.000	SF	\$53.00	\$636.00
762 1250	PREFORMED THERMO PLASTIC PVMT MK 4IN LINE	69.000	LF	\$9.35	\$645.15
762 1280	PREFORMED THERMO PLASTIC PVMT MK MESSAGE	32.000	SF	\$38.00	\$1,216.00
762 1344	PREF PATT PVMT MK 7IN LINE CONTRAST-GROOVED	717.000	LF	\$11.45	\$8,209.65
970 0050	STRUCTURAL SOIL	2,615.000	CY	\$283.00	\$740,045.00
970 0095	HERBICIDE WEED CONTROL	0.030	ACRE	\$840.00	\$25.20

Subtotal **\$2,884,675.40**

Eng and Contg **\$288,467.54**

Total **\$3,173,142.94**

Length 0.4510 Miles CASS 0.4510 Miles

Estimated Cost	Construction
	\$3,173,142.94
CPU FARGO CITY FUNDS	100.00% \$3,173,142.94

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT DETAIL ESTIMATE UPON WHICH PROJECT AGREEMENT IS TO BE BASED

North Dakota FEDERAL AID

Bid Opening Date: 3/8/2019

Project Number: CPU-NHU-8-010(043)940

PCN: 22352

Job Number: 1

English/Metric: ENGLISH

Type: SPECIAL ITEMS

Item Description	Amount
RAILROAD FLAGGING	\$34,000.00
Funding Splits:	
NHU FEDERAL FUNDS	80.93% \$27,516.20
NHU STATE FUNDS	9.07% \$3,083.80
NHU FARGO CITY FUNDS	10.00% \$3,400.00

Summary for Project

Length **0.4510 Miles** **CASS** **0.4510 Miles**

Estimated Total Construction Cost: \$10,295,720.11

Estimated Total Eng and Contg: \$1,029,572.01

	Construction	Special Items	Total
Estimated Cost	\$11,325,292.12	\$34,000.00	\$11,359,292.12
NHU FEDERAL FUNDS	\$6,597,534.33	\$27,516.20	\$6,625,050.53
NHU STATE FUNDS	\$739,399.93	\$3,083.80	\$742,483.73
NHU FARGO CITY FUNDS	\$815,214.92	\$3,400.00	\$818,614.92
CPU FARGO CITY FUNDS	\$3,173,142.94	\$0.00	\$3,173,142.94

28-2

March 20, 2019

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. PR-19-E1

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, March 20, 2019, for Seal Coat & Incidentals, Improvement District No. PR-19-E1, located at various streets and avenues throughout the City of Fargo.

The bids were as follows:

Asphalt Surface Technologies Corp.	\$1,113,083.55
Asphalt Preservation Company, Inc.	\$1,171,394.61

Engineer's Estimate	\$1,129,085.00
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The special assessment escrow is not required.

This office recommends award of the contract to Asphalt Surface Technologies Corp. in the amount of \$1,113,083.55 as the lowest and best bid. No protests have been received.

Sincerely,



Thomas Knakmuhs
Assistant City Engineer

TAK/klb

ENGINEER'S STATEMENT OF ESTIMATED COST**IMPROVEMENT DISTRICT # PR-19-E1****Seal Coat & Incidentals**

Seal Coat streets and avenues in various areas throughout Fargo.

WHEREAS, bids have been opened and filed for the above described Improvement District for City of Fargo, North Dakota; and
WHEREAS, an estimate of the cost of work is required by the engineer for the City of Fargo, North Dakota;

NOW THEREFORE Tom Knakmuhs, do hereby certify as follows:

That I am the Assistant City Engineer for the City of Fargo, North Dakota;

That the following is detailed statement of the estimated cost of the job described as:

Seal Coat & Incidentals Improvement District # PR-19-E1 of the City of Fargo, North Dakota.

Line Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Section 1				
1 Mobilization	LS	1.00	3,700.00	3,700.00
2 F&I Pavement Mix Wear Course Asph	TON	5.00	315.00	1,575.00
3 F&I Seal Aggregate A	SY	9,834.00	1.15	11,309.10
4 F&I Seal Aggregate B	SY	18,910.00	1.31	24,772.10
5 F&I Seal Oil - CRS-2P	GAL	9,562.00	0.90	8,605.80
6 Paint Epoxy Line 4" Wide	LF	3,750.00	2.05	7,687.50
7 Traffic Control - Minor	LS	1.00	300.00	300.00
			Section 1 Total	57,949.50
Section 2				
8 Mobilization	LS	1.00	1,930.00	1,930.00
9 F&I Seal Aggregate B	SY	13,703.00	1.31	17,950.93
10 F&I Seal Oil - CRS-2P	GAL	4,933.00	0.90	4,439.70
11 Paint Epoxy Line 4" Wide	LF	286.00	2.05	586.30
12 Paint Epoxy Line 16" Wide	LF	15.00	16.75	251.25
13 Traffic Control - Minor	LS	1.00	500.00	500.00
			Section 2 Total	25,658.18
Section 3				
14 Mobilization	LS	1.00	1,000.00	1,000.00
15 F&I Seal Aggregate B	SY	7,323.00	1.31	9,593.13
16 F&I Seal Oil - CRS-2P	GAL	2,636.00	0.90	2,372.40
17 Traffic Control - Minor	LS	1.00	400.00	400.00
			Section 3 Total	13,365.53
Section 4				
18 Mobilization	LS	1.00	7,770.00	7,770.00
19 F&I Pavement Mix Wear Course Asph	TON	15.00	315.00	4,725.00
20 F&I Seal Aggregate A	SY	73,162.00	1.15	84,136.30
21 F&I Seal Oil - CRS-2P	GAL	20,485.00	0.90	18,436.50
22 Paint Epoxy Line 4" Wide	LF	100.00	2.05	205.00
23 Paint Epoxy Line 16" Wide	LF	11.00	16.75	184.25
24 Paint Epoxy Line 24" Wide	LF	36.00	20.00	720.00
25 Traffic Control - Minor	LS	1.00	350.00	350.00
			Section 4 Total	116,527.05
Section 5				
26 Mobilization	LS	1.00	19,500.00	19,500.00
27 F&I Seal Aggregate B	SY	46,909.00	1.31	61,450.79
28 F&I Seal Oil - CRS-2P	GAL	16,887.00	0.90	15,198.30
29 F&I Pavement Mix Wear Course Asph	TON	10.00	315.00	3,150.00
30 Paint Epoxy Line 4" Wide	LF	17,602.00	2.05	36,084.10
31 Paint Epoxy Line 8" Wide	LF	2,115.50	4.05	8,567.78
32 Paint Epoxy Line 16" Wide	LF	62.00	16.75	1,038.50
33 Paint Epoxy Line 24" Wide	LF	100.00	19.22	1,922.00
34 Paint Epoxy Message	SF	998.00	20.00	19,960.00

ENGINEER'S STATEMENT OF ESTIMATED COST**IMPROVEMENT DISTRICT # PR-19-E1****Seal Coat & Incidentals**

35 Traffic Control - Type 1	LS	1.00	13,500.00	13,500.00
			Section 5 Total	180,371.47
Section 6				
36 Mobilization	LS	1.00	1,000.00	1,000.00
37 F&I Seal Aggregate A	SY	5,529.00	1.15	6,358.35
38 F&I Seal Oil - CRS-2P	GAL	1,548.00	0.90	1,393.20
39 Traffic Control - Minor	LS	1.00	200.00	200.00
			Section 6 Total	8,951.55
Section 7				
40 Mobilization	LS	1.00	24,808.00	24,808.00
41 F&I Seal Aggregate A	SY	145,722.00	1.15	167,580.30
42 F&I Seal Aggregate B	SY	76,362.00	1.31	100,034.22
43 F&I Seal Oil - CRS-2P	GAL	68,293.00	0.90	61,463.70
44 Paint Epoxy Line 4" Wide	LF	5,577.00	2.05	11,432.85
45 Paint Epoxy Line 8" Wide	LF	405.60	4.05	1,642.68
46 Paint Epoxy Line 16" Wide	LF	85.00	16.75	1,423.75
47 Paint Epoxy Line 24" Wide	LF	258.00	19.22	4,958.76
48 Paint Epoxy Message	SF	128.00	20.00	2,560.00
49 Traffic Control - Minor	LS	1.00	1,800.00	1,800.00
			Section 7 Total	377,704.26
Section 8				
50 Mobilization	LS	1.00	2,900.00	2,900.00
51 F&I Pavement Mix Wear Course Asph	TON	10.00	315.00	3,150.00
52 F&I Seal Aggregate A	SY	18,491.00	1.15	21,264.65
53 F&I Seal Aggregate B	SY	10,468.00	1.31	13,713.08
54 F&I Seal Oil - CRS-2P	GAL	8,946.00	0.90	8,051.40
55 Traffic Control - Minor	LS	1.00	520.00	520.00
			Section 8 Total	49,599.13
Section 9				
56 Mobilization	LS	1.00	1,000.00	1,000.00
57 F&I Seal Aggregate A	SY	4,829.00	1.15	5,553.35
58 F&I Seal Oil - CRS-2P	GAL	1,352.00	0.90	1,216.80
59 Traffic Control - Minor	LS	1.00	100.00	100.00
			Section 9 Total	7,870.15
Section 10				
60 Mobilization	LS	1.00	2,200.00	2,200.00
61 F&I Seal Aggregate A	SY	16,610.00	1.15	19,101.50
62 F&I Seal Aggregate B	SY	6,041.00	1.31	7,913.71
63 F&I Seal Oil - CRS-2P	GAL	6,826.00	0.90	6,143.40
64 F&I Pavement Mix Wear Course Asph	TON	15.00	315.00	4,725.00
65 Traffic Control - Minor	LS	1.00	300.00	300.00
			Section 10 Total	40,383.61
Section 11				
66 Mobilization	LS	1.00	1,860.00	1,860.00
67 F&I Seal Aggregate A	SY	7,809.00	1.15	8,980.35
68 F&I Seal Oil - CRS-2P	GAL	2,187.00	0.90	1,968.30
69 Paint Epoxy Line 4" Wide	LF	308.00	2.05	631.40
70 Paint Epoxy Line 8" Wide	LF	77.00	4.05	311.85
71 Paint Epoxy Message	SF	16.00	20.00	320.00
72 Traffic Control - Minor	LS	1.00	200.00	200.00
			Section 11 Total	14,271.90

ENGINEER'S STATEMENT OF ESTIMATED COST

IMPROVEMENT DISTRICT # PR-19-E1

Seal Coat & Incidentals

Section 12

73 Mobilization	LS	1.00	5,050.00	5,050.00
74 F&I Seal Aggregate A	SY	19,482.00	1.15	22,404.30
75 F&I Seal Aggregate B	SY	12,540.00	1.31	16,427.40
76 F&I Seal Oil - CRS-2P	GAL	9,970.00	0.90	8,973.00
77 Paint Epoxy Line 4" Wide	LF	2,797.00	2.05	5,733.85
78 Traffic Control - Minor	LS	1.00	300.00	300.00
Section 12 Total				58,888.55

Section 13

79 Mobilization	LS	1.00	6,030.00	6,030.00
80 F&I Pavement Mix Wear Course Asph	TON	20.00	315.00	6,300.00
81 F&I Seal Aggregate A	SY	44,201.00	1.15	50,831.15
82 F&I Seal Aggregate B	SY	9,977.00	1.31	13,069.87
83 F&I Seal Oil - CRS-2P	GAL	15,968.00	0.90	14,371.20
84 Paint Epoxy Line 4" Wide	LF	400.00	2.05	820.00
85 Paint Epoxy Line 8" Wide	LF	200.00	4.05	810.00
86 Paint Epoxy Line 24" Wide	LF	146.00	19.22	2,806.12
87 Paint Epoxy Message	SF	86.00	20.00	1,720.00
88 Traffic Control - Minor	LS	1.00	500.00	500.00
Section 13 Total				97,258.34

Section 14

89 Mobilization	LS	1.00	5,930.00	5,930.00
90 F&I Seal Aggregate A	SY	18,432.00	1.15	21,196.80
91 F&I Seal Aggregate B	SY	10,618.00	1.31	13,909.58
92 F&I Seal Oil - CRS-2P	GAL	8,983.00	0.90	8,084.70
93 Paint Epoxy Line 4" Wide	LF	5,235.00	2.05	10,731.75
94 Paint Epoxy Line 8" Wide	LF	185.00	4.05	749.25
95 Paint Epoxy Line 16" Wide	LF	27.00	16.75	452.25
96 Paint Epoxy Message	SF	149.00	20.00	2,980.00
97 Traffic Control - Minor	LS	1.00	250.00	250.00
Section 14 Total				64,284.33

Total Construction in \$ 1,113,083.55

Engineering	6.62 %	73,686.13
Legal & Misc	3.00 %	33,392.51
Contingencies	10.00 %	111,308.36
Administration	0.74 %	8,236.82
Interest	4.00 %	44,523.34

Total Estimated Costs 1,384,230.70

Street Rehabilitation Funds - 401 1,200,054.70

Special Assessments 184,176.00

Unfunded Costs 0.00

IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 03/20/2019



Tom Knakmuhs

Assistant City Engineer



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

29

Improvement District No. BN-19-A1 Type: Request to Work Sundays and After Hours

Location: 52nd Ave S – Drain 27 Date of Hearing: 3/18/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>3/25/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Kevin Gorder</u>

The Committee reviewed a communication from Division Engineer, Kevin Gorder, regarding a request submitted by KPH to work the next four Sundays and to work after the hours stated within the contract plans and specification in order to complete the work in the drain that would be impacted by a spring flood. They have placed pilings and would like to work 24 hours a day to complete the formwork and reinforce steel needed to build the bridge piers.

This work is being coordinated with Minnkota Power to de-energize the power lines while they are using cranes in the area. Currently, Minnkota Power has de-energized the power lines for a two-week period.

On a motion by Mike Redlinger, seconded by Steve Dirksen, the Committee voted to approve the request from KPH to complete work on Sundays and after hours.

RECOMMENDED MOTION

Concur with PWPEC recommendation and approve the request from KPH to complete work on Sundays and after hours.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Federal Highway Funds, City of West Fargo Funds, Cass County Highway Dept. Funds, Southeast Cass Water Resource District Funds & Special Assessments

	<u>Yes</u>	<u>No</u>
Developer meets City policy for payment of delinquent specials	<u>N/A</u>	<u> </u>
Agreement for payment of specials required of developer	<u>N/A</u>	<u> </u>
Letter of Credit required (per policy approved 5-28-13)	<u>N/A</u>	<u> </u>

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>☑</u>
Tim Mahoney, Mayor	<u>☐</u>	<u>☐</u>	<u>☐</u>	
Nicole Crutchfield, Director of Planning	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Steve Dirksen, Fire Chief	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Bruce Grubb, City Administrator	<u>☑</u>	<u>☑</u>	<u>☐</u>	Mike Redlinger
Ben Dow, Director of Operations	<u>☑</u>	<u>☑</u>	<u>☐</u>	
Steve Sprague, City Auditor	<u>☐</u>	<u>☐</u>	<u>☐</u>	
Brenda Derrig, City Engineer	<u>☑</u>	<u>☑</u>	<u>☐</u>	Tom Knakmuhs
Kent Costin, Finance Director	<u>☐</u>	<u>☐</u>	<u>☐</u>	

ATTEST:

C: Kristi Olson


 Tom Knakmuhs, PE
 Assistant City Engineer

Memorandum

To: Members of PWPEC

From: Kevin Gorder, Division Engineer
Aaron Edgar, Project Manager

Date: March 15, 2019

Re: 52nd Avenue Update and Sunday & Night Work on the Bridge

Background:

The Contractor working on the bridge over Drain 27 on 52nd Avenue has asked to work nights for about a week or two and the next 4 Sundays. The Contractor is currently working in the drain building bridge piers. They have requested to work nights and Sundays so they can finish the work in the drain that would be impacted by a spring flood. They have placed on the pilings and would like to work 24 hours a day completing the formwork and reinforcing steel needed to build the bridge piers.

The contract requires one lane of traffic for public use by the middle of August. Depending on the magnitude of the spring flood and if they are in the drain at the time, the impact to the schedule would be significant. They also have to coordinate this work with Minnkota Power to de-energize the power lines while they are using their cranes in the area. They are currently in a two-week period where the power lines are de-energized.

The Contractor plans on working nights for about a week so they can finish the piers before the spring runoff starts raising the level of the water in drain. We have asked the Contractor to notify the residents in the area about the night operations. In addition, they are not allowed to place piling and they need to keep the use of equipment with backup alarms to a minimum. We asked that they try to keep the residents in mind as they placed their light plants so they are not shining into windows.

Recommended Motion:

To approve the Contractor to work nights for a week or two and the next 4 Sundays.

City of Fargo, North Dakota
 Infrastructure Capital Project Funds Financial Status Report
 F-Y-T-D for Period Ending February 28, 2019

Infrastructure Categories	General Infrast.	Street Sales Tax	Water Sales Tax	Wwater Sales Tax	2013 Flood Sales Tax	Flood Sales Tax	Totals
Fund No.	401	420	450	455	460	465	
Revenues:							
337.40-00 Local Capital Grants	18,275	-	-	-	-	-	18,275
360.10-02 PFM Operating Resvrv Core	-	21,455	-	-	-	-	21,455
360.10-03 PFM Operating Short Term	-	42,931	0	12	809	4	43,756
360.10-39 Realized Gain/Loss	-	58,152	0	17	1,134	6	59,309
361.15-00 Project Reimbursement	-	-	-	124,325	-	-	124,325
361.85-00 Rentals	-	-	-	-	2,000	-	2,000
391.40-00 Transfer from Capital Projects Fund	547,767	-	-	-	-	-	547,767
391.40-01 Transfer from Street Sales Tax Surplus	1,443,052	-	-	-	-	-	1,443,052
391.40-02 Transfer from Flood Sales Tax Fund	50,000	-	-	-	-	-	50,000
391.40-03 Transfer from Street Rehab	(374,568)	-	-	-	-	-	(374,568)
391.50-05 Transfer from Water Fund	417,483	-	-	-	-	-	417,483
391.50-10 Transfer from Wastewater Fund	53,763	-	-	-	-	-	53,763
391.50-20 Transfer from Storm Sewer Fund	325,077	-	-	-	-	-	325,077
Total Revenues	2,480,848	122,538	0	124,354	3,943	11	2,731,694
Expenditures:							
11-00 Full Time Staff	-	-	-	-	-	15,760	15,760
20-01 Health Insurance	-	-	-	-	-	1,145	1,145
20-03 Dental Insurance	-	-	-	-	-	60	60
20-04 Long Term Disability	-	-	-	-	-	32	32
21-01 FICA	-	-	-	-	-	943	943
21-02 Medicare	-	-	-	-	-	221	221
22-04 NDPERS Pension	-	-	-	-	-	1,302	1,302
33-01 Capital Project Administration	261,032	-	-	7,144	226,810	-	494,986
33-05 Engineering Services	68,090	-	-	16,303	109,179	-	193,571
33-06 Quality Testing	8,525	-	-	-	-	-	8,525
33-25 Legal Services	-	-	-	-	44,413	-	44,413
33-32 Appraisal Services	-	-	-	-	2,000	-	2,000
38-99 Other Services	7,393	-	-	-	1,050	-	8,443
44-10 Land & Building Rentals	-	-	-	-	142,800	-	142,800
54-10 Legal Publications	38	-	-	-	-	-	38
57-60 Out of State Travel	-	-	-	-	3,022	-	3,022
62-71 Electric - Storm Lifts	-	-	-	-	4,192	-	4,192
68-10 Miscellaneous	40	-	-	-	-	-	40
71-10 Land Purchases	934,160	-	-	-	2,268,097	-	3,202,257
73-58 Storm Sewer Infrastructure	393,675	-	-	-	-	-	393,675
73-59 Street & Roadway Infrastructure	52,705	-	-	-	-	-	52,705
73-60 Street Lighting	13,682	-	-	-	-	-	13,682
73-61 Traffic Control	17,425	-	-	-	-	-	17,425
73-62 Water Infrastructure	-	-	4,500	-	-	-	4,500
73-63 Wastewater Infrastructure	161,176	-	-	-	-	-	161,176
73-66 Landscaping	1,500	-	-	-	-	-	1,500
73-68 Striping & Signage	37,260	-	-	-	-	-	37,260
73-69 Erosion & Sediment Control	1,650	-	-	-	-	-	1,650
80-12 Special Assessment Principal	-	1,503	-	-	93,471	-	94,975
80-21 Interest on Other Debt	685,011	-	-	-	-	-	685,011
90-40 Transfer to Capital Project Fund	(374,568)	1,443,052	-	547,767	50,000	-	1,666,251
Total Expenditures	2,268,794	1,444,555	4,500	571,214	2,945,033	19,462	7,253,557
Excess (Deficiency) of Revenues							
Over Expenditures	212,055	(1,322,017)	(4,500)	(446,860)	(2,941,090)	(19,452)	(4,521,864)
Fund Balance, Beginning of Year	(56,736,833)	28,590,631	3,600,928	2,623,731	(1,804,881)	1,395,529	(22,330,896)
Fund Balance, End of Year	\$ (56,524,779)	\$ 27,268,615	\$ 3,596,428	\$ 2,176,871	\$ (4,745,971)	\$ 1,376,077	\$ (26,852,759)

City of Fargo, North Dakota
 Infrastructure Capital Project Funds Financial Status Report
 F-Y-T-D for Period Ending December 31, 2018

Infrastructure Categories	General Infrast.	Street Sales Tax	Water Sales Tax	Wwter Sales Tax	2013 Flood Sales Tax	Flood Sales Tax	Totals
Fund No.	401	420	450	455	460	465	
Revenues:							
313.10-00 Local Sales Tax	-	6,023,246	-	-	-	30,116,229	36,139,474
331.14-32 FEMA Hazard Mitigation	4,155,191	-	-	331,845	-	-	4,487,036
331.14-35 Other Pass-through Funds	670,000	-	-	-	-	-	670,000
334.10-35 State Share FEMA	554,025	-	-	44,246	-	-	598,272
334.30-05 State Grants	34,951	-	1,048,784	-	(34,951)	-	1,048,784
337.40-00 Local Capital Grants	5,156,057	-	-	-	5,889	-	5,161,946
337.68-00 Local Grants/ Contributions	-	-	-	200,000	-	-	200,000
355.10-00 Certified Special Assessments	41,579	-	-	-	-	-	41,579
360.10-02 PFM Operating Resvrv Core	-	138,731	-	-	-	-	138,731
360.10-03 PFM Operating Short Term	-	113,475	1	53	3,611	20	117,161
360.10-38 Unrealized Gain/Loss	-	45,989	(4)	28	(13,976)	10	32,046
360.10-39 Realized Gain/Loss	-	154,839	0	71	4,849	27	159,786
361.15-00 Project Reimbursement	-	-	163,000	-	-	-	163,000
361.85-00 Rentals	-	-	-	-	15,110	-	15,110
361.99-00 Miscellaneous	26,461	-	-	-	404	-	26,865
362.20-00 Gain on Sale of Assets / Sale of Fixed Asse	14,530	-	-	-	-	-	14,530
391.10-00 Transfer from General Fund	660,770	-	-	-	-	-	660,770
391.30-00 Transfer In from Debt Service	1,438,854	-	3,135,370	1,318,617	-	-	5,892,841
391.40-00 Transfer from Capital Projects Fund	(445,849)	-	5,242,415	1,278,673	152,749	-	6,227,989
391.40-01 Transfer from Street Sales Tax Surplus	10,969,257	-	-	-	-	-	10,969,257
391.40-02 Transfer from Flood Sales Tax Fund	970,387	-	-	-	-	-	970,387
391.40-03 Transfer from Street Rehab	2,605,324	-	-	-	-	-	2,605,324
391.50-05 Transfer from Water Fund	2,363,467	-	-	-	-	-	2,363,467
391.50-08 Transfer from Street Lighting Fund	23,289	-	-	-	-	-	23,289
391.50-10 Transfer from Wastewater Fund	942,063	-	-	265,999	-	-	1,208,062
391.50-20 Transfer from Storm Sewer Fund	446,716	-	-	-	-	-	446,716
392.10-00 Proceeds from Sale of Assets	-	-	-	-	888	-	888
392.20-00 Proceeds from Land Sales	-	-	-	-	-	20,491	20,491
393.50-00 Refunding Improvement Bond Proceeds	41,496,170	-	-	-	-	-	41,496,170
393.60-00 Bond Proceeds - Premium on Bonds Sold	1,085,502	-	-	-	-	-	1,085,502
394.10-00 SRF Loan Proceeds	-	-	30,904,952	755,300	-	-	31,660,252
394.14-00 Loan Proceeds / BND Infrastructure Loan	4,363,596	-	-	-	-	-	4,363,596
Total Revenues	77,572,339	6,476,280	40,494,519	4,194,833	134,573	30,136,776	159,009,320
Expenditures:							
11-00 Full Time Staff	-	-	-	-	-	136,605	136,605
20-01 Health Insurance	-	-	-	-	-	8,820	8,820
20-03 Dental Insurance	-	-	-	-	-	501	501
20-04 Long Term Disability	-	-	-	-	-	273	273
21-01 FICA	-	-	-	-	-	7,998	7,998
21-02 Medicare	-	-	-	-	-	1,921	1,921
22-04 NDPERs Pension	-	-	-	-	-	11,284	11,284
33-01 Capital Project Administration	7,256,929	-	734,046	37,279	796,545	75	8,824,875
33-05 Engineering Services	5,935,591	-	3,140,094	307,126	1,027,287	63,424	10,473,522
33-06 Quality Testing	307,614	-	-	-	14,457	-	322,071
33-20 Accounting Services	-	-	3,778	-	-	-	3,778
33-25 Legal Services	2,945	-	240	-	285,504	-	288,689
33-32 Appraisal Services	-	-	-	-	13,300	-	13,300
34-20 Marketing/Public Relations	-	-	-	-	1,680	-	1,680
34-76 Televised Swr Inspection	31,485	-	-	-	487	-	31,972
38-99 Other Services	1,560,380	-	87,930	-	162,037	1,000	1,811,347
43-95 Infrastructure Repair	8,783	-	111,500	-	-	-	120,283
44-10 Land & Building Rentals	-	-	-	-	242,800	-	242,800
44-20 Equipment & Vehicle Rent	43,865	-	-	-	-	-	43,865
52-10 Property Insurance	-	-	-	-	6,811	-	6,811
54-10 Legal Publications	32,234	-	-	-	2,741	360	35,336
56-60 In State Travel	-	-	-	-	403	-	403
57-60 Out of State Travel	-	-	-	-	8,118	-	8,118
62-51 Electric - Storm Lifts	-	-	150,000	-	-	-	150,000
62-71 Electric - Storm Lifts	-	-	-	-	29,442	-	29,442
68-10 Miscellaneous	53,780	-	1,916	-	538	-	56,234
69-10 Bad Debts	104	-	-	-	-	-	104
71-10 Land Purchases	1,701,085	-	-	-	5,202,256	-	6,963,341
73-20 Site Improvements	58,957	-	-	-	262,615	-	321,572
73-50 Bridges	1,173,723	-	-	-	-	-	1,173,723
73-52 Flood Control Infrastructure	558,820	-	-	-	1,046,130	-	1,604,950
73-53 Reservoirs & Diversion	-	-	-	-	-	30,116,229	30,116,229
73-56 Sidewalk & Bike Paths	2,345,269	-	-	-	110,487	-	2,455,756
73-58 Storm Sewer Infrastructure	8,533,678	-	-	-	2,007,950	-	10,541,628
73-59 Street & Roadway Infrastructure	23,059,115	-	-	-	279,834	-	23,338,948
73-60 Street Lighting	3,317,355	-	-	-	-	-	3,317,355
73-61 Traffic Control	3,220,131	-	-	-	20,680	-	3,240,811
73-62 Water Infrastructure	3,024,991	-	20,201,455	-	58,962	-	23,285,408
73-63 Wastewater Infrastructure	8,238,667	-	-	1,215,735	43,515	-	9,498,017
73-64 Solid Waste Infrastructure	41,510	-	-	-	-	-	41,510
73-08 Landscaping	373,671	-	-	-	79,180	-	452,851
73-07 Bike Paths	9,550	-	-	-	45,509	-	55,059
73-68 Striping & Signage	1,334,111	-	-	-	6,498	-	1,340,609
73-69 Erosion & Sediment Control	564,818	-	-	-	117,310	1,877	684,006
73-72 Incidents	4,450	-	-	-	-	-	4,450
73-99 Liquidated Damages	(1,298,113)	-	-	-	(48,200)	-	(1,346,313)
74-10 Equipment	-	-	227,732	-	-	-	227,732
74-11 Computer Equipment	-	-	13,639	-	-	-	13,639
74-12 Computer Software	-	-	2,148	-	-	-	2,148
80-12 Special Assessment Principal	-	1,503	-	-	108,471	-	109,975
80-21 Interest on Other Debt	2,654,186	-	-	-	-	-	2,654,186
90-10 Transfer to General Fund	26,872	-	-	-	-	-	26,872
90-30 Transfer to Debt Service Funds	1,434,301	-	-	-	-	-	1,434,301
90-40 Transfer to Capital Project Fund	2,605,324	10,969,257	5,242,415	764,675	970,387	152,749	20,704,807
Total Expenditures	78,274,182	10,970,761	29,916,893	2,324,814	12,903,734	30,503,117	164,893,501
Excess (Deficiency) of Revenues Over Expenditures							
	(701,843)	(4,494,480)	10,577,626	1,870,019	(12,769,161)	(366,341)	(5,884,181)
Fund Balance, Beginning of Year	(56,034,990)	33,085,112	(6,976,688)	753,712	10,964,280	1,761,870	(16,446,715)
Fund Balance, End of Year	\$(56,736,833)	\$28,590,631	\$3,600,928	\$2,623,731	\$(1,804,881)	\$1,395,529	\$(22,330,896)

COVER SHEET
CITY OF FARGO PROJECTS

30-1

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Improvement District as it will appear in the Contract:

Street Lighting & Incidentals

Improvement District No. SL-19-E

Call For Bids March 25, 2019

Advertise Dates April 1 & 8, 2019

Bid Opening Date May 1, 2019

Substantial Completion Date October 1, 2019

Final Completion Date November 1, 2019

N/A PWPEC Report (Attach Copy) **Part of 2019 CIP Revision**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Jim Mohr

Phone No. 241-1545

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT
STREET LIGHTING & INCIDENTALS
IMPROVEMENT DISTRICT NO. SL-17-E

Nature and Scope

This project calls for installing a street lighting system in the area of 7th & 8th Street North from 15th – 17th Avenue North, where there currently are no City of Fargo street lights in place.

Purpose

The project's goal is to increase safety and convenience of the residents and the traveling public.


Feasibility

The estimated cost of construction is approximately \$163,070.00. The cost breakdown is as follows:

<u>Estimated Construction Cost:</u>	\$ 163,070.00
Plus Engineering 11%	\$ 17,937.70
Plus Administration 6%	\$ 9,784.20
Plus Interest 4%	\$ 6,522.80
Plus Legal 7%	\$ 11,414.90
Total Estimated Cost (100% Assessed):	\$ 208,729.60

We believe this project to be cost effective.





Jeremy Gorden, P.E.
Division Engineer - Transportation

CITY OF FARGO
ENGINEERING DEPARTMENT
LOCATION & COMPRISING
STREET LIGHTING & INCIDENTALS
IMPROVEMENT DISTRICT NO. SL-19-E

LOCATION:

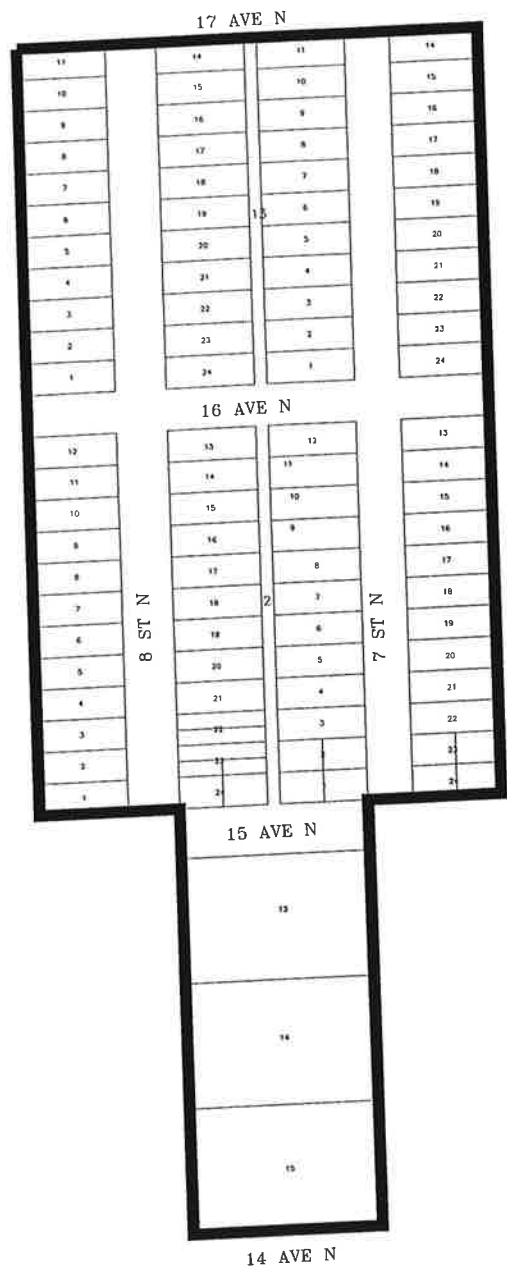
7TH & 8TH Street North from 15th to 17th Avenue North.

COMPRISING:

Lots 13 through 24, Block 1.
Lots 1 through 24, Block 2.
Lots 1 through 12, Block 3.
Lots 1 through 11, Block 12.
Lots 1 through 24, Block 13.
Lots 14 – 24, Block 14.
Chandlers Broadway Addition.

Lot W 299.5' of 13 through 15.
Ohmers Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.



CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

STREET LIGHTING
& INCIDENTALS

IMPROVEMENT DISTRICT NO. SL-19-E

COVER SHEET
CITY OF FARGO PROJECTS

30-2

This sheet must be completed and turned in with all City of Fargo projects. NO items will be accepted by either the City Commission Office or the City Auditor's Office without this cover sheet attached and properly filled out.

Exact, full name of Improvement District as it will appear in the Contract:

Traffic Signal Improvements & Incidentals

Improvement District No. TN-19-A

Call For Bids March 25, 2019

Advertise Dates April 1 & 8, 2019

Bid Opening Date May 1, 2019

Substantial Completion Date November 15, 2019

Final Completion Date December 15, 2019

N/A PWPEC Report (Attach Copy) **Part of 2019 CIP Revision**

X Engineer's Report (Attach Copy)

X Direct City Auditor to Advertise for Bids

X Bid Quantities (Attach Copy for Auditor's Office Only)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Jake Rick

Phone No. 297-7780

The items listed above are for use on all City projects. The additional items listed below are to be checked only when all or part of a project is to be special assessed:

X Create District (Attach Copy of Legal Description)

X Order Plans & Specifications

X Approve Plans & Specifications

X Adopt Resolution of Necessity

N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)

X Assessment Map (Attach Copy for Auditor's Office Only)

ENGINEER'S REPORT

TRAFFIC SIGNAL IMPROVEMENTS & INCIDENTALS

IMPROVEMENT DISTRICT NO. TN-19-A

Nature and Scope

This project calls for installing a new traffic signal system at the intersection of University Drive and 17th Avenue North. This will help with the increased vehicle and pedestrian traffic movements at this intersection. This project will also be updating the fiber optics between 12th Avenue North and 19th Avenue North.

Purpose

The project's goal is to increase safety and convenience of the residents, students, and the traveling public.

Feasibility

The estimated cost of construction is approximately \$285,398.90. The cost breakdown is as follows:

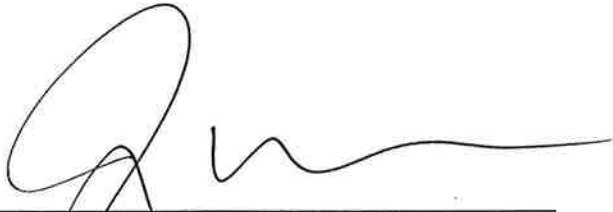
<u>Estimated Construction Cost:</u>	\$ 285,398.90
<u>Assessed Portion</u>	\$ 199,779.23
Plus Engineering Fees 11%	\$ 21,975.72
Plus Administration Fees 6%	\$ 11,986.75
Plus Interest Fees 4%	\$ 7,991.17
Plus Legal Fees 3%	\$ 5,993.38
Total Estimated Assessed Portion Cost:	\$ 247,726.25
<u>Sales Tax Funded Portion</u>	\$ 85,619.67
Plus Engineering Fees 11%	\$ 9,418.16
Plus Interest Fees 4%	\$ 3,424.79
Plus Legal Fees 3%	\$ 2,568.59
Total Estimated Assessed Portion Cost:	\$ 101,031.21

Project Funding Summary:

Estimated Cost (70% Assessed)	\$ 247,726.25
Estimated Cost (30% Sales Tax)	\$ 101,031.21

We believe this project to be cost effective.





 Jeremy Gorden, P.E.
 Division Engineer - Transportation

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & COMPRISING

TRAFFIC SIGNAL IMPROVEMENTS & INCIDENTALS

IMPROVEMENT DISTRICT NO. TN-19-A

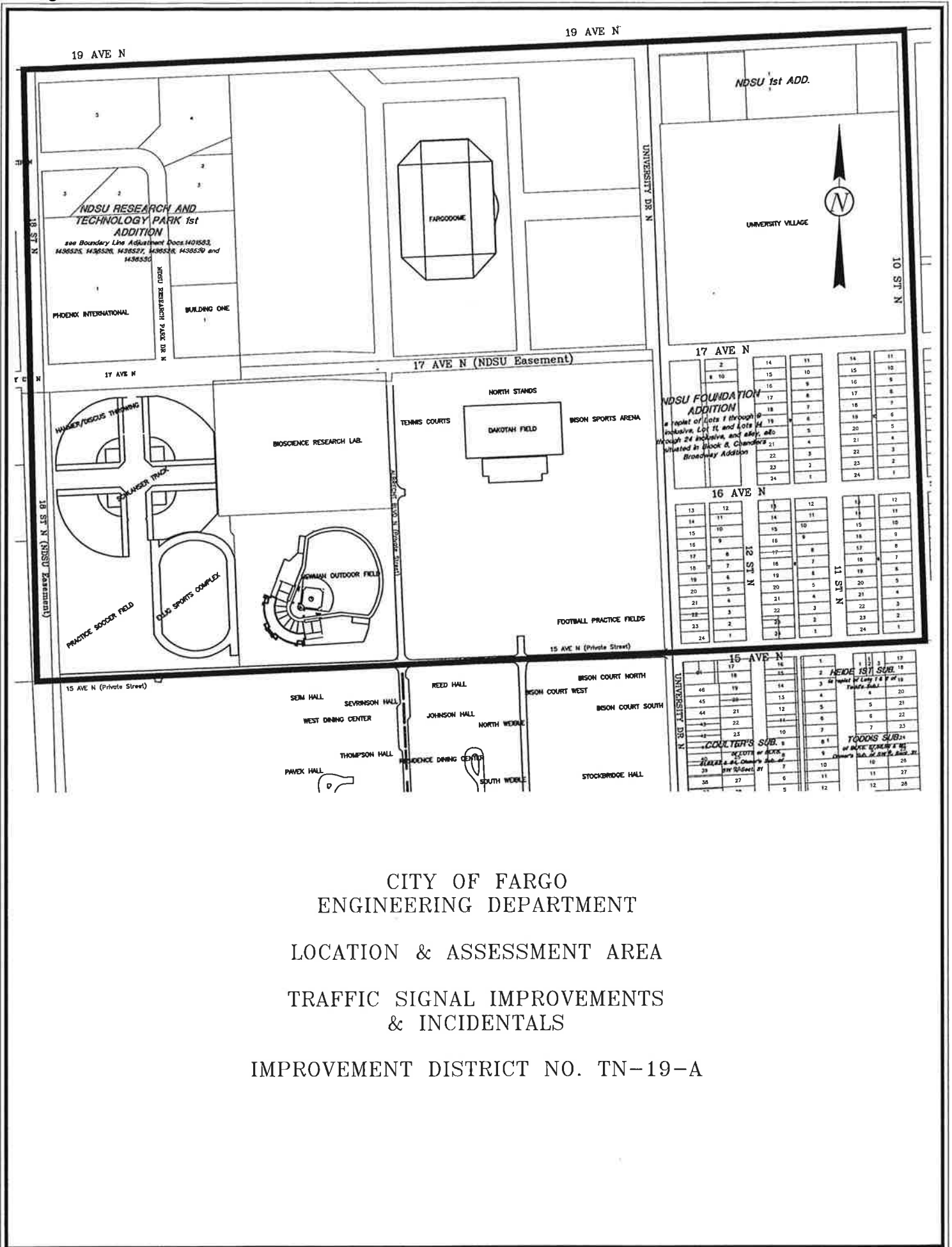
LOCATION:

The Intersection of 17th Avenue and University Drive North.

COMPRISING:

Bound to the North by 19th Ave N.
Bound to the South by 15th Ave N.
Bound to the East by 10th Street N.
Bound to the West by 18th Street N.

All the foregoing is located in the City of Fargo, Cass County, North Dakota.



CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA

TRAFFIC SIGNAL IMPROVEMENTS
& INCIDENTALS

IMPROVEMENT DISTRICT NO. TN-19-A