

FARGO CITY COMMISSION AGENDA  
Monday, September 11, 2017 - 5:00 p.m.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, August 28, 2017).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 1st reading of an Ordinance Amending Section 25-1509, of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverages.
- 2. 2nd reading of the following Ordinances:
  - a. Relating to Classification of Ordinance Violations.
  - b. Relating to Distracted Driving.
  - c. Relating to Use of a Wireless Communication Device Prohibited.
  - d. Rezoning Certain Parcels of Land Lying in Original Townsite Addition.
- 3. Tax exemptions for improvements made to buildings:
  - a. Carole Y. Halone and Christi L. Johnson, 1518 29th Avenue South (3 year).
  - b. William R. Jr. and Alycia L. Gabel, 1602 28 1/2 Avenue South (3 year).
  - c. David L. and Diane K. Wanner, 914 Park Drive South (5 year).
  - d. David R. Slack and Debra K. Potter Slack, 218 Forest Avenue North (5 year).
  - e. Eric G. and Sharla L. Olson, 811 Southwood Drive South (5 year).
  - f. Steve and Ruth E. Holland, 601 University Drive South (5 year).
  - g. Rodney M. Greff, 1329 10th Street North (5 year).
  - h. Mark Anthony Huss, 3027 Elm Street North (5 year).
  - i. Ryan D. and Shannon L. Gullingsrud, 1218 3rd Street North (5 year).
  - j. Debra A. Cederholm, 401 21st Avenue North (5 year).
  - k. Carter Anthony II and Jennifer Breeding, 3657 Fairway Road North (5 year).
  - l. Steve W. and Shari L. Bettenhausen, 2901 12th Street South (5 year).
  - m. R. David and Julie Rydell, 1414 23rd Street South (5 year).
  - n. Jacob Krieg, 1241 2nd Street North (5 year).
  - o. Michael E. and Lisa K. Stenstrom, 2921 Edgewood Drive North (5 year).
  - p. Ray and Karen Frohlich, 3025 Peterson Parkway North (5 year).
  - q. Michael W. Hayes and Lana D. Waters, 1338 3rd Avenue South (5 year).
  - r. Joshua Zosel and Andrea Huseth-Zosel, 1358 3rd Street North (5 year).
- 4. Site authorization for Metro Sports Foundation at Scheels Arena.
- 5. Applications for Games of Chance:
  - a. Bryce Thingelstad Benefit Committee for a raffle and raffle board on 10/26/17; Public Spirited Resolution.
  - b. North Dakota Long Term Care Association for a raffle on 9/14/17.
  - c. NDSU Lion's Club for a raffle on 11/15/17.
  - d. United Way Cass-Clay for a raffle on 9/21/17.
  - e. Jeremiah Program for a raffle on 11/3/17; Public Spirited Resolution.

6. Resolution Expressing General Support of the Edge Artist Flats Affordable Housing Project at 1321 5th Avenue North.
7. Change Order No. 9 for an increase of \$7,303.13 for the Roberts Commons Parking Garage.
8. Bid award of one snow plow, box and wing (RFP17252).
9. Bid award for Project No. WA1510.
10. Bid award for cooling tower water treatment equipment at the FARGODOME.
11. Change Order for an increase of \$66,404.00 for BP0031 Fire Station No. 1 – Headquarters Remodel Project.
12. Change Order No. E-2 for an increase of \$3,431.60 for the Police Department Remodeling Project at the Border States Electric Building (electrical construction contract).
13. Agreement for Transit Services with North Dakota State College of Science for 2017-2018.
14. Amendment to Engineer-Owner Agreement with KLJ, Inc. for the 2017 rebid services of the GTC Deck Repair and Garage Condition Assessment.
15. Memorandum of Understanding with the NDDOT for Transit Capital Project-Fiscal Year 2017 Urban Roads Program funds.
16. Section 5339 Transit Grant Agreement with the NDDOT (Contract No. 38171124).
17. Section 5310 Transit Grant Agreement with the NDDOT (Contract No. 38171108).
18. Quit Claim Deed for property in Dakota Land Second Addition to the personal representatives of the Estate of Harold L. Newman.
19. Purchase Agreement for acquisition of property at 726 Hackberry Drive South.
20. Purchase Agreement for acquisition of property at 3842 River Drive South (Project No. MS-15-K0).
21. Encroachment Agreement with DFI Black Building LLC at 114 Broadway to allow for an iconic sign.
22. Quote from Dakota Fence in the amount of \$73,898.00 to install fence under the 1st Avenue North bridge at the Red River.
23. Release of Permanent Easement with Marie T. and Jonathan B. Offutt for property located in Maier First Subdivision.
24. Final Balancing Change Order No. 4 for a decrease of \$137,063.43 for Project No. FM-15-F1.
25. Contract Amendment No. 1 for an increase of \$650.00 for Project No. MS-16-M0.
26. Contract Amendment No. 1 for an increase of \$22,500.00 for Project No. MS-16-S0.

27. Contract Amendment No. 2 for an increase of \$50,725.00 for Project No. MS-15-P0.
28. Bid award for Project No. FM-14-63.
29. Bid advertisement for Project No. TR-17-B.
30. Contract and bond for Project No. UR-17-F1.
31. Bills.
32. Cost Participation and Maintenance Agreement with the NDDOT for Improvement District No. BR-18-B1.
33. Encroachment Agreement with Fargo Public Schools for Improvement District No. BR-17-F1.
34. Time extension to 11/6/17 for Improvement District No. BR-17-J1.
35. Time extension to 11/15/17 for Improvement District No. BR-17-F1.
36. Change Order No. 1 for an increase of \$24,300.00 and time extension to 9/15/17 for Improvement District No. BR-17-C1.
37. Change Order No. 1 for an increase of \$13,751.40 and time extension to 12/4/17 for Improvement District No. BR-17-B1.
38. Final Balancing Change Order No. 3 for a decrease of \$50,498.14 for Improvement District No. PN-15-J1.
39. Contract and bond for Improvement District No. BN-17-H1.

**REGULAR AGENDA:**

40. Recognition of National Payroll Week and the efforts of the City's payroll processing team.
41. Public Hearings - 5:15 pm:
  - a. BNG Addition (3285 47th Street South); approval recommended by the Planning Commission on 9/5/17:
    1. Zoning change from LC, Limited Commercial with a C-O, Conditional Overlay to GO, General Office, with a C-O, Conditional Overlay.
    2. 1st reading of rezoning Ordinance.
  - b. Silverleaf Third Addition (2801 64th Avenue South and 2748 Samuel Drive South); approval recommended by the Planning Commission on 7/6/17:
    1. Zoning Change from AG, Agricultural to SR-2, Single-Dwelling Residential.
    2. 1st reading of rezoning Ordinance.
    3. Plat of Silverleaf Third Addition.
  - c. Appeal of a Board of Adjustment decision on a variance request at 3931 and 3949 37th Avenue South to allow a proposed building to be constructed to a lower elevation than would otherwise be required by the City's Floodproofing Code, as referenced by Article 21-06 of the Fargo Municipal Code.
    1. Denied by the Board of Adjustment on 8/22/17.

42. Public Hearing - 6:00 p.m.:
  - a. Public comment on the 2017, payable 2018, tax levy and the 2018 preliminary budget.
    1. Adopt the 2018 City of Fargo budget and proposed tax levies.
43. Recommendation to appoint Justin Schoenberg to the Board of Appeals.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Commission Office at 241-1310. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 25-1509, OF ARTICLE 25-15 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO ALCOHOLIC BEVERAGES

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 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 purposes; 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. Amendment.

Section 25-1509 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1509. Restrictions on sale, service or dispensing of alcoholic beverages.--

- A. No licensee, his agent or employee, shall sell, serve or dispense any alcoholic beverage to a person under 21 years of age; and no licensee, his agent or employee, shall permit any person under 21 years of age to be furnished with any alcoholic beverage upon the licensed premises.
- B. No person under 21 years of age shall be permitted to enter any portion of licensed premises in which alcoholic beverages are sold, served or dispensed; nor shall anyone under the age of 21 years be employed in any portion of licensed premises in which alcoholic beverages are sold, served or dispensed, except as provided in subsections (C) and (D) of this section. For purposes of this section, a person is not 21 years of age until 8 a.m. on the person's twenty-first birthday.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23
- C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 18 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age. Any person under 21 years of age may enter and remain on the license premises if the person is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering or consuming alcoholic beverages, or if the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority. Any person under 21 years of age may remain in the area of and event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1, N.D.C.C., and the city comparable ordinance § 25-1506(G)(4).
  - D. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food are equal to gross sales of alcoholic beverages. For purposes of this subsection, a restaurant shall be any establishment which serves prepared food and holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code.
  - E. No Class "B" or Class "D" licensee shall permit the opening or consumption of alcoholic beverages upon the licensed premises; provided, that a Class "B" licensee may permit the sampling of alcoholic beverages upon the

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

licensed premises without charge to the consumer.

1 F. No licensee, his agent or employee shall sell, serve, consume or permit to be  
2 sold, served or consumed on the licensed premises any alcoholic beverages  
3 after 2:00 a.m. on Sundays, before 11:00 eleven a.m. on Sundays, or between  
4 the hours of 2:00 a.m. and 8:00 a.m. on all other days of the week; nor shall  
5 any licensee, his agent or employees sell, serve or permit to be sold, served  
6 or consumed on the licensed premises any alcoholic beverage on Christmas  
7 Day or after 6:00 p.m. on Christmas Eve. Additionally, there shall be no off-  
8 sale sales allowed after 2:00 a.m. on Thanksgiving Day or between the hours  
9 of 2:00 a.m. and 12:00 noon on Sundays. For purposes of this provision, any  
10 person having a glass or other opened container containing an alcoholic  
11 beverage in close proximity or otherwise available for consumption shall be  
12 deemed to be consuming an alcoholic beverage.

8 G. All licensed premises shall be closed and locked not more than one-half hour  
9 after the termination of business hours as specified in subsection (F) of this  
10 section and no persons shall be permitted to remain on said premises  
11 thereafter except for the owner and his employees for normal cleaning and  
12 maintenance activities; provided, that a licensee may remain open for the  
13 purpose of providing food service and operate its entertainment business,  
14 provided, however, that the licensee must comply with all other terms of  
15 Article 25 and those of its State of North Dakota liquor license.

12 H. No license to sell alcoholic beverages under the provisions of this article  
13 shall entitle the holder thereof to carry on such business at more than one  
14 location under any one license and each license shall contain a legal  
15 description of the place where the holder thereof operates such business;  
16 provided, however, the foregoing provision shall not apply in the case where  
17 a licensee, in addition to his regular license, is granted a Class "E" license to  
18 engage in the sale of alcoholic beverages at the place designated in the Class  
19 "E" license. In addition, the provisions of this subsection shall not apply to  
20 any licensee serving alcoholic beverages at the city auditorium or the  
21 Fargodome, pursuant to the provisions of article 18-05 and article 34-01 of  
22 the Fargo Municipal Code; provided, however, that all other provisions of  
23 this article and all other ordinances of the city of Fargo, not inconsistent  
24 herewith, shall apply to any licensee serving alcoholic beverages at the city  
25 auditorium or the Fargodome.

20 I. No licensee, his agent or employee shall sell or serve, or permit to be sold or  
21 served on the licensed premises any food other than prepackaged,  
22 confectionery items such as peanuts, potato chips and similar items, and  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

prepackaged sandwiches, pizza and similar food products which are prepared and packaged off the licensed premises; provided, that this prohibition shall not apply to licensed establishments which hold a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code.

J. Any licensee holding a Class "AB", Class "ABH", Class "A", Class "C", Class "FA", Class "FA-RZ", Class "G", Class "H", Class "Y", Class "W" or Class "T" license, who also holds a restaurant license, limited restaurant license, or permit issued pursuant to the provisions of Article 13-04 of the Fargo Municipal Code, and who regularly serves food and beverages, may dispense alcoholic beverages in connection with food sales, on tables located on the public sidewalk adjacent to the licensed establishment; provided, that tables on the public sidewalk shall be in accordance with Article 18-03 of the Fargo Municipal Code.

\* K. Any person under 21 years of age may enter and remain in a licensed premises for a designated alcohol-free public event in any licensed premises or in a separate room within the licensed premises where the licensee has determined not to sell or permit consumption or possession of alcoholic beverages on that licensed premises or within the designated separate room within the licensed premises during a specified time period provided the licensee complies with the requirements of this subsection. For purposes of this subsection a public event is any event to which admission is open to the general public and may be gained with or without payment of a fee or an event which is advertised to the general public.

\* \* \* \*

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Section 3. Effective Date.

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

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:  
Publication:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

2a

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 1-0305 OF ARTICLE 1-03  
OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE RELATING TO  
CLASSIFICATION OF ORDINANCE VIOLATIONS

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 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 purposes; 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. Amendment.

Section 1-0305 of Article 1-03 of Chapter 1 of the Fargo Municipal Code is hereby amended as follows:

1-0305. Classification of ordinance violations.--

\* \* \*

C. Violations of the following ordinances are noncriminal offenses and shall require payment of a fee as follows:

\* \* \*

8. For a violation of the following ordinances, a fee of \$100.00.

Section 8-0321 (use of a wireless communication device prohibited, section 8-1003(K) (parking in areas reserved handicap), section 8-0322 (Distracted Driving), section 10-0326 (urinating in public).

\* \* \* \*

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Section 3. Effective Date.

This ordinance shall be in full force and effect from and after its passage and approval.

(SEAL)

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

26

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ENACTING ARTICLE 8-0322  
OF CHAPTER 8 OF THE FARGO MUNICIPAL CODE  
RELATING TO DISTRACTED DRIVING

1  
2  
3 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in  
4 accordance with Chapter 40-05.1 of the North Dakota Century Code; and

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

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

10 WHEREAS, the board of city commissioners deems it necessary and appropriate to  
11 implement such authority by the adoption of this ordinance;

12 NOW, THEREFORE,

13 Be It Ordained by the board of city commissioners of the city of Fargo:

14 Section 1. Enactment.

15 Article 8-0322 of Chapter 8 of the Fargo Municipal Code is hereby enacted as follows:

16 ARTICLE 8-0322  
17 DISTRACTED DRIVING

- 18 A. An operator of a motor vehicle shall maintain control of that motor vehicle without  
19 distraction at all times. An individual is in violation of this section if that individual:
  - 20 1. Commits an offense under this chapter or Title 39 of the North Dakota  
21 Century Code and, at the time of the offense, the individual was engaged in the  
22 operation of a motor vehicle while distracted; or
  - 23 2. Is determined to have been the operator of a motor vehicle that was involved  
in a reportable accident as defined in section 39-08-09 which resulted in  
property damage and, at the time the reportable accident occurred, the individual  
was engaged in the operation of a motor vehicle while distracted.



OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- B. The elements of an offense under this section are the elements of the offense for a violation of this chapter or Title 39 of the North Dakota Century Code and the additional elements that create an offense under the above subsection.
- C. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of this traffic offense.
- D. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
  - 1. Is not necessary to the operation of the vehicle; and
  - 2. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

Section 2. Penalty.

A person who violates this ordinance shall be deemed to have committed a non-criminal offense and shall pay a fee of \$100.00 as provided in Section 1-0305.C of the Fargo Municipal Code, as the same may be amended from time to time.

Section 3. Effective Date.

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

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

26

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 8-0321(B)(1) OF  
ARTICLE 8-03 OF CHAPTER 8 OF THE  
FARGO MUNICIPAL CODE  
RELATING TO USE OF A WIRELESS  
COMMUNICATION DEVICE PROHIBITED

1  
2  
3  
4 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

5  
6 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

7  
8 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

9  
10 WHEREAS, the Board of City Commissioners deems it necessary and appropriate to  
implement such authority by the adoption of this ordinance;

11 NOW, THEREFORE,

12 Be it Ordained by the Board of City Commissioners of the City of Fargo:

13  
14 Section 1. Amendment.

15 Section 8-0321(B)(1) of Article 8-03 of Chapter 8 of the Fargo Municipal Code is amended  
to read as follows:

16 **8-0321. - Use of a wireless communication device prohibited.**

17 \* \* \*

18  
19 B. The following definitions shall apply to the interpretation and enforcement of this  
ordinance:

20 1. "Electronic message" means a self-contained piece of digital communication  
21 that is designed or intended to be transmitted between physical devices. The term  
22 includes e-mail, a text message, an instant message, a command or request to  
23 access a World Wide Web page, or other data that uses a commonly recognized  
electronic communications protocol. The term does not include:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

- a. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
- b. Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
- c. Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smart phones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;
- d. Voice or other data transmitted as a result of making a telephone or cellular phone call; ~~or~~
- e. Data transmitted automatically by a wireless communication device without direct initiation by an individual-or
- f. A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.

\* \* \* \*

Section 2. Penalty.

A person who willfully violates this ordinance is guilty of an infraction. Every person, firm or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed \$1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Section 3. Effective Date.

1 This ordinance shall be in full force and effect from and after its passage, approval and  
2 publication.

3  
4  
5 \_\_\_\_\_  
6 Timothy J. Mahoney, Mayor

7 (SEAL)

8 Attest:

9 \_\_\_\_\_  
10 Steven Sprague, City Auditor

11 First Reading:  
12 Second Reading:  
13 Final Passage:  
14 Publication:  
15  
16  
17  
18  
19  
20  
21  
22  
23

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

2d

ORDINANCE NO. \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND  
LYING IN ORIGINAL TOWNSITE ADDITION,  
FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on August 1, 2017; and,

WHEREAS, the rezoning changes were approved by the City Commission on August 28, 2017,

NOW, THEREFORE,

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

Section 1. The following described property:

North Fifty (50) feet of Lots 11 (Eleven) and Twelve (12), Block Sixteen (16), Original Townsite Addition to the City of Fargo, Cass County, North Dakota,

is hereby rezoned from "MR-3", Multi-Dwelling Residential, District to "DMU", Downtown Mixed-Use, District;

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

ORDINANCE NO. \_\_\_\_\_

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Steven Sprague, City Auditor

First Reading:  
Second Reading:  
Final Passage:



3a

August 11, 2017

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 1518 29 Ave S as submitted by Carole Y Halone & Christi L Johnson. 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 2018, 2019 & 2020.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$120 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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 Carole Halone & Christi Johnson Phone No. \_\_\_\_\_

2. Address of Property 1518 29 Ave S  
City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lt. B Blk D meadows Addn.

4. Parcel Number 011910-00840-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 1518 29 Ave S  
City Fargo State ND Zip Code 58103

**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). SIDED W/ SEAMLESS STEEL SIDING (SIDING REMOVED / TEMPORARILY BUILT / PLACED)

7. Building Permit No. 170029 8. Year Built 1986

9. Date of Commencement of making the improvement 1/2017

10. Estimated market value of property before improvement \$ 182,700

11. Cost of making the improvement (all labor, material and overhead) \$ 17,135<sup>00</sup>

12. Estimated market value of property after improvement \$ 192,200

**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 Carole Halone Date 8.10.17

**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): 3 YEARS FOR QUALIFYING WORK

Assessor's Signature [Signature] Date 8/28/17

**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 \_\_\_\_\_





36

ASSESSMENT DEPARTMENT

August 18, 2017

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 1602 28 ½ Ave S as submitted by William R Jr & Alycia L Gabel. 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 2018, 2019 & 2020.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$460 with the City of Fargo's share being \$75.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is fluid and cursive.

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 William Jr. & Alycia Gabel Phone No. \_\_\_\_\_

2. Address of Property 11002 28 1/2 Ave S  
City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lt. 26 Blk. C The Meadows Addn.

4. Parcel Number 011910-00660-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 11002 28 1/2 Ave S  
City Fargo State ND Zip Code 58103

**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). New flooring, counters, doors - entire upstairs, refinished cabinets, 2 windows & patio door

7. Building Permit No. 170075 8. Year Built 1986

9. Date of Commencement of making the improvement January 2017

10. Estimated market value of property before improvement \$ 184,400

11. Cost of making the improvement (all labor, material and overhead) \$ 50,000

12. Estimated market value of property after improvement \$ 219,800

**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 Alycia Gabel Date 8/17/2017

**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): 3 YEARS FOR QUALIFYING WORK

Assessor's Signature Dan Kuschke Date 8/28/17

**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 \_\_\_\_\_



30

August 23, 2017

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 914 Park Dr. S as submitted by David L & Diane K Wanner. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$80 with the City of Fargo's share being \$15.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is fluid and cursive.

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 David & Diane Wanner Phone No. \_\_\_\_\_

2. Address of Property 914 Park Dr. S.

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lt. 6 Blk 8 Harry A Schnell 2nd Addn.

4. Parcel Number 01-2700-00290-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 914 Park Dr. S.

City Fargo State ND Zip Code 58103

**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 2 Bathrooms; create 1/2 wall to open living areas; electrical/plumbing

7. Building Permit No. 170061 8. Year Built 1961

9. Date of Commencement of making the improvement January 2017

10. Estimated market value of property before improvement \$ 214,300

11. Cost of making the improvement (all labor, material and overhead) \$ 56,000  
estimated

12. Estimated market value of property after improvement \$ 220,600

**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 Diane Wanner Date 8-22-17

**Assessor's Determination**

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

Assessor's Signature [Signature] Date 8/28/17

**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 \_\_\_\_\_



3d

August 18, 2017

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 218 Forest Ave N as submitted by David R Slack & Debra K Potter Slack. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$140 with the City of Fargo's share being \$25.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

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 David & Debra Slack Phone No. 241-4381

2. Address of Property 218 Forest AVE N

City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed, \_\_\_\_\_  
LT4 BIK10 Edgewood 1st

4. Parcel Number 01-0720-019402W 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). Full Kitchen Remodel

7. Building Permit No. 170 599 8. Year Built 1967

9. Date of Commencement of making the improvement April 2017

10. Estimated market value of property before improvement \$ 230,100

11. Cost of making the improvement (all labor, material and overhead) \$ 30,100

12. Estimated market value of property after improvement \$ 240,800

**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 David R. Slack Date 8-16-17

**Assessor's Determination**

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

Assessor's Signature [Signature] Date 8/28/17

**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 \_\_\_\_\_



(30)

August 17, 2017

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 811 Southwood Dr. S as submitted by Eric G. and Sharla L. Olson. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$285 with the City of Fargo's share being \$50.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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 Eric & Sharda Olson Phone No. \_\_\_\_\_

2. Address of Property 811 Southwood Dr. S  
City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lt. 5a Southwood Addn.

4. Parcel Number 01-28160-0050-00 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 811 Southwood Dr. S.  
City Fargo State ND Zip Code 58103

**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). Basement remodel including bathroom and wet bar.

7. Building Permit No. 170138 8. Year Built 1963

9. Date of Commencement of making the improvement February 2017

10. Estimated market value of property before improvement \$ 348,700

11. Cost of making the improvement (all labor, material and overhead) \$ 75,000

12. Estimated market value of property after improvement \$ 370,900

**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 E. Olson Date 8/17/17

**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 8/28/17

**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 \_\_\_\_\_





3f

August 11, 2017

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 601 University Dr S as submitted by Steve Holland & Ruth E Holland. 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 2018, 2019, 2020, 2021 & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$130 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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 Steve + Ruth Holland Phone No: \_\_\_\_\_

2. Address of Property 601 University Dr. S  
City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
L+5, BIKI Rows

4. Parcel Number 01-2500-00050-20 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). Reside dwelling

7. Building Permit No. 171135 8. Year Built 1906

9. Date of Commencement of making the improvement August 2017

10. Estimated market value of property before improvement \$ 188,800

11. Cost of making the improvement (all labor, material and overhead) \$ 13,660

12. Estimated market value of property after improvement \$ 198,700

**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 Steven J. Holland Date 8/10/17

**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 Ben Hushka Date 8/28/17

**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 \_\_\_\_\_



39

August 17, 2017

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 1329 10 St N as submitted by Rodney M Greff. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$965 with the City of Fargo's share being \$165.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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 Rodney Greff Phone No. 701-989-9550

2. Address of Property 1329 10 St N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Part lot 42 Ohmers

4. Parcel Number 01-2220-02290-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 8355 Kittie Ln  
City Bismarck State ND Zip Code 58504

**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). Extensive home remodel

7. Building Permit No. 160539 8. Year Built 1941

9. Date of Commencement of making the improvement Feb 2017

10. Estimated market value of property before improvement \$ 76,400

11. Cost of making the improvement (all labor, material and overhead) \$ 40,000

12. Estimated market value of property after improvement \$ 156,400

**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 Ry m. m Date 2/20/17

**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 Ben [Signature] Date 8/28/17

**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

3h

August 23, 2017

Board of City Commissioners  
City Hall  
Fargo, ND 58102

Dear Commissioners:

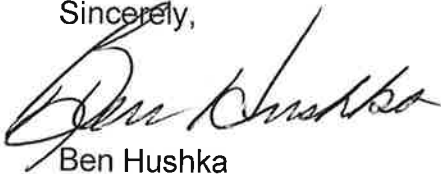
Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 3027 Elm St N as submitted by Mark Anthony Huss. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$65 with the City of Fargo's share being \$10.

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 Mark Anthony Huss Phone No. 701-388-9675

2. Address of Property 3207 Elm St N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. L+9 BIKI Golf Course 1st

4. Parcel Number 01-1001-000900W 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). Replaced Shingles

7. Building Permit No. None 8. Year Built 1972

9. Date of Commencement of making the improvement 8/9/17

10. Estimated market value of property before improvement \$ 225,800

11. Cost of making the improvement (all labor, material and overhead) \$ 8,087.00

12. Estimated market value of property after improvement \$ 231,100

**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 8/21/17

**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 8/28/17

**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 \_\_\_\_\_



August 23, 2017

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 1218 3 St N as submitted by Ryan D & Shannon L Gullingsrud. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$1250 with the City of Fargo's share being \$210.

Sincerely,

A handwritten signature in cursive script that reads "Ben Hushka".

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 Ryan + Shannon Gullingsrud Phone No. 701/261-8043

2. Address of Property 1218 3 St N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lt 28 B1K4 Holes 1st

4. Parcel Number 01-1360-0118020 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). Finished Basement, all new windows, main + 2nd floor remodeled, updated electrical

7. Building Permit No. NONE 8. Year Built 1925

9. Date of Commencement of making the improvement January 2017

10. Estimated market value of property before improvement \$ 148,200

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

12. Estimated market value of property after improvement \$ 244,800

**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 Shannon Gullingsrud Date 8/19/17

**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 8/28/17

**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 \_\_\_\_\_





3j

August 17, 2017

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 401 21 Ave N as submitted by Debra A Cederholm. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$225 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

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 Debra Cederholm Phone No. 701-367-1057

2. Address of Property 401 21 Aven  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
Lt2, BIK 3 Minnie Hector Smith

4. Parcel Number 01-2780-0028000 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). Finish lower level of dwelling

7. Building Permit No. 162533 8. Year Built 1954

9. Date of Commencement of making the improvement January 2017

10. Estimated market value of property before improvement \$ 168,600

11. Cost of making the improvement (all labor, material and overhead) \$ ~~25,000~~ 40,461

12. Estimated market value of property after improvement \$ 185,900

**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 Debra A. Cederholm Date 8-15-17

**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 Houshka Date 8/28/17

**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 \_\_\_\_\_



3K

August 24, 2017

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 3657 Fairway Rd N as submitted by Carter Anthony II & Jennifer Breeding. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$195 with the City of Fargo's share being \$30.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

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 Carter + Jennifer Bredin Phone No. 770-7899

2. Address of Property 3657 Fairway Rd N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Lt 4 B1K2 Golf Course 2nd

4. Parcel Number 01-1003-003602W 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). Install egress + finish 2 Rooms in basement

7. Building Permit No. 170852 8. Year Built 1974

9. Date of Commencement of making the improvement may/2017

10. Estimated market value of property before improvement \$ 267,600

11. Cost of making the improvement (all labor, material and overhead) \$ 10,000

12. Estimated market value of property after improvement \$ 282,600

**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 Jennifer Bredin Date 8/11/17

**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 Dushka Date 8/28/17

**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

31

August 17, 2017

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 2901 12 St. S as submitted by Steve W & Shari L Bettenhausen. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$245 with the City of Fargo's share being \$40.

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>Stare Shari Bettenhausen</u>	Phone No.	_____
2. Address of Property	<u>2901 12 St. S.</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58103</u>
3. Legal description of the property for which the exemption is being claimed.	<u>Slv 75' of Lt. 109 Southwood Addn.</u>		
4. Parcel Number	<u>012860-0110-000</u>	Residential <input checked="" type="checkbox"/>	Commercial <input type="checkbox"/> Central Business District <input type="checkbox"/>
5. Mailing Address of Property Owner	<u>2901 12 St S</u>		
City	<u>Fargo</u>	State	<u>ND</u> Zip Code <u>58103</u>

**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>Kitchen, flooring, main floor doors / trim</u>		
7. Building Permit No.	<u>170968</u>	8. Year Built	<u>1971</u>
9. Date of Commencement of making the improvement	<u>8/8/17</u>		
10. Estimated market value of property before improvement	\$	<u>226,800</u>	
11. Cost of making the improvement (all labor, material and overhead)	\$	<u>45 - 50,000.</u>	
12. Estimated market value of property after improvement	\$	<u>245,800</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>Shari Bettenhausen</u>	Date	<u>8/15/17</u>

**Assessor's Determination**

14. The local assessor finds that the improvements in this application <input checked="" type="checkbox"/> has <input 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>[Signature]</u>	Date	<u>8/28/17</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	_____



3m

August 28, 2017

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 1414 23 St. S as submitted by R. David & Julie A. Rydell. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$130 with the City of Fargo's share being \$20.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

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 R. David + Julie Rydell Phone No. 701-280-1219

2. Address of Property 1414 23 St S

City FARGO State ND Zip Code 58103

3. Legal description of the property for which the exemption is being claimed, Lt 9 B1K1 Southview Villages

4. Parcel Number 01-2840-0009000 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). Reside Dwelling

7. Building Permit No. 170137 8. Year Built 1976

9. Date of Commencement of making the improvement 2/2017

10. Estimated market value of property before improvement \$ 223,200

11. Cost of making the improvement (all labor, material and overhead) \$ 21652

12. Estimated market value of property after improvement \$ 233100

**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 Julie Rydell Date 8/25/17

**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 Allen W. Smith Date 8/28/17

**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 \_\_\_\_\_





3n

August 28, 2017

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 1241 2 St. N as submitted by Jacob Krieg. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$55 with the City of Fargo's share being \$10.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is fluid and cursive.

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 Jacob Krieg Phone No. 701-850-6700  
2. Address of Property 1241 2 St N  
City FARGO State ND Zip Code 58102  
3. Legal description of the property for which the exemption is being claimed. L+11 BIK8 Holes 1st  
4. Parcel Number 01-1360-0223070 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). Create Bedroom + Mid room out of former garage  
7. Building Permit No. 170667 8. Year Built 1941  
9. Date of Commencement of making the improvement May 2017  
10. Estimated market value of property before improvement \$ 181,200  
11. Cost of making the improvement (all labor, material and overhead) \$ 6,000  
12. Estimated market value of property after improvement \$ 185,400

**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 8/14/17

**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 8/28/17

**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 \_\_\_\_\_



30

August 28, 2017

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 2921 Edgewood Dr. N as submitted by Michael E. & Lisa K. Stenstrom. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$220 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka". The signature is written in a cursive style with a large initial "B".

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 Michael & Lisa Stenstrom Phone No. 701/541-0402

2. Address of Property 2921 Edgewood Dr. N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. \_\_\_\_\_  
L+13 BIK 11 Edgewood 1<sup>st</sup>

4. Parcel Number 01-0720-0221020 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). Combined 2 Bedrooms into Master Suite & Change full Bath off Hallway to 1/2 Bath

7. Building Permit No. 176129 8. Year Built 1970

9. Date of Commencement of making the improvement February 2017

10. Estimated market value of property before improvement \$ 200,800

11. Cost of making the improvement (all labor, material and overhead) \$ 25,000

12. Estimated market value of property after improvement \$ 218,100

**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 8/28/17

**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 ON QUALIFYING WORK  
Assessor's Signature [Signature] Date 9/30/17

**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 \_\_\_\_\_



3P

September 5, 2017

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 3025 Peterson Pkwy N. as submitted by Ray & Karen Frohlich. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$30 with the City of Fargo's share being \$5.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hushka".

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 Ray & Karen Fromlich Phone No. 701-351-6660

2. Address of Property 302 S Peterson Hwy N  
City FARGO State ND Zip Code 58102

3. Legal description of the property for which the exemption is being claimed. Edgewood Farm Lot 9, Block 4

4. Parcel Number 01-0735-00660-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 302 S Peterson Hwy N  
City Fargo State ND Zip Code 58103

**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). 10' x 16' wood shed on top of gravel base (free standing)

7. Building Permit No. B20171306 8. Year Built 1983

9. Date of Commencement of making the improvement July 2017

10. Estimated market value of property before improvement \$ \_\_\_\_\_

11. Cost of making the improvement (all labor, material and overhead) \$ 3000.-

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 Ray Fromlich Date 9-1-17

**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 8/5/17

**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 \_\_\_\_\_



39

September 5, 2017

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 1338 3 Ave. S as submitted by Michael W. Hayes & Lana D. Waters. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$150 with the City of Fargo's share being \$25.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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 MICHAEL HAYES/LANA WATERS Phone No. 701-241-7838

2. Address of Property 1338 3RD AVE S.  
City FARGO State ND Zip Code 58103-1644

3. Legal description of the property for which the exemption is being claimed, LOT: 2, BLK: 2  
ADDRESS: EDDY PLACE ADDITIONAL: EDDY PLACE LOT 2 BLK 2

4. Parcel Number 01-0710-00150-000 Residential  Commercial  Central Business District

5. Mailing Address of Property Owner 1338 3RD AVE S.  
City FARGO State ND Zip Code 58103-1644

**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). NEW SIDING, WINDOWS REPLACED, SOFFIT FOR GARAGE

7. Building Permit No. \_\_\_\_\_ 8. Year Built 1898

9. Date of Commencement of making the improvement JULY 17, 2017

10. Estimated market value of property before improvement \$ ~~160,000~~ 165,400

11. Cost of making the improvement (all labor, material and overhead) \$ 42,000

12. Estimated market value of property after improvement UNKNOWN \$ 177,000

**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 08/30/2017

**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 9/5/17

**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 \_\_\_\_\_





3r

September 6, 2017

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 1358 3 St. N as submitted by Joshua Zosel & Andrea Huseh-Zosel. 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 2018, 2019, 2020, 2021, & 2022.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$240 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in black ink that reads "Ben Hushka". The signature is written in a cursive style.

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>Joshua + Andrea Zosel</u>	Phone No.	<u>701/238-3364</u>
2. Address of Property	<u>1358 3 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>L+18 BIK3 Holes 1st</u>		
4. Parcel Number	<u>01-1360-007502W</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>Finish family room + Bath in basement</u>		
7. Building Permit No.	<u>170215</u>	8. Year Built	<u>1939</u>
9. Date of Commencement of making the improvement	<u>March 2017</u>		
10. Estimated market value of property before improvement	\$	<u>217,400</u>	
11. Cost of making the improvement (all labor, material and overhead)	\$		
12. Estimated market value of property after improvement	\$	<u>235,900</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>[Signature]</u> Date <u>8-24-17</u>

**Assessor's Determination**

14. The local assessor finds that the improvements in this application <input checked="" type="checkbox"/> has <input 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>[Signature]</u> Date <u>9/7/17</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



**GAMING SITE AUTHORIZATION**  
 OFFICE OF ATTORNEY GENERAL  
 SFN 17996 (07/2016)

(4)

G - \_\_\_\_\_ ( \_\_\_\_\_ ) \_\_\_\_\_  
 Site License Number  
 (Attorney General Use Only)

Full, Legal Name of Gaming Organization  
Metro Sports Foundation

The above organization is hereby authorized to conduct games of chance under the license granted by the Attorney General of the State of North Dakota at the following location

Name of Location <u>Scheels Arena</u>			
Street <u>5225 31<sup>st</sup> Aves.</u>	City <u>Fargo</u>	ZIP Code <u>58104</u>	County <u>CAS</u>
Beginning Date(s) Authorized <u>9-12-17</u>	Ending Date(s) Authorized <u>6-30-18</u>	Number of twenty-one tables if zero, enter "0": <u>0</u>	
Specific location where games of chance will be conducted and played at the site (required) <u>Lobby</u>			
If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known <u>Fargo Force Hockey games and any other unscheduled raffle drawings as determined by Metro Sports</u>			

**RESTRICTIONS (City/County Use Only)**

Days of week of gaming operations (if restricted)	Hours of gaming (if restricted)
---	---------------------------------

**ACTIVITY TO BE CONDUCTED** Please check all applicable games to be conducted at site (required)

<input type="checkbox"/> Bingo	<input type="checkbox"/> Club Special	<input type="checkbox"/> Sports Pools
<input type="checkbox"/> <b>ELECTRONIC</b> Quick Shot Bingo	<input type="checkbox"/> Tip Board	<input type="checkbox"/> Twenty-One
<input checked="" type="checkbox"/> Raffles	<input type="checkbox"/> Seal Board	<input type="checkbox"/> Poker
<input type="checkbox"/> <b>ELECTRONIC</b> 50/50 Raffle	<input type="checkbox"/> Punchboard	<input type="checkbox"/> Calcuttas
<input type="checkbox"/> Pull Tab Jar	<input type="checkbox"/> Prize Board	<input type="checkbox"/> Paddlewheels with Tickets
<input type="checkbox"/> Pull Tab Dispensing Device	<input type="checkbox"/> Prize Board Dispensing Device	<input type="checkbox"/> Paddlewheel Table

**APPROVALS**

Attorney General	Date
Signature of City/County Auditor	Date <u>9/11/17</u>
PRINT Name and official position of person signing on behalf of city/county above <u>Steven Sprague/City Auditor</u>	

**INSTRUCTIONS:**

1. City/County Auditors - Retain a copy of the Site Authorization for your files.
2. City/County Auditors - Return the original Site Authorization form to the Organization.
3. Organizations - Send the original, signed, Site Authorization to the Office of Attorney General with any other applicable licensing forms for final approval.

**RETURN ALL DOCUMENTS TO:**

Office of Attorney General  
 Licensing Section  
 600 E Boulevard Ave, Dept. 125  
 Bismarck, ND 58505-0040  
 Telephone: 701-328-2329 OR 800-326-9240









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

(5d)

25.00 cc  
 9/7/17

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

Name of Non-profit Organization <b>UNITED WAY CASS-CLAY</b>		Date(s) of Activity <b>9-20-17 to 9-20-17</b>		For a raffle, provide drawing date(s): <b><del>9-20-17</del> 9-21-17</b>	
Person Responsible for the Gaming Operation and Disbursement of Net Income <b>TRAVIS CHRISTOPHER</b>		Title <b>Resource Dev</b>		Business Phone Number <b>701 237 5050</b>	
Business Address <b>219 7TH ST S</b>		City <b>FARGO</b>		State <b>ND</b>	Zip Code <b>58104</b>
Mailing Address (if different) <b>PO Box 1609</b>		City <b>FARGO</b>		State <b>ND</b>	Zip Code <b>58107</b>
Name of Site Where Game(s) will be Conducted <b>SUNDOG</b>		Site Address <b>2000 44TH ST S</b>			
City <del>2000 44TH ST S</del> <b>FARGO</b>		State <b>ND</b>	Zip Code <b>58103</b>	County <b>CASS</b>	

Check the Game(s) to be Conducted: \* Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.  
 Bingo  Raffle  Raffle Board  Calendar Raffle  Sports Pool  Poker \*  Twenty-one \*  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	- Apple Watch	\$300	/		
	- GIFT CARDS	\$265			
	- Parker Creek - Westners				
	- Wine Package	\$317			
	- Happy Henry - Alfred				
			(Limit \$12,000 per year)		
			Total: \$ <b>882<sup>00</sup></b>		

Intended uses of gaming proceeds: SUPPORT UNITED WAY OF CASS-CLAY MISSION AND PROGRAMS

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>Kristine D. Hahn</i>	Date <b>9-7-17</b>	Title <b>PRESIDENT</b>	Business Phone Number <b>701 237 5050</b>
---	-----------------------	---------------------------	--









---

8/25/2017

Re: The Edge Artist Flats  
Fargo, ND  
Letter of Support

Commonwealth has entered into a purchase agreement for land located at 1321 5<sup>th</sup> Avenue North, Fargo, ND.

We are planning on submitting an application for Low-Income Housing Tax Credits for this project by September 28, 2017 which will consist of 42 apartments affordable to families at or below 50% County Median Income.

As part of the application, we would like to submit a letter showing support from the City of Fargo for the development to strengthen our application.

We are excited about the prospect of bringing much needed affordable housing to downtown Fargo.

I am enclosing a project description and site plan for your reference along with the draft letter of support.

Sincerely,

Erin Anderson  
Commonwealth Development Corporation  
612-791-0496

**RESOLUTION  
EXPRESSING GENERAL SUPPORT OF  
THE EDGE ARTIST FLATS  
AFFORDABLE HOUSING PROJECT**

WHEREAS, Commonwealth proposes to construct 42 units of affordable housing on land located at 1321 5th Avenue North, to meet a locally-identified housing need of low to moderate income housing as further described in the City of Fargo Housing Study prepared in September 2015; and

WHEREAS, The City of Fargo supports the application of The Edge Artist Flats for Low Income Housing Tax Credits through North Dakota Housing Finance Agency; and

WHEREAS, The Fargo Comprehensive Plan calls for additional housing in this location; and

WHEREAS, The Commonwealth project will utilize existing infrastructure including water and sewer lines; and

WHEREAS, The City of Fargo supports incentives to make The Edge Artist Flats affordable for low income individuals and families by providing incentives such as Payment In Lieu of Taxes (PILOT).

NOW, THEREFORE, BE IT RESOLVED, That City Commission of the City of Fargo adopt this resolution expressing its general support for the housing by The Edge Artist Flats, LLC and its commitment to provide ongoing assistance to bring the project to completion, including consideration of financial assistance as deemed to be appropriate in the sole discretion of the City Commission and the Economic Development Authority.

This resolution is hereby passed this \_\_\_\_\_.

\_\_\_\_\_  
Tim Mahoney, Mayor

ATTEST:

\_\_\_\_\_  
Bruce Grubb, City Administrator



### **New High-Quality Housing Proposed at University and 5<sup>th</sup> Avenue N in the Unicorn Neighborhood**

The Edge Artist Flats, located a few blocks away from the heart of downtown, will be the new construction of a 42-unit housing community with an elevator, abundant community amenities, and covered and surface parking. The high-quality housing will meet the needs of the growing workforce in Fargo and provide additional options for low-maintenance housing with modern amenities and community space that expresses the creative culture that is growing in downtown Fargo.

With this need for additional housing, site selection that is location efficient as well as makes good use of existing infrastructure and connectivity to community resources is important. The site is well situated in an up and coming neighborhood on the edge of Downtown Fargo.

The unit mix will be as follows:

- 9 – 1 Bedrooms
- 24 – 2 Bedrooms
- 9 – 3 Bedrooms
- 42 Total Units

An increase of density of this magnitude will not adversely impact the neighborhood. Rather, it will be designed to blend in with the neighborhood. There is significant research and data to evidence that compact redevelopment with professional management such as the one proposed do not have an adverse impact on established neighborhoods, rather they enhance the neighborhood in a positive way<sup>1</sup>. People who need the housing already live and work in your community, and housing with the proposed stable rent structure helps maintain a stable neighborhood.<sup>1</sup> Incorporating careful design, the additional proposed housing fits into the existing community. Librarians, sheriffs’ deputies, nurses, fire fighters, and many other vital members of our communities all need affordable housing.

In addition, we want to build upon the vibrant, creative culture that is expanding in the Fargo area and plan on marketing to local artists and working with existing artist groups to help build a resident arts community at the Edge Artist Flats.

The proposed rents and income limits are as follows:

---

<sup>1</sup> <http://www.hcd.ca.gov/housing-policy-development/mythsnfacts.pdf>

<b>INCOME</b>	<b>Unit Type</b>	<b># Units</b>	<b>Rent Rate</b>
30% County Median Income  30.95%	One-Bedroom	2	364
	Two-Bedroom - Housing Trust	7	100
	Two Bedroom	2	441
	Three Bedroom	2	514
50% County Median Income Limit  69.05%	One Bedroom	7	595
	Two Bedroom	15	795
	Three Bedroom	7	922
Gross Rental	Total/Average	42	616

The proposed expenses are as follows:

<b>EXPENSES</b>			
Office/Advertising	340	/unit	14,280
Personnel (Site Manager and Maintenance)	1,160	/unit	48,720
Utilities (Sewer/Water & Common Area )	833	/unit	35,000
Property Taxes	600	/unit	22,383
Insurance	400	/unit	16,800
Other: Support Services		/unit	5,000
Repairs & Maint.	850	/unit	35,700
Property Mgmt.	6%		17,471
Accounting/Audit			6,500
NDHFA Compliance	35	/unit	1,520
Replacement Reserve	350	/unit	14,700
Total Operating Expenses	432.69	/unit	218,074
Expense Ratio			75%
Expense Per Unit	433	PUPM	5,192
<b>NET OPERATING INCOME</b>			<b>73,113</b>

Amenities included will be an art studio, elevator, office, artist gallery space, outdoor, playground and community rooms. Additional landscaping and greenspace will enhance the neighborhood. Seven of the units will be designated as supportive housing to provide permanent housing with services to the formerly homeless and will have operating assistance from the North Dakota Housing Finance Agency’s Housing Trust Fund.

The property will be owned by The Edge Artist Flats, LLC, of which Commonwealth will be the Managing Member. MetroPlains Management, LLC, North Dakota’s most experienced affordable housing property management company, will provide the property management. There will be Support Services for the 7 Permanent Supportive Housing Units.

Development Timeline:

- September 1, 2017 – Submission of Pre-Application for Affordable Housing Tax Credits and Housing Trust Fund
  - September 28, 2017 – Submission of final application for Affordable Housing Tax Credits
  - May 2018 – Start Construction
  - May 2019 – Construction completion and occupancy.
-



⑦

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: PLANNING DIRECTOR JIM GILMOUR**



**DATE: SEPTEMBER 7, 2017**

**SUBJECT: ROBERTS COMMONS PARKING GARAGE – CHANGE ORDER**

Attached for your review is a change order on the Roberts Commons Parking Garage. This is for work required to maintain mechanical equipment. Information on the change is attached.

The amount of the change order is \$7,303.13.

**RECOMMENDED MOTION:** Approve a change order for the Roberts Commons Parking Garage work that will increase the guaranteed project cost by \$7,303.13.



**Kilbourne Construction Management**

210 Broadway, Suite 300  
 Fargo, ND 58102  
 p: (701) 355-6606  
 e: info@kcmfargo.com

Attached is Change Order Request #9 for the Roof Tie-Off System. This work will be performed by A&R Roofing and Syncorp at the request of the City of Fargo at a cost of \$7,303.13. This system is being required by the City of Fargo for maintaining the mechanical units located on the roof of the NE stair and the penthouse roof of the 2<sup>nd</sup> Avenue N stair. The tie-off requirement was adopted by the City while Roberts Garage was under construction. The roof tie-off system was not required in the mechanical code edition used during the design phase of the project. Please see below and the attached documentation for a breakdown of all costs.

<b>CO #158 - Open and close roof for anchor point install</b>	<b>3,339.00</b>
<b>Anchor Points Proposal</b>	<b>3,690.00</b>
<b>Allowance for Rental of Temporary Tie-Off System</b>	<b>500.00</b>
<b>Subtotal</b>	<b>7,529.00</b>
<b>KCM Fees @ 3%</b>	<b>225.87</b>
<b>Total</b>	<b>7,303.13</b>





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

August 28, 2017

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

RE: RFP for Snow Plow, Box and Wing RFP17252

Commissioners:

On August 25, 2017, proposals were received for one (1) Snow Plow, Box and Wing. Three proposals were submitted by three separate vendors.

The results were as follows:

Table with 2 columns: Firm, Price. Rows: Northern Truck Equipment (\$89,710.00), Bert's Truck Equipment (\$92,378.00), Custom Truck Equipment (\$93,889.00)

The review committee, consisting of Ben Dow, Allan Erickson, Mark Williams and Lee Anderson, determined that the high cost proposal was not compliant. One vendor met all required specifications and is the lowest proposed price.

Our recommendation is to purchase based on the proposal from Northern Truck Equipment.

SUGGESTED MOTION:

Approve the recommendation to purchase one (1) Snow Plow, Box and Wing from Northern Truck Equipment for the amount of \$89,440.00.

Respectfully Submitted,

Handwritten signature of Allan Erickson

Allan Erickson Fleet Management Specialist



**Request for Proposals (RFP)  
Sander body/Plow/Wing RFP Results  
8/28/17**

**Proposal Evaluation Summary**

	<b>Northern Truck</b>	<b>Bert's Truck</b>	<b>Custom Truck Eq.</b>
<b>Body Manf</b>	Monroe	Bonnel Falls	Monroe
<b>Package</b>	\$89,440.00	\$98,175.00	\$93,889.00
<b>Total</b>	<b>\$89,440.00</b>	<b>\$98,175.00</b>	<b>\$93,889.00</b>
<b>Est. Delivery</b>	150-180	160-175	210-240

REPORT OF ACTION  
**UTILITY COMMITTEE**

9

Project No. WA1510

Type: Sheyenne Pump Station Improvements Bid Award

Location: Sheyenne River Pump Station (52<sup>nd</sup> Avenue South)

Date of Hearing: 8/31/17 (Electronic/Email Vote)

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/17</u>
Project File	<u>                    </u>

Troy Hall, Water Utility Director, presented the attached email related to bid opening for Project WA1510, Sheyenne River Pump Station Improvements. Also, the Award Recommendation letter and Bid Tabulation sheet are attached. The bid award was voted on electronically by Utility Committee members. The total recommended bid will be awarded to Swanberg Construction, Inc. for the base bid plus Alternate 1 as follows:

- Total Base Bid plus Alternate 1: \$2,143,000 (recommended)
- Engineer's Estimate: \$2,650,000

The project is being paid for through 60 percent State Water Commission (SWC) grant funding and the City of Fargo share paid with Infrastructure Sales Tax (Fund 450). From a cost share perspective, the following shows the 60 percent cost share calculations:

- ND State Water Commission share: \$1,285,800
- City of Fargo share: \$857,200

**MOTION:**

On a motion by Terry Ludlum, seconded by Jim Hausauer, the Utility Committee voted to approve bid award to Swanberg Construction, Inc. for Contract No. 4 plus Alternate 1 in the amount of \$2,143,000.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Anthony Gehrig, City Commissioner	<u>X</u>			
Mark Bittner, Director of Engineering	<u>X</u>			
Kent Costin, Director of Finance	<u>X</u>			
Vacant--, Water Plant Supt.				
Don Tucker, Wastewater Plant Supt.	<u>X</u>			
Bruce Grubb, City Administrator	<u>X</u>			
Scott Liudahl, City Forester	<u>X</u>			
Terry Ludlum, Solid Waste Utility Director	<u>X</u>			
James Hausauer, Wastewater Util. Director	<u>X</u>			
Troy Hall, Water Utility Director	<u>X</u>			
Ben Dow, Public Works Operations Director	<u>X</u>			
Vacant--, City Engineer				

ATTEST:

  
 \_\_\_\_\_  
 Troy B. Hall  
 Water Utility Director

- C: Tim Mahoney, Mayor  
 Commissioner Grindberg  
 Commissioner Piepkorn  
 Commissioner Strand

## Troy Hall

---

**From:** Troy Hall  
**Sent:** Thursday, August 31, 2017 1:05 PM  
**To:** Tony Gehrig; Mark Bittner; Kent Costin; Don Tucker; Bruce Grubb; Scott Liudahl; Terry Ludlum; James Hausauer; Benjamin Dow  
**Subject:** Bid Award - Sheyenne River Pump Station Reliability Improvements – Electronic Vote  
**Attachments:** Bid Recommendation Contract 4 &Alt (Swanberg).pdf; !  
Fargo\_Sheyenne\_PS\_Imp\_BidTab.pdf

### Utility Committee Members:

I talked about bid opening for the Sheyenne Pump Station Improvements last week at our Utility Committee meeting and that we were waiting for City Commission approval for a Sheyenne River setback waiver. The waiver was approved by the City Commission on August 28, 2017. Then, bid opening occurred this Wednesday and bids were below the Engineer's estimate.

Bid opening for Project WA1510, Sheyenne Pump Station Improvements, was held on Wednesday, August 30, 2017 in the Lobby of Centennial Hall. Bids were received up to 11:30 AM. Please see attached letter from AE2S for the Engineer's Bid Review and Award Recommendation. As a 'Regionalization' project, this project qualifies for 60 percent cost share (grant) from the ND State Water Commission for construction and engineering. If the bid award recommendation and information below seems reasonable, I would appreciate a motion, second, and vote on bid award for this project.

There were no bidders for the Mechanical Contract. Therefore, the bidding defaulted to analyzing the Combined Construction bids since the three prime analysis could not be calculated. The results were as follows:

- Low Combined Construction Bid: \$1,858,000 (Swanberg Construction, Inc.)
- Engineers Estimate: \$2,200,000

Bid Alternate 1 is a 800 KW Generator and Generator Pad. The following shows the bid alternate results:

- Alternate 1 Bid: \$285,000
- Engineer's Estimate: \$450,000

**The total recommended award is for base bid plus Alternate 1 as follows:**

- **Total Base Bid plus Alternate 1: \$2,143,000 (recommended)**
- **Engineer's Estimate: \$2,650,000**

**From a cost share perspective, the following shows the 60 percent cost share calculations:**

- **ND State Water Commission Share: \$1,285,800**
- **City of Fargo Share: \$857,200**

### Plan of Financing:

The Sheyenne Pump Station Improvements project is in the 2017 budget under Infrastructure Sales Tax (Fund 450). It is in the proposed 2018 budget under Fund 450. The Membrane Water Treatment Plant construction should be declining by early next year as the Sheyenne Pump Station project ramps up. Once reimbursements are received from the ND SWC, the final cost to the City of Fargo will be \$857,200 plus any change orders for construction.

**SUGGESTED MOTION:**

Approve the Combined Construction Bid plus Alternate 1 in the total amount of \$2,143,000 from Swanberg Construction, Inc.

Your consideration in this matter is greatly appreciated.

Have a great day!

**Troy B. Hall**  
**Water Utility Director**

City of Fargo, Water Treatment Plant  
435 14th Avenue South  
Fargo, ND 58103

thall@cityoffargo.com  
www.cityoffargo.com

Plant: 701.241.1469  
Direct: 701.476.6741  
Cell: 701.541.4180





August 30, 2017

Mr. Troy Hall  
Water Utility Director  
City of Fargo  
435 14th Ave S  
Fargo ND 58103-4306

**Re: Sheyenne River Pump Station Improvements  
Engineer's Bid Review and Award Recommendation  
Fargo Water Project #WA1510**

Dear Mr. Hall:

Bids were received at 11:30 a.m. on Wednesday, August 30, 2017 at the City Auditor's Office and opened immediately in the Lobby of Centennial Hall for the above referenced project. A total of eight (8) different bidders submitted a total of eleven (11) sealed bids. Each of the bids that were submitted met all of the prescribed requirements and were opened and read aloud. A bid tabulation is attached to this letter for your review.

The project was bid as four (4) contracts: Contract No. 1 – General Construction; Contract No. 2 – Mechanical Construction; Contract No. 3 – Electrical Construction; and Contract No. 4 – Combined General, Mechanical, and Electrical Construction. A combined bid should be accepted when that bid is lower than the combined total of the lowest, responsible bids for the respective individual contracts. The apparent low base bid is by Swanberg Construction Inc. for the combined general, mechanical, and electrical construction (Contract No. 4).

In addition to the base bid, three alternates were bid. Alternate No. 1 to Contract No. 1 included construction of a generator pad. Alternate No. 1 to Contract No. 3 included the furnishing and installation of an 800 kW generator. Alternate No. 1 to Contract No. 4 included construction of a generator pad and the furnishing and installation of an 800 kW generator. The bids for three alternates are represented by contract increases in the attached bid tabulation.

AE2S recommends the award of the base bid along with Alternate No. 1 to Contract No. 4. As such, the project team recommends the following construction contract:

- Contract No. 4 – Combined General, Mechanical, and Electrical Construction and Alternate No. 1 to Contract No. 4: Swanberg Construction Inc. in the amount of \$2,143,000.

Mr. Troy Hall

Water Utility Director

**Re: Sheyenne River Pump Station Improvements  
Engineer's Bid Review and Award Recommendation  
 Fargo Water Project #WA1510**

August 30, 2017

Page 2 of 3

---

Thank you for the opportunity to assist the City of Fargo with this important project. Should you have any comments or questions regarding the bid results or the project in general, please do not hesitate to contact me at (218) 299-5610.

Respectfully Submitted,

AE2S

A handwritten signature in blue ink, appearing to read "Richard A. Wagner", with a long horizontal flourish extending to the right.

Richard A. Wagner, PE  
Project Manager

Attachments

Tabulation of Bids  
 Sheyenne River Pump Station Improvements  
 Fargo, ND  
 P00803-2013-010, City Project No. WA1510  
 Bid Opening 11:30 AM, August 30, 2017



Contractor	Acknowledge Addenda 1, 2, 3	Bid Bond	Non-Collusion Affidavit	Contractor's License	Contract No. 1 - General Construction	Alternate 1 - Generator Pad	Contract No. 2 - Mechanical Construction	Contract No. 3 - Electrical Construction	Alternate 1 - 800 KW Generator	Contract No. 4 - Combined Construction	Alternate 1 - Generator Pad and 800 KW Generator
1 Swanberg Contracting, Inc.	✓	✓	✓	✓	\$1,046,000.00	\$11,000.00	NO BID	NO BID	NO BID	\$1,858,000.00	\$285,000.00
2 PKG Contracting, Inc.	✓	✓	✓	✓	\$1,186,900.00	\$8,700.00	NO BID	NO BID	NO BID	\$1,976,900.00	\$285,000.00
3 CC Steel, LLC	✓	✓	✓	✓	\$1,268,500.00	\$16,750.00	NO BID	NO BID	NO BID	NO BID	NO BID
4 ICS, Inc.	✓	✓	✓	✓	\$1,425,000.00	\$25,650.00	NO BID	NO BID	NO BID	\$2,274,000.00	\$350,000.00
5 John's Refrigeration & Electric, Inc.	✓	✓	✓	✓	NO BID	NO BID	NO BID	\$626,672.00	\$256,367.00	NO BID	NO BID
6 Sun Electric, Inc.	✓	✓	✓	✓	NO BID	NO BID	NO BID	\$627,000.00	\$280,000.00	NO BID	NO BID
7 JDP Electric, Inc.	✓	✓	✓	✓	NO BID	NO BID	NO BID	\$653,160.00	\$267,000.00	NO BID	NO BID
8 Rickard Electric, Inc.	✓	✓	✓	✓	NO BID	NO BID	NO BID	\$787,200.00	\$355,100.00	NO BID	NO BID
Engineer's Estimate										\$2,200,000.00	\$450,000.00

True Tabulation of Bids  
 Respectfully Submitted by:



Richard A. Wagner, PE



Advanced Engineering and Environmental Services, Inc.  
 4170 28th St. S  
 Fargo, ND 58104  
 Tel: 701-364-9111  
 Fax: 701-364-9879



**SECTION 00 51 00 – NOTICE OF AWARD**

DATE: September 12, 2017

TO: Swanberg Construction, Inc.  
PO Box 728  
Valley City, ND 58072

CONTRACT: Contract No. 4 – Combined Construction PLUS Alternate No. 1

PROJECT: Sheyenne River Pump Station Improvements  
City of Fargo, ND

You are notified that your Bid dated August 30, 2017 for the above Contract has been considered. You are the apparent Successful Bidder and have been awarded a contract for all work under the above referenced project.

The Contract Price of your contract is Two million, one hundred forty-three thousand dollars and no cents (\$ 2,143,000.00 ).

Four (4) copies of the proposed Agreement accompany this Notice of Award.

You must comply with the following conditions precedent within ten (10) days of the date of this Notice of Award, that is by September 22, 2017.

1. You must, immediately, deliver to the ENGINEER four (4) signed copies of this Notice acknowledging its receipt.
2. You must deliver to the ENGINEER four (4) fully executed counterparts of the Agreement including all the Contract Documents.
3. You must deliver with each executed Agreement, Performance and Payment Bonds as specified in the Instructions to Bidders (Article 19), and General Conditions (paragraph 5.1).
4. You must deliver with each executed Agreement, Certificates of Insurance as specified in the General Conditions (paragraph 5.04) and Supplementary Conditions (paragraph SC-5.04).
5. You must deliver with each executed Agreement, Current Workmen's Compensation Certificate of Premium Paid.
6. You must deliver with each executed Agreement, Contractor's Certificate of North Dakota Income and Sales Tax Clearance.

After execution of the Agreement, please send all copies of the Contract, along with the above items to the Engineer, Advanced Engineering and Environmental Services, Inc., 4170 28<sup>th</sup> Avenue South, Fargo, ND 58104.

Fargo, North Dakota  
Sheyenne River Pump Station Improvements

Failure to comply with these conditions within the time specified will entitle Owner to consider your bid in default, to annul this Notice of Award, and to declare your Bid Security Forfeited.

Within ten (10) days after you comply with the above conditions, OWNER will return to you one (1) fully signed counterpart of the Agreement with the Contract Documents attached.

\_\_\_\_\_  
City of Fargo, ND  
Owner

By: \_\_\_\_\_  
Authorized Signature

ACCEPTANCE OF AWARD

\_\_\_\_\_  
Contractor

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

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

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

**END OF SECTION**



September 2, 2017

Fargo City Commission  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

Commissioners:

The Fargo Dome Authority requests your approval of their selection of Fremont Industries for the upgrade to the cooling tower water treatment equipment located at FARGODOME.

Through a competitive process, and upon review of submissions, the Fargo Dome Authority voted to award this project to Fremont Industries at their meeting on Tuesday, August 29, 2017.

This project is budgeted within the 2017 FARGODOME Capital Expenditure Budget previously approved by both the Fargo Dome Authority and the Fargo City Commission.

Requested Motion: To approve the proposal of \$8,924.60 by Fremont Industries. as accepted by the Fargo Dome Authority, at their meeting on August 29, 2017.

Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Rob Sobolik", is written over the closing text.

Rob Sobolik  
General Manager, FARGODOME

Attachment



**FREMONT®**  
**WATER SOLUTIONS**  
 Kurita Group

Sustaining Water For All  
 Because Water is Life™

**QUOTATION FOR WATER TREATMENT AND EQUIPMENT**

**To:** Fargodome  
1800 North University Drive  
Fargo, ND 58102

**Attention:** Don Berland Don Lange

**Project:** Cooling tower equipment quote

**From:** Dave Robbins  
**Date:** 8-4-17  
**Territory:** #84  
**Fax/Email:** \_\_\_\_\_

**We propose the following:**

Fremont Item No.	Description	Lb./ Gal.	Size	Quantity	Unit Price	Cont. Price	Total Cost
150399	Webmaster CT: Conduct; ORP, PTSA (LD), MU conduct; 8 powered relays; pigtails, paneled mounted, analog input (8); 4 - 4-20 mA Output Cards; Ethernet Read Model: WMT8121-2D4ANN	each	1	1	\$7,194.60	\$7,194.60	\$7,194.60
150119	Walchem (Iwaki) Pump, EZB Series, 21.6 gpd; 105psi, Auto-Degassing Valve; PVC/Viton; 3/8" ODTubing for Stabrom 909	each	1	1	\$492.00	\$492.00	\$492.00
150118	Walchem Pump: EZB16D1-PC; 24 GPD 105 PSIPP Head, Viton Valve Seats & Seals Ceramic Check Balls, Teflon Gaskets; 3/8" OD tubing	each	1	2	\$438.00	\$438.00	\$876.00
141125	Belimo Control Valve, 3/4" SS Ball & Stem; 2-waySpring Return	each	1	1	\$362.00	\$362.00	\$362.00
<b>Sub Total:</b>							<b>\$8,924.60</b>
<b>Additional Shipping Charges May Apply (Estimated)</b>							
<b>(Sales Tax Charges May Also Apply) TOTAL:</b>							<b>\$8,924.60</b>

**Copy to:**

Quoted Prices will be honored for thirty (30) days from date of quotation. Purchase orders received within this time will be honored at quoted price for sixty (60) days. Orders received after this sixty (60) days shall automatically escalate in price at the rate of 1.5% per month automatically. Bulk glycol delivery will include one (1) hour of installation. After this time, demurrage charges may apply.

**NOTE:** Quotation excludes receiving, setting and all mechanical or electrical installations.

**EXCEPTION:** Glycol orders will automatically receive current market pricing after sixty (60) days from quotation date if orders are not placed and delivered within the sixty (60) days. Bulk glycol orders not cancelled within 72 hours of scheduled ship time are subject to restocking fee.

**FOB:** Ship Point, unless otherwise stated.

**TERMS: NET 30 Days; Subject to Credit Approval. All products and services are sold subject to Fremont's Terms of Sale which shall override all conflicting terms.**

**Name:** Dave Robbins **Cell:** 612.803.8117

**Title:** Executive Account Manager **Fax:** 952.233.9060

**Email:** d Robbins@fremontind.com

**Office:** 952.445.4121 **Signed:**

CORPORATE OFFICE  
**FREMONT INDUSTRIES, LLC**  
 4400 Valley Industrial Blvd. N. • PO Box 67  
 Shakopee, MN 55379-0067 • 952.445.4121



REGIONAL OFFICE  
**FREMONT INDUSTRIES, LLC**  
 1358 S. Enterprise Street  
 Olathe, KS 66061-5357 • 913.962.7676



full service water treatment chemicals & equipment

Phone 701.293.6953  
Fax: 701.235.1411

417 39th Street North  
Fargo, North Dakota 58102  
www.agassizchemical.com

May 30, 2017

Donnie Lange  
Don Berland  
Fargodome  
1800 N. University Drive  
Fargo, ND 58102

**Updated Tower Quote**

Project: **Cooling Tower Chemical Feed System  
Fargodome  
Fargo, ND**

Donnie and Don, Agassiz Chemical and Equipment is pleased to provide you a quote for a chemical feed equipment to support the cooling tower operation at the Fargodome, Fargo, ND. Chemicals for first season of operation will be tracked and monitored for volume consumption to establish a baseline benchmark for future.

**Chemical Feed Equipment**

- (1) GE TrueSense controller with communication**
  - (2) Chemical Pumps - biocide**
  - inhibitor**
  - Pulsatron Series A+**
  - (2) Belimo control valve**
  - (1) Oxi King Bromine Feeder** (includes hands free chemical)
  - (1) 3/4" motorized ball valve**
  - (1) Corrosion Coupon Rack with (4) tees**
- \* Controller comes from GE – lead time once confirmed  
\* Pumps are 1 week lead to order and ship once we receive PO confirmation

Price for new equipment and labor to install at Fargodome site .. . . . \$ 16,165.00

**Chemical – Volume Requirement Based on 3.8MM / Year Make Up**

GEWPT GenGard GN 8123 Cooling Tower Scale and Corrosion Treatment <i>With PTSA fluorescent tracer</i>	<b>\$3,675.00</b>
GEWPT Spectrus NX 1100 Cooling Tower Microbiocide	<b>\$2,428.00</b>
Oxi-King Bromine Cartridges (8 cartridges at \$94.50 each)	<b>\$756.00</b>
<b>CHEMICAL TOTAL</b> .....	<b>\$ 6,860.00 / season</b>
* Chemical season is allowing for product usage (April to October) We maintain inventory of cooling tower chemicals year round	

**Monitoring --**

True Sense Monitoring fee - 3<sup>rd</sup> party **\$ 1,800.00/year**  
Monitoring fee is billable per month regardless if tower is online or not.



# CITY OF Fargo Fire Department

## MEMORANDUM

(11)

**TO: FARGO CITY COMMISSION**

**FROM: FIRE CHIEF STEVE DIRKSEN**

**DATE: 9/1/2017**

**SUBJECT: CHANGE ORDER FOR BP0031 FHQ REMODEL**

After moving into the building, heating deficiencies and air quality issues were noted within the new addition as well as the office manager areas. The architect was contacted to evaluate the situation. It was determined that the mechanical consultant underestimated the correct BTU's needed for both spaces as well as the air movement issues. As solution has been developed that will alleviate the issues. The mechanical consultant will be absorbing \$5,800 of the cost due to their error.

It was also discovered that because of the size and type of the pre-existing steam boiler, which is four years old, it is not suited for summer operations. For the new air handling system to function properly, a boiler is needed during the summer months to maintain proper temperatures within the building. It has been determined that an additional smaller 399,000 BTU hot water boiler would be sufficient for summer operations and would provide a backup if the main boiler were to become inoperable in the winter months. The smaller boiler will provide efficiency in operation during the summer months and reduce current energy cost for the building. It should also extend the life of the large boiler because the larger boiler would be shut down for approximately 6 months per year.

This request is for a change order for the remodel at the Fire Headquarters Building.

**General Construction:**

- |   |                 |
|---|-----------------|
| 1. Sheetrock demo and repair, Ceiling demo and repair – Not to exceed | <u>7,500.00</u> |
| Subtotal  | \$ 7,500.00     |

**Electrical Construction:**

- |   |                  |
|---|------------------|
| 1. Wiring associated with new mechanical services | <u>\$ 525.00</u> |
| Subtotal  | \$ 525.00        |

**Mechanical Construction:**

- |  |                    |
|--|--------------------|
| 1. Heating equipment, boiler, fin tube, ductwork, etc. | <u>\$58,379.00</u> |
| Subtotal   | <u>\$58,379.00</u> |

Total	<u>\$ 66,404.00</u>
-------	---------------------

**RECOMMENDED MOTION:** Approve the change order for BP0031 FHQ Remodel in the amount of \$66,404.00.



403 Center Avenue / Suite 300 / Moorhead, Minnesota 56560

**Architect's Supplemental Instructions**

**ASI-G23**

---

PROJECT/OWNER:	Fire Department Remodeling Fargo, North Dakota	ARCHITECT'S PROJECT NUMBER:	0023.27
TO:	Roer's Construction LLC 200 45 <sup>th</sup> Street South Fargo, ND 58103	CONTRACT FOR:	General Construction
		DATE:	March 29, 2017

---

The work shall be carried out in accordance with the following supplemental instructions issued in accordance with the Contract Documents. Proceeding with the Work in accordance with these instructions indicates your acknowledgment that there will be no change in the Contract Sum or Contract Time.

---

**DESCRIPTION:**

**GWB and Paint Finish for Heat at LOBBY 100, MUSEUM 101 and RECEPTION 102**

- 1. Provide not-to-exceed cost proposal for gypsum wall board repair and painting associated with attached ASI-M14.**
- 2. Scope of work consists of providing necessary openings for required ductwork through gypsum wall board soffit above display case located at east wall of Fire Fighting Museum; and repair of same gypsum wall board soffit.**
- 3. Coordinate required access with mechanical contractor**

**ATTACHMENTS:**

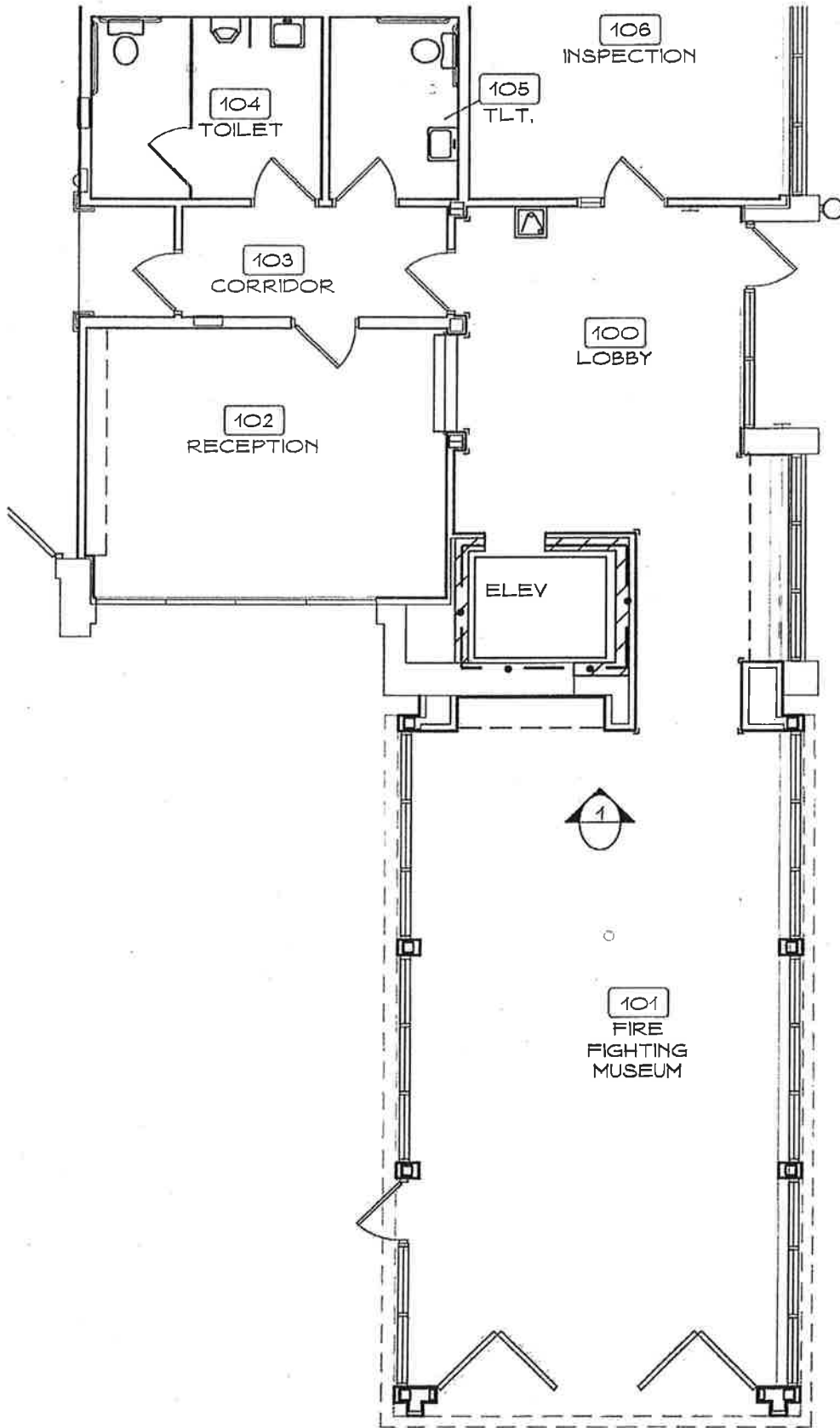
**Fire Fighting Museum Plan, ceiling Plan and Elevation  
ASI-M14**

---

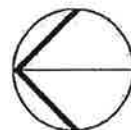
**ISSUED BY:**

A handwritten signature in blue ink, appearing to read "Dan Maurer", is written over a horizontal line.

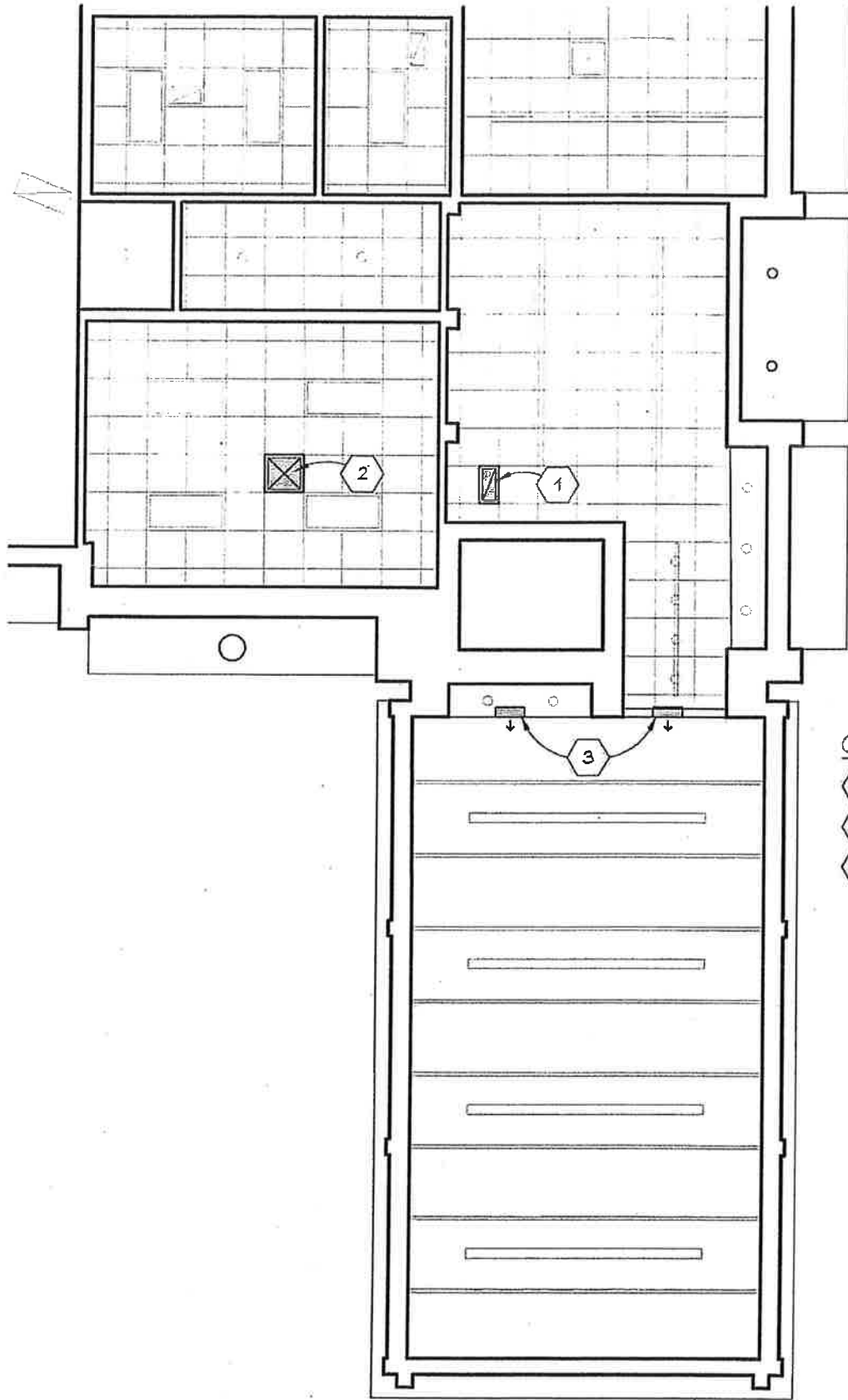
**IMAGE Group Architecture & Interiors**



FIRST FLOOR PLAN  
1/8"=1'-0"



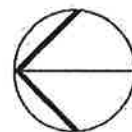


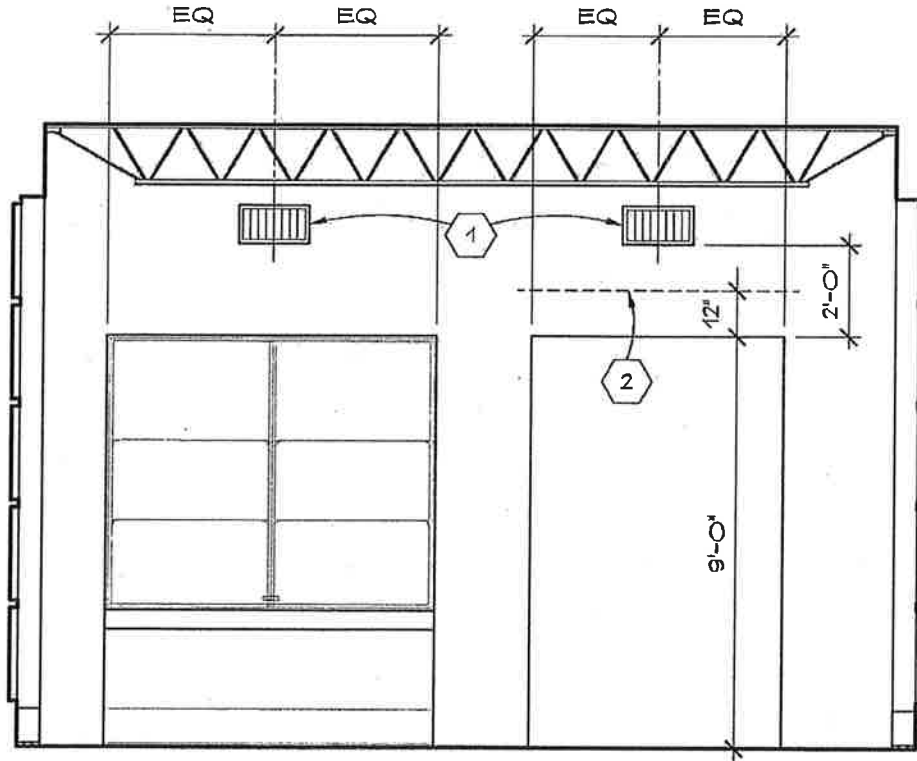


CEILING NOTES:

- 1 NEW RETURN GRILLE.
- 2 NEW SUPPLY DIFFUSER.
- 3 NEW SIDEWALL DIFFUSER.

FIRST FLOOR CEILING PLAN  
1/8"=1'-0"





① MUSEUM 101  
1/4"=1'-0"

ELEVATION NOTES:

- ① NEW 10X18 SIDEWALL DIFFUSER.
- ② HEIGHT OF LOBBY CEILING BEYOND.



403 Center Avenue / Suite 300 / Moorhead, Minnesota 56560

**Architect's Supplemental Instructions**

**REVISED ASI-M14/ ASI-E14**

PROJECT/OWNER: Fire Department Remodeling  
Fargo, North Dakota

ARCHITECT'S PROJECT NUMBER: 0023.27

TO: Grant's Mechanical Inc.  
3239 15<sup>th</sup> St. S  
Fargo, ND 58105-7128

CONTRACT FOR: Mechanical Construction

DATE: January 4, 2017

Laney's  
55 South 27th Street  
Fargo, ND 58103

CONTRACT FOR: Electrical Construction .

DATE: January 4, 2017 **REVISED 1-18-17**

The work shall be carried out in accordance with the following supplemental instructions issued in accordance with the Contract Documents. Proceeding with the Work in accordance with these instructions indicates your acknowledgment that there will be no change in the Contract Sum or Contract Time.

**DESCRIPTION:**

**HEAT in LOBBY 100, MUSEUM 101 and RECEPTION 102**

**A. Mechanical Construction**

- ~~1. Provide cost proposal for furnishing and installing two (2) Suspended Unit Heaters described on attached schedule and drawing, including integral disconnect switch, supply and return piping, 3-way control valves and associated control wiring.~~
- 1. Refer to attached narrative and drawings for **REVISED** heat in **LOBBY 100, MUSEUM 101 and RECEPTION 102**

**B. Electrical Construction**

- ~~1. Provide cost proposal for connecting two (2) Suspended Unit Heaters described on attached schedule and drawing.~~
- 1. Refer to attached narrative and drawings for electrical connection for **REVISED** heat in **LOBBY 100, MUSEUM 101 and RECEPTION 102**

**ATTACHMENTS:**

**ONE Supplemental Instructions (ASI) Description; Unit Heater Schedule & Plan Drawing, Dated 1-18-17**

**ISSUED BY:**

**IMAGE Group Architecture & Interiors**



**REVISED ASI-M14/ ASI-E14**

Date 1/18/2017  
Project # 2015022  
Project Name Downtown Fire Station  
Project Location Fargo, ND  
Description Additional Heat in Museum

The work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in Contract Sum or Contract Time. Proceeding with the work in accordance with these instructions indicates your acknowledgment that there will be no change in the Contract Sum or Contract Time.

Provide and install an inline fan similar to Greenheck Model SQ-100-VG with 1/4 HP motor. Unit shall be furnished with integral disconnect switch and shall be installed in locations shown below. Provide and install two (2) #12 with a #12 ground electrical wiring for the unit, connect to panel L1B and provide 15 amp circuit breaker. Fabricate filter box and provide MERV 8 filter in 16x12 ductwork after return. Provide and install terminal reheat coils TC-1 and TC-2. TC-1 shall be 10x10 and shall produce 24 MBH at a 30 degree temperature drop and 1.7 GPM flow. Control valve for TC-1 shall be controlled based off signal from the existing thermostat in room 102. TC-2 shall be 20x10 and shall produce 48 MBH at a 30 degree temperature drop and 3.3 GPM flow. Control valve for TC-2 shall be controlled based off signal from the existing thermostat in room 101. Piping shall be routed as shown. Provide and install ductwork as shown and two drum diffusers in room 101 as shown similar to Price HD1, sized 10x18, balanced to 350 CFM each and one 24x24 ceiling diffuser similar to Price SPD in room 102 balanced to 350 CFM. Provide 12x24 egg crate return grille R-1 where shown.

Provide finned tube radiation at base of elevator pit. Finned tube shall be bare element, 1 row, 1" diameter tube, producing 720 BTU per foot. Finned tube shall be wall to wall in length at the locations shown. Finned tube shall be balanced to 0.5 GPM each. Connect to new piping as shown. Provide thermostat in elevator pit for control of the new finned tube.

**BUILDING SYSTEMS CONSULTANTS**

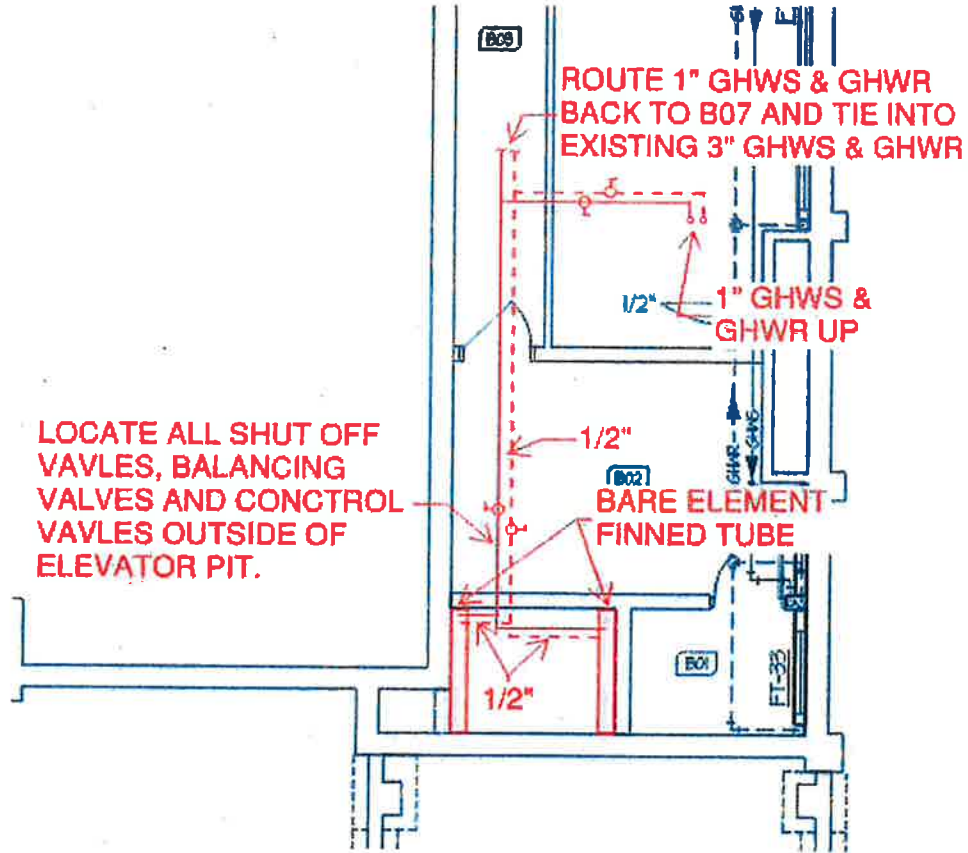
**FARGO**  
2201 12th St. N Suite E  
701.280.0500

**GRAND FORKS**  
311 4th St. S Suite 203  
701.775.2594

**BISMARCK**  
233 West Rosser Ave  
701.222.0520

**ALEXANDRIA**  
503 Hawthorne St. Suite 141  
320.846.0300

**MINNEAPOLIS**  
1400 Van Buren St. NE Suite 130  
877.360.0501



OBERMILLER NELSON ENGINEERING

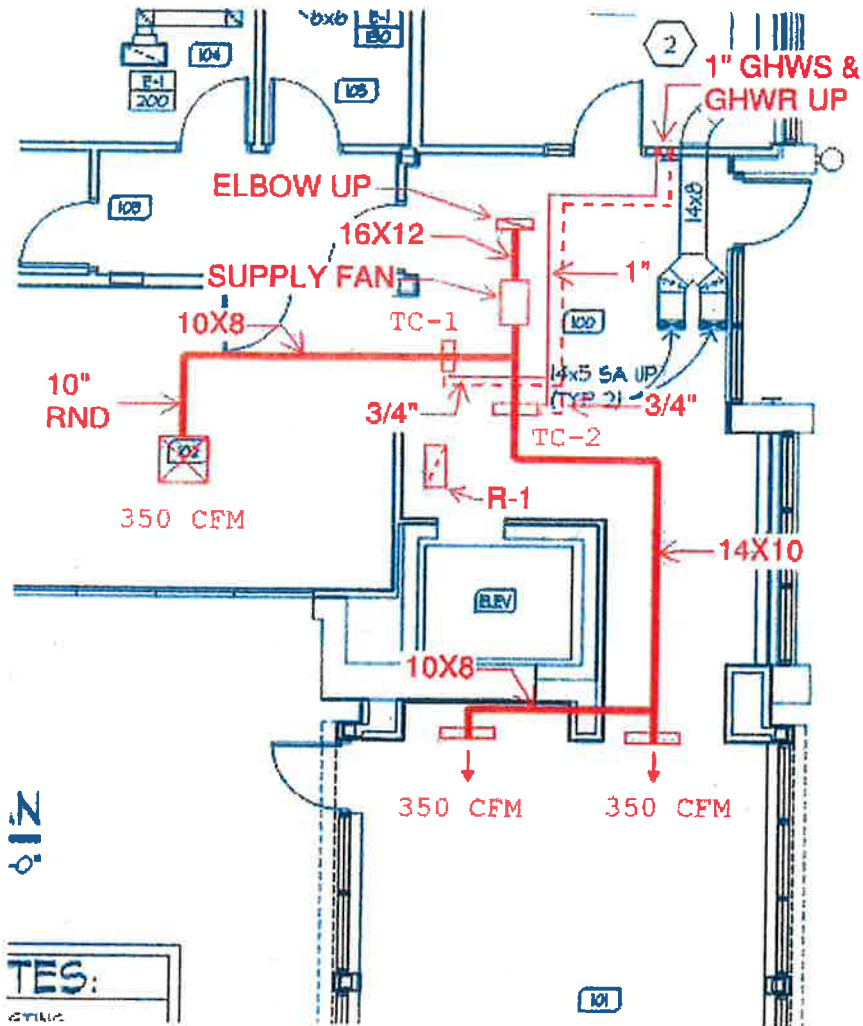
**FARGO**  
2201 12th St. N Suite E  
701.280.0500

**GRAND FORKS**  
311 4th St. S Suite 203  
701.775.2594

**BISMARCK**  
233 West Rosser Ave.  
701.222.0520

**ALEXANDRIA**  
503 Hawthorne St. Suite 141  
320.846.0300

**MINNEAPOLIS**  
1400 Van Buren St. NE Suite 130  
877.380.0501



Respectfully,  
Obermiller Nelson Engineering, Inc.

Ross Young

OBERMILLER NELSON ENGINEERING

**FARGO**  
2201 12th St. N Suite E  
701.280.0500

**GRAND FORKS**  
311 4th St. S Suite 203  
701.775.2594

**BISMARCK**  
233 West Rosser Ave  
701.222.0520

**ALEXANDRIA**  
503 Hawthorne St. Suite 141  
320.846.0300

**MINNEAPOLIS**  
1400 Van Buren St. NE Suite 130  
877.380.0501

**Subject:** Re: Fire Station GWB Proposal  
**From:** "Richard A. Moorhead" <rmoorhead@qwestoffice.net>  
**Date:** 4/12/2017 12:08 PM  
**To:** Gary Lorenz <glorenz@cityoffargo.com>  
**CC:** Steven Dirksen <sdirksen@cityoffargo.com>  
**BCC:** Brent Wavra <BWavra@obernel.com>

*Gary,*

*Please find ROERS following e-mail proposal in the not-to-exceed amount of \$7,500 for GWB work associated with proposed HVAC modifications in Education Center, Lobby and Reception.*

*I've be unable to obtain any additional breakdown to substantiate the "worst case" estimate; other than to believe the estimate is not a realistic expression of work to be completed.*

*Please advise how you would like to proceed.*

*Richard Moorhead, NCARB, AIA*

On 4/7/2017 2:23 PM, Keegan Ahern wrote:

Richard,  
Work order rates are \$50/hr for labor, \$90 for MP time.  
NTE price is \$7,500

I don't have sub numbers back so I had to estimate for worst case.  
Thanks,

Keegan Ahern  
Project Manager  
200 45th Street South | Fargo, ND 58103  
phone: 701.356.5050  
direct: 701.356.1249  
fax: 701.282.2121  
email: [kahern@roers.com](mailto:kahern@roers.com)

NOTICE: This electronic communication and attachments are privileged to the sender and to the intended recipient. If you have received this e-mail in error, please advise the sender and delete the communication and attachments. Redistribution, modification, copying, or any similar action taken without the permission of Roers is prohibited. Unauthorized use relieves Roers from any liability associated with the information.





**PROPOSAL**

---

**TO: IMAGE GROUP**

**FROM: JUSTIN KINDEM  
LANEY'S INC**

**PROJECT: FARGO FIRE DEPT HQ**

**ISSUE DATE: 2/2/2017**

**PR #: ASI-E14**

**DESCRIPTION:  
ADDITIONS PER REVISED ASI-E-14**

**WIRING OF PROVIDED INLINE FAN WITH INTEGRAL DISCONNECT CONNECTED TO PANEL  
L1B (LINE VOLTAGE ONLY) CONTROL WIRING BY OTHERS**

**REFERENCES/ATTACHMENTS: NONE  
MODIFICATION TO CONTRACT AMOUNT : ADD \$525.00**



Base Estimate Sheet

Job Name:  
 Bid Date:  
 Bid Type:

Printed On: 8/17/2017 6:11 AM

DESCRIPTION/ SPECIFICATION SECTION	I/S	ITEM QTY	UNIT LABOR	LABOR HOURS			AMOUNT					
				SHOP	INST.	RATE	LABOR	MAT.	EQUIP.	OTHER	SUBCNTR	
FFD SUMMER BOILER (ASI-11) AND MUESUM HEAT (REVISED ASI-14)			-----									
DRAIN SYSTEM	I	1	6.00		6	45.00	\$270	-----				
RELOCATE RELIEF VALVE AND REPIPE	I	1	3.00		3	45.00	\$135	\$60				
FILL SYSTEM	I	1	5.00		5	45.00	\$225	-----				
-REFILL AFTER AIR IS REMOVED	I	1	3.00		3	45.00	\$135	-----				
MEASURE/MOBILIZE	I	1	14.00		14	45.00	\$630	-----				
INSULATION			-----								SUB	
TEMPERATURE CONTROLS			-----								SUB	
TAB			-----								SUB	
BOILER	I	1	5.00		5	45.00	\$225	\$8,425				
-VENTING - CA PVC	I	1	10.00		10	45.00	\$450	\$115				
-FLUE VENTING - AL-294C	I	1	10.00		10	45.00	\$450	\$2,795				
-NEUTRALIZATION KIT	I	1	0.50		1	45.00	\$23	\$68				
-CONDENSATE PIPING	I	1	3.00		3	45.00	\$135	\$15				
-START UP	I	1	3.00		3	55.00	\$165	-----				
BOILER CONTROLS	I	1	5.00		5	45.00	\$225	\$75				
BOILER STAND	S	1	4.00	4		45.00	\$180	\$125				
SUMMER BOILER PIPING	I	1	83.00		83	45.00	\$3,735	\$2,467				
CONTROL VALVE INSTALLATION	I	1	2.00		2	45.00	\$90	\$190				
BOILER CIRCULATION PUMP	I	1	1.00		1	45.00	\$45	\$397				
-START UP	I	1	1.00		1	55.00	\$55	-----				
GLYCOL	I	1	2.00		2	45.00	\$90	\$180				
CLEAN/FLUSH	I	1	4.00		4	45.00	\$180	-----				
MUESEUM HEAT PIPING	I	1	130.00		130	45.00	\$5,850	\$1,364				
CORE DRILL	I	6	1.50		9	45.00	\$405	\$90				
FINNED TUBE	I	2	2.00		4	45.00	\$180	\$490				
EXHAUST FAN	I	1	4.00		4	45.00	\$180	\$1,981				
-HANGING MATERIAL			-----					\$15				
-START UP	I	1	1.00		1	55.00	\$55	-----				
DUCTWORK	S	1	12.00	12		45.00	\$540	\$444				
	I	1	39.00		39	45.00	\$1,755	-----				
FILTER BOX	S	1	1.00	1		45.00	\$45	\$12				
	I	1	1.00		1	45.00	\$45					
R/D/G	I	4	0.60		2	45.00	\$108	IN EF				
HOT WATER COILS	I	2	2.00		4	45.00	\$180	IN EF				
VEHICLE/TRAVEL			-----								\$50	
CLEAN/LOAD/DELIVER	S	4	3.00	12		30.00	\$360	-----			\$30	

**Base Estimate Sheet**

Job Name:  
 Bid Date:  
 Bid Type:

Printed On: 8/17/2017 6:11 AM

DESCRIPTION/ SPECIFICATION SECTION	I/S	ITEM QTY	UNIT LABOR	LABOR HOURS		RATE	AMOUNT				
				SHOP	INST.		LABOR	MAT.	EQUIP.	OTHER	SUBCNTR
WARRANTY	I	1	3.00		3	55.00	\$165	\$50			
PERMIT			-----					-----			\$190
OWNERS TRAINING	I	1	2.00		2	55.00	\$110	-----			
EXCLUDE ROOFING			-----					-----			
EXCLUDE ELECTRICAL WIRING			-----					-----			
EXCLUDE GENERAL CONTRUCTION			-----					-----			
<b>TOTAL HOURS AND COSTS</b>				<b>29</b>	<b>360</b>		<b>\$17,421</b>	<b>\$19,358</b>	<b>\$80</b>	<b>\$190</b>	<b>\$0</b>

## Base Estimate Totals Sheet

Job Name:  
 Bid Date:  
 Bid Type:

Printed On: 8/17/2017 6:11 AM

### OPTION #1

Estimate Summary	Amount
Materials:	\$19,358
Sales Tax: 7.50%	\$1,452
Labor:	\$17,421
Equipment:	\$80
Other:	\$190
<b>Estimate Sub-Total:</b>	<b>\$38,501</b>
Overhead: 15.00%	\$5,775
<b>Sub-Total w/Overhead:</b>	<b>\$44,276</b>
Profit: 5.00%	\$2,214
<b>Bid Submitted or Total Forward:</b>	<b>\$46,490</b>

TOTAL TYPE	AMOUNT	SUB (I/H)
SHEET METAL:	\$46,490	
PIPE FITTING:	IN SM	
PLUMBING:	NONE	
INSULATION:	\$5,148	I
SPRINKLER:	NONE	I
TEMPERATURE CONTROL:	\$4,364	I
TEST & BALANCE:	\$1,625	I
CHEMICAL TREATMENT:	IN SM	I
HANDLING ON SUBS: 0.00%	\$0	
INSURANCE ON SUBS:	\$22	
<b>SUB-TOTAL:</b>	<b>\$57,649</b>	
BOND:	\$721	
<b>BOND SUB-TOTAL:</b>	<b>\$58,370</b>	
BOND ON BOND:	\$9	
<b>TOTAL BID:</b>	<b>\$58,379</b>	

(12)

**IMAGE**  
Group  
Architecture  
& Interiors

August 23, 2017



Richard  
Moorhead  
AIA, NCARB

City of Fargo  
Police Department  
222 4th Street North  
Fargo, North Dakota 58102  
Attention: Deputy Chief Anderson

RE: City of Fargo  
BSE Police Department Remodeling  
Fargo, North Dakota Image 1703

Marcia  
Pulczynski  
AIA, NCARB,  
LEED AP

Dear Deputy Chief Anderson;

Enclosed please find three (3) copies of AIA Document G701 Change Order E-2 in the amount of \$3,431.60 for the BSE Police Department project.

If the document meets with your approval please obtain appropriate signatures and return Architect's and Contractor's copies to this office.

225 Fourth  
Avenue North  
Suite 3  
Fargo  
North Dakota  
58102

Sincerely,

IMAGE GROUP, INC.

A handwritten signature in black ink, appearing to read "Richard A. Moorhead".

Richard A. Moorhead, NCARB, AIA

403 Center  
Avenue  
Suite 300  
Moorhead  
Minnesota  
56560

IG: jrg

Enc.

Telephone  
218.233.2062

Facsimile  
218.233.2575

# AIA Document G701™ – 2001

## Change Order

<b>PROJECT:</b> <i>(Name and address)</i> City of Fargo BSE Police Department Remodeling Fargo, ND	<b>CHANGE ORDER NUMBER:</b> E-2  <b>DATE:</b> August 14, 2017	OWNER <input type="checkbox"/> ARCHITECT <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> FIELD <input type="checkbox"/> OTHER <input type="checkbox"/>
<b>TO CONTRACTOR:</b> <i>(Name and address)</i> CB & Sons Electric, Inc. 1020 Center Ave. Moorhead, MN 56560	<b>ARCHITECT'S PROJECT NUMBER:</b> 1703  <b>CONTRACT DATE:</b> May 19, 2017  <b>CONTRACT FOR:</b> Electrical Construction	

The Contract is changed as follows:  
 (Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

- |  |     |                   |
|--|-----|-------------------|
| 1. ADD light control sensors (ASI-E4)                        | ADD | \$467.87          |
| 2. Provide additional communications power and data (ASI-E6) | ADD | <u>\$2,963.73</u> |

The original (Contract Sum) <del>(Contracted Maximum Price)</del> was	TOTAL ADD	\$3,431.60
The net change by previously authorized Change Orders	\$	<u>215,900.00</u>
The (Contract Sum) <del>(Contracted Maximum Price)</del> prior to this Change Order was	\$	<u>24,658.36</u>
The (Contract Sum) <del>(Contracted Maximum Price)</del> will be (increased) <del>(decreased) (unchanged)</del> by this Change Order in the amount of	\$	<u>240,558.36</u>
The new (Contract Sum) <del>(Contracted Maximum Price)</del> , including this Change Order, will be	\$	<u>3,431.60</u>
The Contract Time will be <del>(increased) (decreased) (unchanged)</del> by zero		( 0 ) days.
The date of Substantial Completion as of the date of this Change Order, therefore, is <b>unchanged</b>		

*NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.*

**NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.**

Image Group, Inc. ARCHITECT <i>(Firm name)</i> 403 Center Avenue, #300 Moorhead, MN 56560 ADDRESS	CB & Sons Electric, Inc. CONTRACTOR <i>(Firm name)</i> 1020 Centet Avenue Moorhead, MN 56560 ADDRESS	City of Fargo OWNER <i>(Firm name)</i> 200 North 3rd Street Fargo, ND 58102 ADDRESS
BY <i>(Signature)</i>	BY <i>(Signature)</i>	
RICHARD MOORHEAD <i>(Typed name)</i>	Steve Basak <i>(Typed name)</i>	<i>(Typed name)</i>
8-23-17 DATE	8-21-17 DATE	DATE

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

# Architect's Supplemental Instructions

# ASI-E4

PROJECT/OWNER: BSE Police Department Remodeling  
Fargo, North Dakota

ARCHITECT'S PROJECT NUMBER: 1703

TO: CB & Sons Electric, Inc.  
1020 Center Avenue  
Moorhead, MN 56560

CONTRACT FOR: Electrical Construction

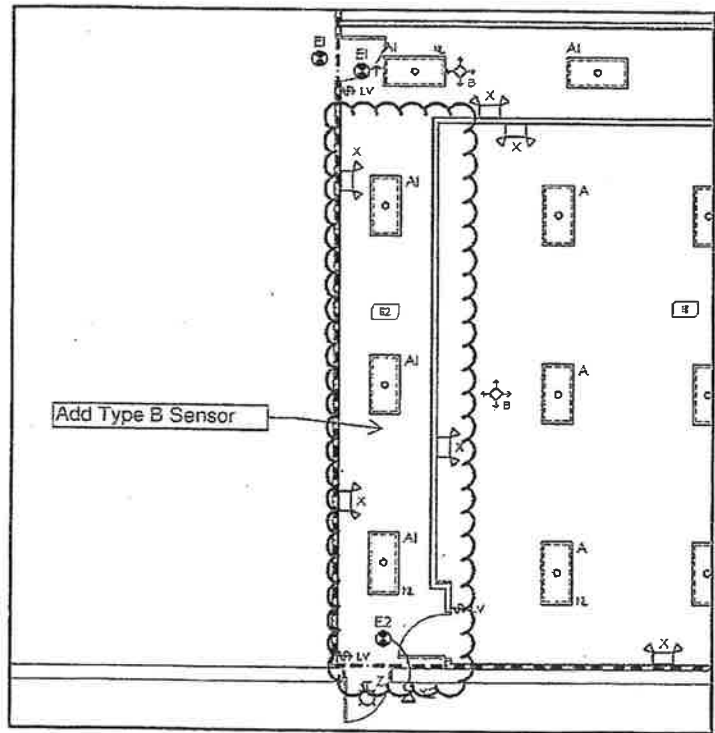
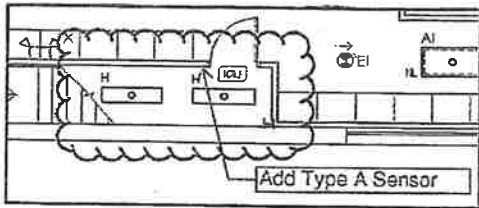
DATE: June 21, 2017

The work shall be carried out in accordance with the following supplemental instructions issued in accordance with the Contract Documents. Proceeding with the Work in accordance with these instructions indicates your acknowledgment that there will be no change in the Contract Sum or Contract Time.

## DESCRIPTION:

### LIGHT CONTROL SENSORS

1. Provide a type B Sensor in corridor 112 as shown below.
2. Provide a type A Sensor in room 101J as shown below.



## ATTACHMENTS:

ISSUED BY:

*Richard McArthur*

IMAGE Group Architecture & Interiors

1020 Center Ave  
Moorhead, MN 56560  
Phone (218) 233-4775  
Fax (218) 233-1938

Steven Bosak, President  
Greg Bosak, Vice President  
Doug Bosak, Vice President

July 12, 2017

Image Group  
403 Center Ave  
Moorhead, MN

Attn: Mr. Richard Moorhead

Re: BSE/ Police Department remodel  
ASI-E4

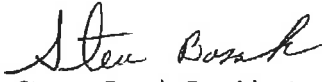
Add a motion detector in room 101J hallway 112

Cost break down.

BSE	\$ 254.00
Misc material	<u>25.00</u>
	279.00
Labor 2 hours @ 50.00 each	<u>100.00</u>
	379.00
10 % Overhead	37.90
6 % Profit	25.01
Tax	19.05
Bond @ 1.5%	<u>6.91</u>
Total cost to add these detectors	\$ 467.87

Sincerely

CB & SONS ELECTRIC, INC.

  
Steven Bosak, President



Border States Electric - FGO  
Page 1 of 4  
 Fargo ND 58103  
 Phone: 701-293-5833

Created By: Denyse Krein  
Tel No: 701-271-7231  
Fax No: 701-237-9811

CB Elec-BSE Police Department Remod  
Job-BSE Police Department Remodel  
1020 Center Ave  
Moorhead MN 56560-2019

Inco Terms:  
FOB ORIGIN

Payment Terms:  
1.0 % 10th prox net 25th (25)

Taxes, if applicable, are not included.

Cust Item	BSE Item	Material MFG - Description	Quantity	Price	Per	UoM	Value
	000010	- LOT OF SENSORS - CR E3 Consists of the following components: 1 EA of DAVAMISC CM PDT 10 R 1 EA of DAVAMISC CM PDT 10 R 1 EA of DAVAMISC MP20	1 EA				254.00
<b>Total Value</b>							<b>254.00</b>

To access BSE's Terms and Conditions of Sale, please go to  
<https://www.borderstateselectric.com>

This quote has not been reviewed for compliance with the Buy American Act or the American Recovery and Reinvestment Act requirements. BSE reserves the right to amend both our bill of material and our proposal accordingly if BAA/ARRA compliance is required.



403 Center Avenue / Suite 300 / Moorhead, Minnesota 56560

**Architect's Supplemental Instructions**

**ASI-E6**

PROJECT/OWNER: BSE Police Department Remodeling Fargo, North Dakota ARCHITECT'S PROJECT NUMBER: 1703

TO: CB & Sons Electric, Inc.  
1020 Center Avenue  
Moorhead, MN 56560

CONTRACT FOR: Electrical Construction

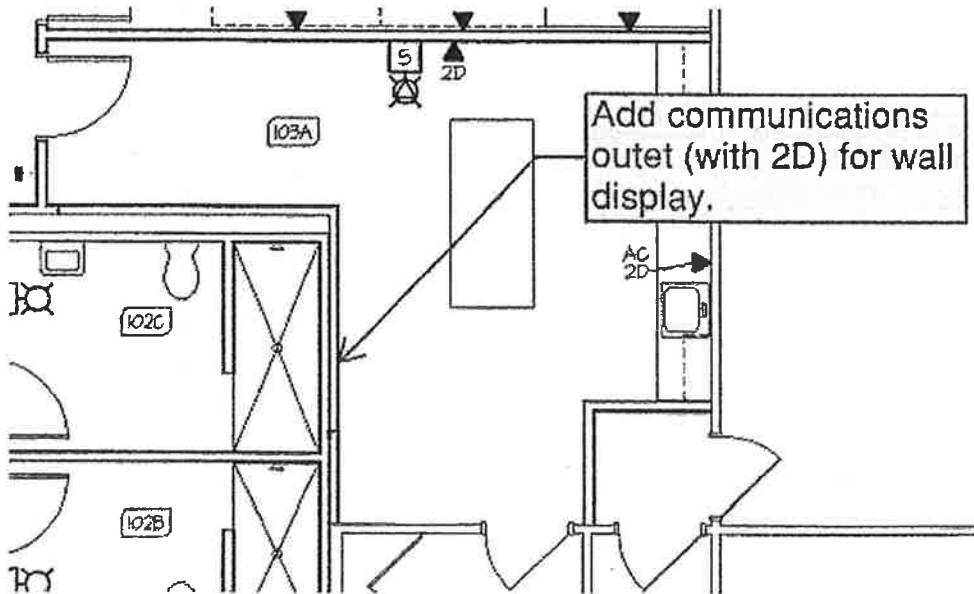
DATE: July 7, 2017

The work shall be carried out in accordance with the following supplemental instructions issued in accordance with the Contract Documents. Proceeding with the Work in accordance with these instructions indicates your acknowledgment that there will be no change in the Contract Sum or Contract Time.

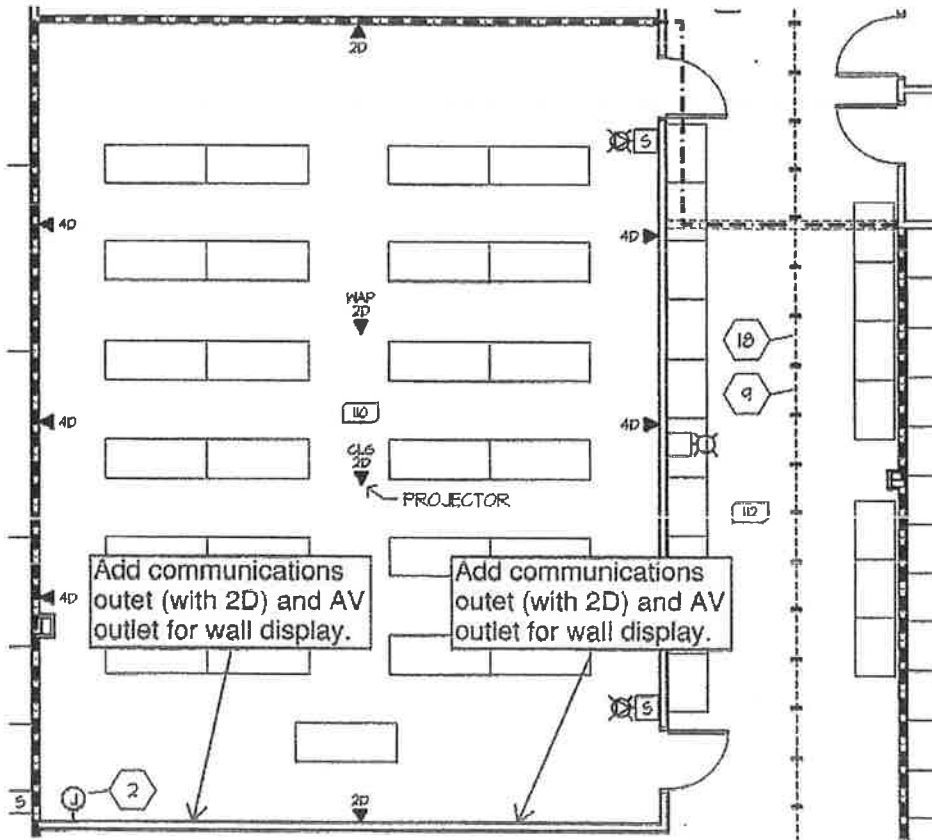
**DESCRIPTION:**

**COMMUNICATIONS POWER and DATA**

1. Provide a double duplex receptacle and a communications outlet at a display location at the below sketched location in room 103A.



2. Provide a double duplex receptacle, communications outlets, and AV rough-in at each of (2) display locations at the below sketch locations on the west wall of room 110. Each location shall duplicate what was shown on the drawings for the display location on the north side of room 108A (notes 1, 2, 3 on sheet E-4). Install the outlets at 7' AFF as discussed at the meeting. Connect the new quad outlets to circuit LPA-25.



ATTACHMENTS:

ISSUED BY:

*Rina Mann*

IMAGE Group Architecture & Interiors



1020 Center Ave  
Moorhead, MN 56560  
Phone (218) 233-4775  
Fax (218) 233-1938  
July 13, 2017

Steven Bosak, President  
Greg Bosak, Vice President  
Doug Bosak, Vice President

Image Group  
430 Center Ave  
Moorhead, Mn

Attn: Mr. Richard Moorhead

Re: BSE /Police department  
ASI-E6

Cost breakdown:

Arvig communications	\$ 1,457.97
Conduit, Boxes, wire and wiring devices	<u>283.84</u>
	1,741.81
Labor 13 hours @ 50.00 each	<u>650.00</u>
	2,391.81
10 % overhead	239.18
6 % Profit	157.86
Tax	130.64
Bond @ 1.5 %	<u>44.24</u>
Total cost for this work	\$ 2,963.73

Sincerely,

CB & SONS ELECTRIC, INC.

A handwritten signature in cursive script that reads 'Steven Bosak'.

Steven Bosak, President



5602 36<sup>th</sup> ST S. Frontier ND, 58104

## Proposal

Wednesday July 12, 2017

RE: BSE Police Department Remodeling; ASI-E6

Arvig is pleased to offer this proposal. We appreciate the opportunity to submit our proposal and look forward to hearing from you. If there are any questions, please feel free to contact us.

**Inclusions:**

- Provide and install 2D in Room 103A.
- Provide and Install (2) 2D in RM 110.

**Exclusions:**

- Any other material other than specified above.
- Any copper backbone cabling.
- Any data/telephone service entrance conduit and cable
- Any sleeves or chases.
- Any data/communications/security outlet rough-in or raceways, including conduit etc.
- Any purchasing or installation of cable tray.
- Any installation of Telephone Bonding or grounding backbone cabling or material.

**Clarifications:**

- Arvig is an approved installer.
- All work shall be completed in a workman-like manner and will meet or exceed all requirements of local and state regulations.
- All work shall be performed during normal working hours.
- Before any work or expenses are put into place Arvig will need a purchase order number or signature.

**Total \$1,457.97**

Sincerely,  
**Jeremy Bailey**  
 Estimator  
 (O) 701-373-0139  
 (C) 701-212-6627  
Jeremy.bailey@arvig.com

Authorization to Proceed \_\_\_\_\_

Date \_\_\_\_\_

P.O # \_\_\_\_\_



(13)

July 25, 2017

City of Fargo Commissioners  
200 N 3<sup>rd</sup> Street  
Fargo, ND 58102

Dear Commissioners:

The City of Fargo provides transit services to North Dakota State College of Science (NDSCS) through an Agreement for Transit Services (U-Pass). These agreements are renewed annually and define the level and cost of the service. In addition, NDSCS purchases advertising wraps for one (1) vehicles in the Transit fleet – this agreement is also renewed annually.

The agreements for these services for 2017-2018 are attached for your consideration. Under the terms of these agreements, NDSCS will contribute an approximate total of \$546.00.

The u-Pass fee remained the same at \$3.00/FTE student. The advertising rate remained the same at \$24,000 per vehicle.

RECOMMENDED MOTION: Approval of the Agreement for Transit Services (U-Pass), and the Advertising Agreement with North Dakota State University for 2017-2018.

Sincerely,



Matthew G. Peterson  
Assistant Transit Director  
City of Fargo

/enc

**Agreement for Transit Services  
Between  
The City of Fargo, North Dakota  
and  
North Dakota State College of Science | Fargo**

This Agreement, dated August 11, 2017, is by and between the City of Fargo (“CITY”) and North Dakota State College of Science | Fargo (“NDSCS | FARGO”).

**WHEREAS**, NDSCS | FARGO wishes to provide student use of the regular fixed route system serving the Fargo-Moorhead metropolitan area, and;

**WHEREAS**, The CITY, through its Transit Division, in partnership with the City of Moorhead, Minnesota, provides bus service within the Fargo-Moorhead metropolitan area, and;

**WHEREAS**, The CITY has the infrastructure, vehicles, staffing, funding, and operational capacity to provide these services to NDSCS | FARGO in accordance with the articles in this agreement.

**NOW, THEREFORE**, it is mutually understood and agreed as follows:

**ARTICLE 1 – GENERAL PURPOSE**

The purpose of this agreement is to provide public transportation opportunities for NDSCS | FARGO students, while reducing traffic congestion in the City of Fargo. This Agreement will allow NDSCS | FARGO students to ride any bus route within the Fargo-Moorhead Metropolitan Area Transit system free of charge to the student, in accordance with Article 2.1 below. Students must present a current NDSCS | FARGO ID card when boarding. Only students enrolled in classes at the NDSCS | FARGO campus will be eligible to ride the system free of charge; students enrolled in classes at the Wahpeton campus are not eligible for this program.

**ARTICLE 2 – PAYMENT**

2.1 U-Pass Program: All enrolled NDSCS | FARGO students, regardless of full or part-time status, class standing or location of residence shall be authorized to ride any fixed route within the Fargo-Moorhead Metropolitan Area Transit system free of charge. This service is referred to as the “U-Pass Program.” To be eligible for participation, students must show a current NDSCS | FARGO ID at the time of boarding. In exchange, NDSCS | FARGO will pay the CITY an amount equal to the number of full-time equivalent (FTE) students multiplied by a fee of three dollars (\$3.00) per person for the Fall 2017 Semester. This fee will be based on the number of FTE students enrolled thirty (30) days after the first day of classes of the Fall Semester. This fee will be payable sixty (60) days after it is finalized.

**ARTICLE 3 – ROUTE/SERVICE ADJUSTMENTS**

The CITY will closely monitor NDSCS | FARGO student ridership statistics, patterns and other information to create periodic reports for NDSCS | FARGO. NDSCS | FARGO will consult with students on the usefulness of the transit service, and provide this information to the CITY. Based

on this information, the CITY may make adjustments to the routes and transit schedule. Both parties acknowledge that any such adjustments must comply with all applicable federal, state and local rules and regulations regarding transit operations, and with basic safety requirements pertaining to the operation of public transit vehicles.

#### **ARTICLE 4 – INSURANCE**

The CITY shall maintain and provide casualty, liability, body injury, collision and comprehensive insurance on the buses and equipment it deems necessary, and NDSCS | FARGO shall have no responsibility to provide such coverage. The CITY is authorized to self-insure for such risks, subject to the liability limits of the State of North Dakota.

#### **ARTICLE 5 – FORCE MAJEURE**

Neither Party shall be held responsible for delays or lack of performance caused by events or acts beyond their control. Such events and acts include, but are not limited to, acts of God, inclement weather, strikes and labor disputes, lack of fuel, road closures, changes in government regulation, war, insurrection or civil unrest.

#### **ARTICLE 6 – TERM OF AGREEMENT**

This Agreement shall become effective August 1, 2017, and shall remain in full-force and effect until July 31, 2018, unless terminated earlier as herein provided.

#### **ARTICLE 7 – TERMINATION OF AGREEMENT**

- 7.1 Changes in City Cost, Funding, or Service: The CITY may terminate or reduce the amount of transit service if there is, in the opinion of a majority of the City Commission, a significant increase in local costs; or insufficient local, state or federal funding available for the service. In such an event the CITY will provide NDSCS | FARGO a written notice sixty (60) days prior to any changes in the service.
- 7.2 NDSCS | FARGO Initiated Termination of U-Pass Program: NDSCS | FARGO may terminate the portion of this Agreement with the CITY that allows NDSCS | FARGO students to ride for no charge by providing written notice sixty (60) days prior to the termination of the Agreement. Any monies paid by NDSCS | FARGO to the CITY under this Agreement will be reimbursed on a prorated basis in which the numerator is the length of time from the termination date to the end of the term, and the denominator is the length of time from the beginning of the term to the end of the contract period (July 31, 2018).

#### **ARTICLE 8 – GENERAL PROVISIONS**

- 8.1 Safety and Environmental Codes: All practices, materials, supplies, and equipment shall comply with the Federal Occupational Safety and Health Act as well as any pertinent federal, state and local safety or environmental codes.



- 8.2 Compliance with Applicable Rules and Regulations: This Agreement shall be subject to, governed by, and construed according to all applicable administrative codes and laws of the City of Fargo, State of North Dakota, and federal government.
- 8.3 Severability Clause: In the event that any provision of the Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect in any manner the legality or the remaining provisions of the Agreement, and each provision of the Agreement will be, and is deemed to be separate and severable from each other provision.

#### **ARTICLE 9 – AUTHORITY TO AMEND FINANCIAL TERMS OF AGREEMENT**

The CITY and NDSCS | FARGO shall be authorized to adjust the financial terms of this agreement and the term of agreement as they mutually agree, from time to time.

#### **ARTICLE 10 – DISPUTES**

NDSCS | FARGO does not agree to any form of binding arbitration, mediation or other form of mandatory alternative dispute resolution. NDSCS | FARGO and the CITY have the right to enforce their rights and remedies in judicial proceedings. NDSCS | FARGO does not waive any right to a jury trial. In the event of a dispute regarding the performance of, or adherence to the provisions of this Agreement by either party to the Agreement, the CITY and NDSCS | FARGO shall select a representative(s) who will attempt to resolve the dispute. If the representatives are unable to resolve the dispute, the issue will be presented to the City’s Administrator. If the City Administrator cannot resolve the dispute, then it will be referred to the Fargo City Commission. If the Fargo City Commission’s decision does not resolve the dispute, the parties have such remedies as provided by law.

#### **ARTICLE 11 – NOTICES**

All notices herein required and any communications with respect to this Agreement shall be effected upon the mailing thereof, and addressed as follows:

##### **NDSCS | FARGO**


Jane Vangsness Frisch, Ph.D.  
Vice President for Student Affairs  
North Dakota State College of Science  
800 North Sixth Street  
Wahpeton, ND 58076

##### **CITY OF FARGO**

Ms. Julie Bommelman  
Transit Administrator  
Metro Area Transit Garage  
650 23<sup>rd</sup> St. N.  
Fargo, ND 58102

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective August 21, 2017.

**North Dakota State College of Science**

  
\_\_\_\_\_  
**Jane Vangness Frisch, Ph.D.**

Date: 8/28/17

**City of Fargo**

\_\_\_\_\_  
**Timothy Mahoney, Mayor**

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

Attest:

\_\_\_\_\_  
**Steven Sprague, City Auditor**

14

September 6, 2017

City of Fargo Commissioners  
200 N 3<sup>rd</sup> Street  
Fargo, ND 58102

RE: ABF17019

Dear Commissioners:

The City of Fargo Transit Department respectfully submits a contract amendment from KLJ for the GTC Deck Repair project at the Ground Transportation Center (GTC). When the original project was bid in the fall of 2016, bids came in higher than expected due to the short duration of the construction season and the City chose to reject all bids and re-bid the project in the spring of 2017. The costs incurred by KLJ for the re-bid services were not previously billed to the City of Fargo, and are outlined in the attached document. There are adequate funds remaining in the grant to cover these costs and approval has been given by the North Dakota Department of Transportation to reimburse KLJ for these costs.

**Requested motion:** Approve the attached contract amendment from KLJ for the 2017 Rebid Services for the GTC Deck Repair and Garage Condition Assessment, and direct staff to pay the amendment amount.

Respectfully,



Julie Bommelman, Transit Director  
City of Fargo  
650 23<sup>rd</sup> Street N  
Fargo, ND 58102

\enc

728 East Beaton Drive Suite 101  
PO Box 190  
West Fargo, ND 58078-2650  
701 232 5353  
kljeng.com



August 14, 2017

Ms. Julie Bommelman  
City of Fargo  
Transit Director  
650 23rd Street North  
Fargo, North Dakota 58102

Re: GTC Deck Repairs & Exhaust Duct Relocation

Dear Ms. Bommelman:

KLJ recently completed the design, bidding and construction of repairs to the Ground Transportation Center in Fargo, ND. When the project was bid in the fall of 2016, the bids came in higher than expected due to the short duration of the construction season. The city elected to reject all bids, and re-bid the project in the spring of 2017. As a result, KLJ incurred additional costs outside of our original scope of services agreed upon in our contract dated March 28, 2016. We are requesting a contract amendment for \$4,000 (hourly not to exceed) the items associated with administering the rebid for the project. A summary of the contract costs are provided below for your reference.

- Total Amount of KLJ Contract: \$70,900 (hourly not to exceed)
- Costs of Original Scope Items: \$68,700 (approx.)
- Cost of Services Associated with 2017 Rebid: \$6,200 (approx.)
- Amendment Amount: \$4,000 (hourly not to exceed)

The additional services included review and repackaging the original bid documents, updating contract dates and times in the specifications, uploading construction documents to QuestCDN and plan rooms, legal advertisement fees, preparing addenda, bid opening, bid tabulation, recommendation to award, and printing/delivering updated construction documents to appropriate parties.

If acceptable, please sign and return the contract amendment attached at your earliest convenience. If you have any questions or concerns regarding the information included in this letter, please contact me at 701-241-2317.

Sincerely,

KLJ

A handwritten signature in cursive script that reads "Cassie McNames".

Cassie McNames, PE  
Project Manager

**AMENDMENT TO ENGINEER-OWNER AGREEMENT**  
**Amendment No. 2**

Background Data

- a. Effective Date of Engineer-Owner Agreement: March 28, 2016
- b. Engineer: Kadmas, Lee & Jackson, Inc.
- c. Owner: City of Fargo, North Dakota
- d. Project: GTC Deck Repair and Garage Condition Assessment
- e. This Part of the Project: 2017 Rebid Services

Nature of Amendment (check all that apply)

- Additional services to be performed by Engineer
- Modifications to services of Engineer
- Modifications to responsibilities of Owner
- Modifications to payment to Engineer
- Modifications to time(s) for rendering Services

Description of Modifications

The additional services associated with rebidding the project in 2017 due to high bid prices in 2016 included review and repackaging the original bid documents, updating contract dates and times in the specifications, uploading construction documents to QuestCDN and plan rooms, legal advertisement fees, preparing addenda, bid opening, bid tabulation, recommendation to award, and printing/delivering updated construction documents to appropriate parties. The schedule was modified as follows to correspond with delivery of these services:

2017 Bid Opening: February 28, 2017  
Substantial Completion: June 30, 2017  
Final Completion: July 14, 2017

Agreement Summary

- a. Original agreement amount: \$100,550 (hourly not to exceed with Assessment = \$29,650, Deck Repairs = \$70,900)
- b. Net change for prior amendments: \$33,000 (hourly not to exceed - Assessment)
- c. This amendment amount: \$4,000 (hourly not to exceed - Deck Repairs)
- d. Adjusted Agreement amount: \$137,550 (hourly not to exceed, Assessment = \$62,650, Deck Repairs = \$74,900)

Engineer and Owner hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is August 14, 2017.

ENGINEER: Kadrmas Lee & Jackson, Inc.

OWNER: City of Fargo, North Dakota

\_\_\_\_\_  
By: Barry Schuchard

\_\_\_\_\_  
By: Timothy J. Mahoney

Title: Chief Production Officer

Title: Mayor

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

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

(15)

September 6, 2017

City of Fargo Commissioners  
200 N 3<sup>rd</sup> Street  
Fargo, ND 58102

Dear Commissioners:

The City of Fargo Transit Department respectfully submits a Memorandum of Understanding (MOU) between the City of Fargo and the State of North Dakota for approval.

The purpose of the MOU is to transfer \$1,488,000 in Urban Roads Program (STPU) funds, administered by the Federal Highway Administration (FHWA), to the Federal Transit Administration (FTA). FTA will administer the funding to the City of Fargo Transit Department in the form of a grant. The grant application will be submitted directly to FTA for the purchase of replacement buses upon notification to the City that the fund transfer is complete and funding is available. The local share of \$372,000 was requested in the 2018 Transit budget.

**Requested motion:** Approve the attached MOU between the City of Fargo and the State of North Dakota, and authorize staff to apply for and execute a grant for the outlined funds.

Respectfully,



Julie Bommelman, Transit Director  
City of Fargo  
650 23<sup>rd</sup> Street N  
Fargo, ND 58102

\enc

**Transit Capital Project – Fiscal Year 2017 Urban Roads Program  
Memorandum of Understanding  
City of Fargo and NDDOT  
NDDOT Project No. SU-8-984(162), PCN 21940**

This Memorandum of Understanding (MOU) is entered into by and between the North Dakota Department of Transportation (NDDOT) acting through the Director, whose address is 608 East Boulevard Avenue, Bismarck, ND 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City who agree that:

It is in the best interest of both parties to have the city of Fargo take the lead in the procurement of the three fixed route replacement vehicles, funded through the fiscal year 2017 Urban Roads Program, as a Section 5307 grant through the Federal Transit Administration (FTA). The transit capital project is currently programmed in the 2017-2020 NDDOT Statewide Transportation Improvement Program (STIP) and the Metro COG Transportation Improvement Program (TIP), ID Number 417050, at the following cost:

\$1,860,000 Total  
\$1,488,000 Federal  
\$ 372,000 City

NDDOT has discussed this project with the Federal Highway Administration (FHWA) and FTA. It has been determined that FTA will administer the grant to the city of Fargo. Pursuant to Title 23 of the United States Code, NDDOT will submit a funding transfer request to FHWA. FHWA will transfer the funds to FTA for a grant to the city of Fargo for this project.

NDDOT will notify the city of Fargo once it has received confirmation that FHWA has transferred the funds. The city of Fargo is responsible for obtaining the grant from FTA for the three fixed route replacement vehicles. The funds shall be used as identified in the approved STIP and TIP. The city agrees to the terms and conditions required for this project by FHWA and FTA.

The city agrees to the following requirements for NDDOT:

- a. The city shall submit project data and information as requested by NDDOT.
- b. The city shall also submit financial statements, data, records, contracts, specifications, procurement documents, and other documents related to the project as requested by NDDOT.
- c. The city shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.



Transit Capital Project  
Page 2 of 2  
June 29, 2017

- d. The city shall list NDDOT as lienholder on the vehicles in accordance with FTA useful life guidelines and the "NDDOT State Management Plan for Public Transportation".

**ATTESTED:**

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

**CITY OF FARGO**

\_\_\_\_\_  
MAYOR (TYPE OR PRINT NAME)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**WITNESS:**

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**NORTH DAKOTA DEPARTMENT OF  
TRANSPORTATION**

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT NAME)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**APPROVED** as to substance by:

\_\_\_\_\_  
DIVISION DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

16

September 7, 2017

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

Dear Commissioners:

Through a competitive grant process, the State of North Dakota Department of Transportation (ND DOT) has awarded the City of Fargo \$846,026 in capital 5339 funds to purchase two replacement fixed route buses and miscellaneous equipment. The award requires a local match which has been included in the Transit budget.

ND DOT Contract No. 38171124, CFDA No. 20.526 is attached.

The requested motion is to approve ND DOT Contract No. 38171124.

Thank you.

Sincerely,



Julie Bommelman  
Transit Director  
City of Fargo

\Attachment



# North Dakota Department of Transportation

Thomas K. Sorel  
*Director*

Doug Burgum  
*Governor*

August 28, 2017

Julie Bommelman, Director  
Fargo MatBus  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102

Dear Julie,

Thank you for submitting a 5339 grant application for capital needs. We are pleased to inform you we are able to provide capital funding for your transit agency. The award amount is \$846,026 for 2 replacement buses and miscellaneous equipment. Please see Attachment A for the funding breakdown.

During the grant review process, the committee looks at your current grant application request along with your current capital list. The committee has awarded you money to purchase 2 replacement buses to replace your 2004 Gillig VIN#0680 and 2004 Gillig VIN#0683. Due to the dollar value and State/Federal procurement guidelines, your agency will need to follow the required procurement guidelines. If the required procurement guidelines are not followed the Transit Section cannot reimburse your agency for the procured items. Please contact the Transit Section for approval prior to ordering your buses.

The committee also awarded funding to purchase new computer hardware and mobile surveillance/security equipment. The required procurement process must be followed to bid and purchase this equipment. Contact the Transit Section for approval prior to beginning the procurement process.

Enclosed is the Contract Agreement. In order to begin the funding process, please:

1. Have your organization's president or chairman sign and date the agreement (under Contractor)—this signature **must be an authorized signatory** for your project,
2. Have a witness sign and date the agreement (under Witness),
3. Complete page 19 of the Additional Federal Clauses,
4. Complete the local match designation, and
5. Complete the Certification of Restrictions on Lobbying.
6. Return it to the address listed below at your earliest convenience.

NDDOT/Local Government Division  
Attn: Transit Office  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

If you have any questions or need assistance, please call the Transit Office at (701) 328-2542.

Sincerely,

A handwritten signature in black ink that reads "Becky Hanson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Becky Hanson, Transit Program Manager

Attachment

c: Chairman, Metro Area Transit Board

Dan Farnsworth, Transportation Planner, FM Metro COG

**North Dakota Department of Transportation  
SECTION 5339 TRANSIT GRANT AGREEMENT**

**Federal Award Information – To be provided by NDDOT**

CFDA No.: 20.526

CFDA Title: Federal Transit Capital Investment

Award Name: Federal Transit Capital Investment Grants

Awarding Fed. Agency: FTA

NDDOT Program Mgr.: Becky Hanson Telephone: 701-328-2542

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo hereinafter referred to as the Contractor, whose address is 650 23<sup>rd</sup> St N, Fargo, ND 58102.

WHEREAS, Section 5339 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, provides for grants for the specific purpose of assisting in financing capital projects that will benefit the country's transit projects.

WHEREAS, the Governor of the state of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select projects and to coordinate the grant applications; and

WHEREAS, NDDOT and the Contractor desire to secure and utilize grant funds to finance capital projects such as rolling stock, equipment, and/or capital improvements that will benefit transit projects that serve the state of North Dakota; now

THEREFORE, in consideration of the mutual interests herein set forth, NDDOT and the Contractor agree as follows:

**Section 1. Purpose of Agreement.** The purpose of this agreement is to provide grant funds to finance rolling stock, equipment, and/or capital improvements, hereinafter referred to as the project. The grant amount is \$846,026.

**Section 2. Project Obligation.** The Contractor shall undertake and complete the project as described in the attached Project Description and Budget (Attachment A), and as described in the Contractor's approved grant application, on file with NDDOT.

**Section 3. Period of Performance.** This agreement shall begin on July 1, 2017 and terminate on June 30, 2019.

**Section 4. Project Participation.** Participation in the project costs shall be as indicated in the attached Project Description and Budget. The Contractor will provide sufficient non-federal funds which together with the grant will pay the project costs. In the event that the actual project costs are less than what is shown in the project budget or if a rebate is given, this reduction in



cost shall be applied to the Contractor and NDDOT in proportion to the participation rates of each.

**Section 5. Purchase of Project Equipment.** The purchase of all project equipment financed, in whole or in part, pursuant to this agreement shall be undertaken by the Contractor in accordance with NDDOT's procurement procedures and 49 CFR 18 (Common Rule).

**Section 6. Use of Project Equipment.** The Contractor agrees that the project equipment shall be used for providing transportation service in accordance with the project description in the grant application. Such equipment shall be used for the duration of its useful life. If any project equipment is not used in this manner or is withdrawn from service before the end of its useful life, the Contractor shall immediately notify NDDOT of that condition.

**Section 7. Subcontracting.** The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

**Section 8. Assignments.** Unless authorized in writing by NDDOT, the Contractor shall not assign any portion of the work or equipment and vehicles under this agreement; execute any contract, amendment, or change order thereto; or obligate in any manner with a third party with respect to rights and responsibilities under this agreement.

**Section 9. Subcontract Provisions.** The Contractor shall include in all subcontracts entered into, pursuant to this agreement, all of the above-required sections. In addition, the following statement of financial assistance shall be included in any advertisement or invitation to bid for any procurement under this agreement:

"This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT."

**Section 10. Records and Reports.**

- a. The Contractor shall submit project operational data and information as requested by NDDOT.
- b. The Contractor shall also submit financial statements, data, records, contracts, and other documents related to the project as requested by NDDOT.
- c. All charges to the project account shall be supported by executed invoices, contracts, or vouchers showing the nature of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified; readily accessible; and, to the extent feasible, kept separate and apart from all other such documents.
- d. The Contractor shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.



**Section 11. Audit and Inspection.** Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

**Section 12. Termination.** NDDOT reserves the right, with or without cause, to terminate this agreement by written notice. In the event of termination without cause, NDDOT will reimburse the Contractor for costs incurred prior to the termination date without further liability.

**Section 13. Action Upon Termination.** The Contractor agrees to dispose of the project equipment in accordance with 49 CFR 18.32 (Common Rule) and NDDOT's program policy, copies of which will be made available by NDDOT upon request.

**Section 14. Contract Changes.** All modifications of this agreement shall be made in writing and agreed upon by both parties.

**Section 15. Prohibited Interest.** No member, officer, or employee of the Contractor during his tenure or for one year thereafter shall have any personal interest, direct or indirect, in this contract or the proceeds thereof.

**Section 16. Civil Rights.** The following requirements apply to this contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to this contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.



(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**Section 17. Disadvantaged Business Enterprise.** The Contractor will comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et. seq.).

The Contractor will include the following paragraph verbatim in any subcontracts they sign relative to this project:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NDDOT deems appropriate.

**Section 18. Other Provisions.** The Contractor acknowledges the following provisions and agrees to cooperate with NDDOT in abiding by them:

Safety Jurisdiction. FTA's authority in the area of transit safety is set forth in section 22 of the Federal Transit Act Amendments of 1991. Under this section, FTA may withhold further financial assistance from any private nonprofit agency recipient who fails to correct any condition which FTA believes "creates a serious hazard of death or injury."

**Section 19. Statement of Financial Assistance.** This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT.

**Section 20. Government-Wide Suspension and Debarment.** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that





the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are not excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

**Section 21. Nondiscrimination – Compliance with Laws.** The Contractor agrees to comply with all applicable laws and rules, including, but not limited to, those relating to nondiscrimination, accessibility, and civil rights.

**Section 22. Applicable Law. Indemnity.** Contractor shall comply with all applicable federal, state, and local laws, rules, and ordinances at all times in the performance of this agreement, and conduct its activities so as not to endanger any person or property.

**Section 23. Charter Service Operations.** The Contractor agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental,” i.e., it must not interfere with or detract from the provision of mass transportation.

**Section 24. School Transportation Operations.** The recipients agree that neither it nor any transit operator performing work in connection with the project will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as qualified under specified exemptions permitted by 49 USC 5323(f) and FTA regulations, “School Bus Operations” 49 CFR Part 605 and any amendments thereto that may be issued. Any school transportation agreement required by these regulations is incorporated by reference and made part of the grant agreement or cooperative agreement. When operating exclusive school bus service under an allowable exemption, federally funded equipment, vehicles, or facilities may not be used.

**Section 25. Buy America.** (Applies only if purchase is over \$100,000.) The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15-passenger vans and 15-passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

**Section 26. Energy Conservation.** 42 USC 6321 and 49 CFR Part 18. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.



**Section 27. Bus Testing.** In the purchase of rolling stock the Contractor (manufacturer) agrees to comply with 49 USC 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the bus testing requirements set forth therein.

**Section 28. Pre-Award and Post-Delivery Audit Requirements.** The recipient agrees to comply with requirements of 49 USC 5323(m) and FTA regulations "Pre-Award and Post-Delivery Audits" of rolling stock purchases 49 CFR Part 663 and any revision thereto.

**Section 29. Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 USC §1601, et. seq.].** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 40 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**Section 30. Federal Changes.** Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement (from FTA MA (2) dated October 1995) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**Section 31. Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§7401 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**Section 32. Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**Section 33. Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§3801 et. seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program



Fraud Civil Remedies Act of 1986 on the Contractor to the extent the federal government deems appropriate.

**Section 34. Disputes.** 49 CFR Part 18, FTA Cir. 4220.1E. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NDDOT Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director shall be binding upon the Contractor, and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by NDDOT, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Section 35. Merger and Waiver.** This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

**Section 36. No Obligation by the Federal Government.** The purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**Section 37. Insurance.** The Contractor shall maintain insurance coverage on the project equipment in an amount adequate to protect the fair market value of the equipment throughout the duration of this agreement.

**Section 38. Labor Protection.** The Contractor stipulates it has read and agrees to abide by the provision of the labor protection warranty issued under Section 13C para. 1609 of the Transportation Act of 1964 and the National (Model) Agreement referenced therein.

**Section 39. Contracts Involving Federal Privacy Act Requirements.** The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC §552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals



involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**Section 40. Davis-Bacon And Copeland Anti-Kickback Acts.** The Contractor agrees to comply with the requirements of 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5) for any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating."

**Section 41. Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NDDOT requests which would cause NDDOT to be in violation of the FTA terms and conditions.



**Section 42. Risk Management.** The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

EXECUTED the date last below signed.

WITNESS:

CONTRACTOR:

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

WITNESS:

**NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

APPROVED as to substance by:

\_\_\_\_\_  
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

CLA 1073 (Div. 38)  
L.D. Approved 9-8-08, 8-15



**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that \_\_\_\_\_ will provide non-federal funds, unless expressly allowed by federal regulation to use federal funds as match. The source of the non-federal funds is identified below, as match for the amount the Transit Provider is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided for Transit Provider.** Please designate the source(s) of funds that will be used to match the federal funds obligated for this grant through the North Dakota Department of Transportation.

**Source:**

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

Executed at \_\_\_\_\_, North Dakota, the last date below signed.

**WITNESS:**

**APPROVED:**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\*Director or President of Transit Board

CLA 1073 (Div. 38)  
L.D. Approved 9-8-08, 8-15



### Risk Management Appendix

**Routine\* Transit Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties: State** – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party 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 and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person and \$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person and \$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, their agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against the Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor 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: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.

RM Consulted 2007  
Revised 5-09



**Sections 5339/5310/5311, as applicable**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

The undersigned (Contractor) certifies, to the best of his or her knowledge and belief that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by A Government wide Guidance for New Restrictions on Lobbying, =61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C., 1352 c (1)-(2) (a), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_  
(Signature of Authorized Official)

\_\_\_\_\_  
(Title of Authorized Official)



Attachment A

Project Name

MatBus

SFY 2018 (July 1, 2017 - June 30, 2019)

	Local match percentage	Funding Source Section	TOTAL Federal Share	Local Share	Total
<b>Funding Category</b>					
Replacement 35 ft Bus	20	5339	369,154	92,289	461,443
Replacement 35 ft Bus	20	5339	276,872	69,218	346,090
Purchase Computer Hardware	20	5339	12,000	3,000	15,000
Purchase Mobile Surv/Security Equipment	20	5339	188,000	47,000	235,000
<b>TOTALS</b>			<b>846,026</b>	<b>211,507</b>	<b>1,057,533</b>

Notice to Subrecipients: Each Federal program is governed by different regulations. Federal awards have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

CFDA Title	CFDA No.	Title 49 USC Chapter 53 Section	Award Name
Capital Assistance Program	CFDA No 20.526	5339	Bus and Bus Facilities Formula
Section 5339 provides for capital grants to private nonprofit corporations and associations for the specific purpose of providing mass transportation services			

### **Fly America Requirements**

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

### **Buy America Requirements (Rolling Stock)**

Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000)

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11 and as amended by Map-21 (5325). Rolling stock must be manufactured in the US and have a minimum 60% domestic content and adhere to contract term limitations. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

### **Cargo Preference**

Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000). Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

### **Energy Conservation**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

### **Clean Water**

Applicability – All Contracts and Subcontracts over \$150,000. Contractor shall comply with all applicable

standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

### **Bus Testing**

Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665, to the extent they are consistent with 49 U.S.C. § 5318(e), as amended; and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

### **Pre-Award & Post Delivery Audit Requirements**

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

- 1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:
  - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
  - B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
  - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
  - D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

### **Lobbying**

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$150,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-  
Page 13665 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

### **Access to Records and Reports**

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized

FTA does not require the inclusion of these requirements in subcontracts.

### **Federal Changes**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

### **Clean Air**

Applicability – All contracts over \$150,000.

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

### **Contract Work Hours & Safety Standards Act**

Applicability – Contracts over \$150,000

- (1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.
- (4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

### **No Government Obligation to Third Parties**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### **Termination**

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from

Additional Federal Clauses - 5339 Contract - CLA1073 Page 6 | 19

contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

#### **Government Wide Debarment and Suspension (Non Procurement)**

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as



adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov,.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov,.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

### **Contracts Involving Federal Privacy Act Requirements**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **Civil Rights Requirements**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute):  
 (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d)

National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and  
2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c)

Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including:

(a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations,

Page 144 "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

### **Breaches and Dispute Resolution**

All contracts over \$150,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance

of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Disadvantaged Business Enterprise**

Contracts over \$3,500 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

### **Prompt payment**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

### **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000) The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

### **Other Federal Requirements**

The following requirements are not federal clauses.

### **Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

### **Prohibition Against Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

### **Conformance with ITS National Architecture**

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

### **Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### **Notification of Federal Participation**

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

### **Ineligible Contractors and Subcontractors**

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### **Other Contract Requirements**

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

### **Compliance with Federal Regulations**

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Real Property**

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Access to Services for Persons with Limited English Proficiency**

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

### **Environmental Justice**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)

Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws,

### **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

### **Geographic Information and Related Spatial Data**

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

### **Geographic Preference**

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201 ).

### **Organizational Conflicts of Interest**

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

### **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.



Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

#### **Safe Operation of Motor Vehicles**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

#### **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

#### **CFDA number for the Federal Transportation Administration**

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_, hereby certify  
(Name and title of official)

On behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

*This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.*

*The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.*

Name of Bidder/Company Name \_\_\_\_\_

Type or print name \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_ Date / /

Signature of notary and SEAL \_\_\_\_\_

---

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

- (1) It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,
- (2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
    - (1) Debarred,
    - (2) Suspended,
    - (3) Proposed for debarment,
    - (4) Declared ineligible,
    - (5) Voluntarily excluded, or
    - (6) Disqualified,
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    - (2) Violation of any Federal or State antitrust statute, or
    - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,

- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
  - (1) Equals or exceeds \$25,000,
  - (2) Is for audit services, or
  - (3) Requires the consent of a Federal official, and
  
- g. It will require that each covered lower tier contractor and subcontractor:
  - (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
  - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
    - a. Debarred from participation in its federally funded Project,
    - b. Suspended from participation in its federally funded Project,
    - c. Proposed for debarment from participation in its federally funded Project,
    - d. Declared ineligible to participate in its federally funded Project,
    - e. Voluntarily excluded from participation in its federally funded Project, or
    - f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

---

Certification

Contractor \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date     /     /

Name and Title of Contractor's Authorized Official

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



(17)

September 7, 2017

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

Dear Commissioners:

Through a competitive grant process, the State of North Dakota Department of Transportation (ND DOT) has awarded the City of Fargo \$187,128 in capital 5310 funds to purchase one expansion bus. The award requires a local match which has been included in the Transit budget.

ND DOT Contract No. 38171108, CFDA No. 20.513 is attached.

The requested motion is to approve ND DOT Contract No. 38171108.

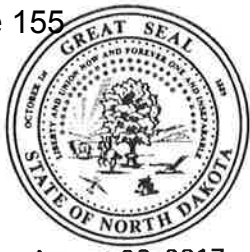
Thank you.

Sincerely,



Julie Bommelman  
Transit Director  
City of Fargo

\Attachment



August 28, 2017

# North Dakota Department of Transportation

Thomas K. Sorel  
Director

Doug Burgum  
Governor

Julie Bommelman, Director  
Fargo Mat Bus  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102

FY 2018 – 5310 FUNDS

Thank you for submitting a 5310 grant application. We are pleased to inform you that we are able to provide funding for your transit agency. The committee has awarded you \$187,128 to purchase an expansion vehicle. Please see Attachment A for the funding breakdown.

Due to the dollar value and State/Federal procurement guidelines, you cannot go directly to a dealership and purchase these vehicles. If the required procurement guidelines are not followed, the Transit Section cannot reimburse your agency for the vehicle. Please contact the DOT for approval prior to ordering this vehicle.

Enclosed is the Contract Agreement. In order to begin the funding process, please:

1. Have your organization's president or chairman sign and date the agreement (under Contractor)—this signature **must be an authorized signatory** for your project,
2. Have a witness sign and date the agreement (under Witness),
3. Complete page 16 of the Additional Federal Clauses,
4. Complete the local match designation,
5. Certification of Restrictions on Lobbying, and
6. Return it to the address listed below at your earliest convenience.

Please return your signed agreement to:

NDDOT/Local Government Division  
Attn: Transit Section  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

If you have any questions or need assistance, please call the Transit Section at (701) 328-2542.

BECKY HANSON – TRANSIT PROGRAM MANAGER

38: bh

Enclosures

c: Chairman, Metro Area Transit Board  
Dan Farnsworth, Transportation Planner, FM Metro COG

**North Dakota Department of Transportation  
SECTION 5310 TRANSIT GRANT AGREEMENT**

**Federal Award Information – To be provided by NDDOT**

CFDA No.: 20.513

CFDA Title: Capital Assistance Program

Award Name: Elderly &amp; Persons with Disabilities Program

Awarding Fed. Agency: FTA

NDDOT Program Mgr.: Becky Hanson Telephone: 701-328-2542

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and City of Fargo hereinafter referred to as the Contractor, whose address is 650 23<sup>rd</sup> St N, Fargo, ND 58102.

WHEREAS, Section 5310 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, provides for capital grants to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and disabled persons for whom mass transportation services are unavailable, insufficient, or inappropriate; and

WHEREAS, the Governor of the state of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select projects and to coordinate the grant applications; and

WHEREAS, NDDOT and the Contractor desire to secure and utilize grant funds for the transportation needs of the elderly and disabled citizens of the state of North Dakota; now

THEREFORE, in consideration of the mutual interests herein set forth, NDDOT and the Contractor agree as follows:

**Section 1. Purpose of Agreement.** The purpose of this agreement is to provide grant funds to purchase vehicles and equipment for use in providing transportation services for the elderly and disabled citizens, hereinafter referred to as the project. The grant amount is \$187,128.

**Section 2. Project Obligation.** The Contractor shall undertake and complete the project as described in the attached Project Description and Budget (Attachment A), and as described in the Contractor's approved grant application, on file with NDDOT.

**Section 3. Period of Performance.** The Contractor shall commence, carry on, and complete purchase of the project vehicles and equipment with all practicable dispatch, in a sound, economical, and efficient manner. This agreement shall begin upon execution of this agreement by both parties and terminate on June 30, 2019.

**Section 4. Project Participation.** Participation in the project costs shall be as indicated in the attached Project Description and Budget. The Contractor will provide sufficient non-federal funds which





together with the grant will pay the project costs. In the event that the actual project costs are less than what is shown in the project budget or if a rebate is given, this reduction in cost shall be applied to the Contractor and NDDOT in proportion to the participation rates of each.

**Section 5. Purchase of Project Equipment.** The purchase of all project equipment financed, in whole or in part, pursuant to this agreement shall be undertaken by the Contractor in accordance with NDDOT's procurement procedures and 49 CFR 18 (Common Rule).

**Section 6. Use of Project Equipment.** The Contractor agrees that the project equipment shall be used for providing transportation service in accordance with the project description in the grant application. Such equipment shall be used for the duration of its useful life. If any project equipment is not used in this manner or is withdrawn from service before the end of its useful life, the Contractor shall immediately notify NDDOT of that condition.

**Section 7. Subcontracting.** The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

**Section 8. Assignments.** Unless authorized in writing by NDDOT, the Contractor shall not assign any portion of the work or equipment and vehicles under this agreement; execute any contract, amendment, or change order thereto; or obligate in any manner with a third party with respect to rights and responsibilities under this agreement.

**Section 9. Subcontract Provisions.** The Contractor shall include in all subcontracts entered into, pursuant to this agreement, all of the above-required sections. In addition, the following statement of financial assistance shall be included in any advertisement or invitation to bid for any procurement under this agreement:

"This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT."

**Section 10. Records and Reports.**

- a. The Contractor shall submit project operational data and information as requested by NDDOT.
- b. The Contractor shall also submit financial statements, data, records, contracts, and other documents related to the project as requested by NDDOT.
- c. All charges to the project account shall be supported by executed invoices, contracts, or vouchers showing the nature of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified; readily accessible; and, to the extent feasible, kept separate and apart from all other such documents.
- d. The Contractor shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

**Section 11. Audit and Inspection.** The Contractor shall permit NDDOT, the comptroller general of the United States, and the secretary of the US Department of Transportation or their authorized



representatives to inspect all vehicles, facilities, and equipment used by the Contractor as part of the project and all relevant project data and records. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

**Section 12. Termination.**

NDDOT reserves the right, with or without cause, to terminate this agreement by written notice. In the event of termination without cause, NDDOT will reimburse the Contractor for costs incurred prior to the termination date without further liability.

**Section 13. Action Upon Termination.** The Contractor agrees to dispose of the project equipment in accordance with 49 CFR 18.32 (Common Rule) and NDDOT's program policy, copies of which will be made available by NDDOT upon request.

**Section 14. Contract Changes.** All modifications of this agreement shall be made in writing and agreed upon by both parties.

**Section 15. Prohibited Interest.** No member, officer, or employee of the Contractor during his tenure or for one year thereafter shall have any personal interest, direct or indirect, in this contract or the proceeds thereof.

**Section 16. Civil Rights.** The following requirements apply to this contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to this contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection



for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**Section 17. Disadvantaged Business Enterprise.** The Contractor will comply with the Disadvantaged Business Enterprise (DBE) requirements established by NDDOT for the project.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. NDDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et. seq.).

The Contractor will include the following paragraph verbatim in any subcontracts they sign relative to this project:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NDDOT deems appropriate.

**Section 18. Other Provisions.** The Contractor acknowledges the following provisions and agrees to cooperate with NDDOT in abiding by them:

Safety Jurisdiction. FTA's authority in the area of transit safety is set forth in section 22 of the Federal Transit Act Amendments of 1991. Under this section, FTA may withhold further financial assistance from any private nonprofit agency recipient who fails to correct any condition which FTA believes "creates a serious hazard of death or injury."

**Section 19. Statement of Financial Assistance.** This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT.



**Section 20. Government-Wide Suspension and Debarment.** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are not excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

**Section 21. Nondiscrimination – Compliance with Laws.** The Contractor agrees to comply with all applicable laws and rules, including, but not limited to, those relating to nondiscrimination, accessibility, and civil rights.

**Section 22. Applicable Law. Indemnity.** Contractor shall comply with all applicable federal, state, and local laws, rules, and ordinances at all times in the performance of this agreement, and conduct its activities so as not to endanger any person or property.

**Section 23. Charter Service Operations.** The Contractor agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

**Section 24. School Transportation Operations.** The Contractor agrees that neither it nor any transit operator performing work in connection with the project will engage in school transportation operations exclusively for the transportation of students or school personnel in competition with private school transportation operators, except as qualified under specified exemptions permitted by 49 USC 5323(f) and FTA regulations, "School Bus Operations" 49 CFR Part 605 and any amendments thereto that may be issued. Any school transportation agreement required by these regulations is incorporated by reference and made part of the grant agreement or cooperative agreement. When operating exclusive school bus service under an allowable exemption, federally funded equipment, vehicles, or facilities may not be used.

**Section 25. Buy America.** (Applies only if purchase is over \$100,000.) The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15-passenger vans and 15-passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

**Section 26. Energy Conservation.** 42 USC 6321 and 49 CFR Part 18. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**Section 27. Bus Testing.** In the purchase of rolling stock the Contractor (manufacturer) agrees to comply with 49 USC 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the bus testing requirements set forth therein.



**Section 28. Pre-Award and Post-Delivery Audit Requirements.** The Contractor agrees to comply with requirements of 49 USC 5323(m) and FTA regulations "Pre-Award and Post-Delivery Audits" of rolling stock purchases 49 CFR Part 663 and any revision thereto.

**Section 29. Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 USC §1601, et. seq.].** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 40 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to NDDOT.

**Section 30. Federal Changes.** Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement (from FTA MA (2) dated October 1995) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**Section 31. Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§7401 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**Section 32. Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et. seq. The Contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**Section 33. Program Fraud and False or Fraudulent Statements or Related Acts.** The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§3801 et. seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the federal government deems appropriate.

**Section 34. Disputes.** 49 CFR Part 18, FTA Cir. 4220.1E. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NDDOT Director. This decision shall be final and conclusive unless within



ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director shall be binding upon the Contractor, and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by NDDOT, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Section 35. Merger and Waiver.** This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

**Section 36. No Obligation by the Federal Government.** The purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**Section 37. Drug and Alcohol Testing** - The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of NDDOT or the NDDOT, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Part 655 before July 1 and to submit the Management Information System (MIS) reports before March 1 to the NDDOT Transit Office, 608 East Boulevard, Bismarck, ND 58505-0700. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**Section 38. Insurance.** The Contractor shall maintain insurance coverage on the project equipment in an amount adequate to protect the fair market value of the equipment throughout the duration of this agreement.

**Section 39. Labor Protection.** The Contractor stipulates it has read and agrees to abide by the provision of the labor protection warranty issued under Section 13C para. 1609 of the Transportation Act of 1964 and the National (Model) Agreement referenced therein.

**Section 40. Contracts Involving Federal Privacy Act Requirements.** The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:



The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC §552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**Section 41. Davis-Bacon And Copeland Anti-Kickback Acts.** The Contractor agrees to comply with the requirements of 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5) for any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating."

**Section 42. Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NDDOT requests which would cause NDDOT to be in violation of the FTA terms and conditions.



**Section 43. Risk Management.** The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

EXECUTED the date last below signed.

WITNESS:

CONTRACTOR:

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

WITNESS:

**NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

APPROVED as to substance by:

\_\_\_\_\_  
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

CLA 17014 (Div. 38)  
L.D. Approved 7-17-89; 8-15





**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that \_\_\_\_\_ will provide non-federal funds, unless expressly allowed by federal regulation to use federal funds as match. The source of the non-federal funds is identified below, as match for the amount the Transit Provider is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided for Transit Provider.** Please designate the source(s) of funds that will be used to match the federal funds obligated for this grant through the North Dakota Department of Transportation.

**Source:**

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

Executed at \_\_\_\_\_, North Dakota, the last date below signed.

**WITNESS:**

**APPROVED:**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\*  
\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\*Director or President of Transit Board

CLA 17014 (Div. 38)  
L.D. Approved 7-17-89; 8-15



**Risk Management Appendix**

**Routine\* Transit Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties: State** – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party 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 and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person and \$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person and \$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, their agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against the Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor 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: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.



Sections 5339/5310/5311, as applicable

CERTIFICATION OF RESTRICTIONS ON LOBBYING

The undersigned (Contractor) certifies, to the best of his or her knowledge and belief that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by A Government wide Guidance for New Restrictions on Lobbying, =61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C., 1352 c (1)-(2) (a), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_  
(Signature of Authorized Official)

\_\_\_\_\_  
(Title of Authorized Official)

**Attachment A**

**Project Name**      **City of Fargo**  
**SFY 2018 (July 1, 2017 - June 30, 2019)**

	Local match percentage	Funding Source Section	TOTAL Federal Share Share	Local Share	Total
<b>Funding Category</b>					
Capital - Vehicle	20	5310	187,128	46,782	233,910
					-
<b>TOTALS</b>			<b>187,128</b>	<b>46,782</b>	<b>233,910</b>

**Purchase 30 ft bus for Expansion**

Notice to Subrecipients: Each Federal program is governed by different regulations. Federal awards have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

CFDA Title	CFDA No.	Title 49 USC Chapter 53 Section	Award Name
Capital Assistance Program	CFDA No 20.513	<b>5310</b>	Elderly and Persons with Disabilities Program
Section 5310 provides for capital grants to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and disabled persons for whom mass transportation services are unavailable, insufficient, or inappropriate			

### **Fly America Requirements**

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

### **Buy America Requirements (Rolling Stock)**

Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000)  
Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11 and as amended by Map-21 (5325). Rolling stock must be manufactured in the US and have a minimum 60% domestic content and adhere to contract term limitations. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

### **Cargo Preference**

Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000). Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

### **Energy Conservation**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)  
Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

### **Clean Water**

Applicability – All Contracts and Subcontracts over \$150,000. Contractor shall comply with all applicable

standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

### **Bus Testing**

Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665, to the extent they are consistent with 49 U.S.C. § 5318(e), as amended; and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

### **Pre-Award & Post Delivery Audit Requirements**

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

- 1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:
  - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
  - B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
  - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
  - D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

### **Lobbying**

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$150,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

### **Access to Records and Reports**

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized

FTA does not require the inclusion of these requirements in subcontracts.

### **Federal Changes**

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)  
Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

### **Clean Air**

Applicability – All contracts over \$150,000.

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

### **Contract Work Hours & Safety Standards Act**

Applicability – Contracts over \$150,000

- (1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.
- (4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

### **No Government Obligation to Third Parties**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)  
Additional Federal Clauses - 5310 Contract - CLA17014 Page 4 | 19



(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### **Termination**

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination.

Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from

Additional Federal Clauses - 5310 Contract - CLA 17014 Page 6 | 19

Page 175 contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

#### **Government Wide Debarment and Suspension (Non Procurement)**

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as  
Additional Federal Clauses - 5310 Contract - CLA17014 Page 7 | 19

adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov,.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov,.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

### **Contracts Involving Federal Privacy Act Requirements**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **Civil Rights Requirements**

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d)

National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and  
2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c)

Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including:

(a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations,

Page 179 "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

### **Breaches and Dispute Resolution**

All contracts over \$150,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance  
Additional Federal Clauses - 5310 Contract - CLA17014 Page 11 | 19

of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Disadvantaged Business Enterprise**

Contracts over \$3,500 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

### **Prompt payment**

Applicability -- All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)



The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

### **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

### **Other Federal Requirements**

The following requirements are not federal clauses.

### **Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

### **Prohibition Against Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

### **Conformance with ITS National Architecture**

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

### **Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### **Notification of Federal Participation**

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

### **Ineligible Contractors and Subcontractors**

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### **Other Contract Requirements**

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

### **Compliance with Federal Regulations**

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Real Property**

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Access to Services for Persons with Limited English Proficiency**

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

### **Environmental Justice**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)

Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws,

### **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

### **Geographic Information and Related Spatial Data**

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

### **Geographic Preference**

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201 ).

### **Organizational Conflicts of Interest**

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

### **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

#### **Safe Operation of Motor Vehicles**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

#### **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

#### **CFDA number for the Federal Transportation Administration**

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

I, \_\_\_\_\_, hereby certify  
(Name and title of official)

On behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

*This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.*

*The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.*

Name of Bidder/Company Name \_\_\_\_\_

Type or print name \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_ Date / /

Signature of notary and SEAL \_\_\_\_\_

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

- (1) It will comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,
- (2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
    - (1) Debarred,
    - (2) Suspended,
    - (3) Proposed for debarment,
    - (4) Declared ineligible,
    - (5) Voluntarily excluded, or
    - (6) Disqualified,
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    - (2) Violation of any Federal or State antitrust statute, or
    - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,

- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
  - (1) Equals or exceeds \$25,000,
  - (2) Is for audit services, or
  - (3) Requires the consent of a Federal official, and
  
- g. It will require that each covered lower tier contractor and subcontractor:
  - (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
  - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
    - a. Debarred from participation in its federally funded Project,
    - b. Suspended from participation in its federally funded Project,
    - c. Proposed for debarment from participation in its federally funded Project,
    - d. Declared ineligible to participate in its federally funded Project,
    - e. Voluntarily excluded from participation in its federally funded Project, or
    - f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

---

Certification

Contractor \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date     /     /

Name and Title of Contractor's Authorized Official

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







## Record of Meeting

SRF No.10557

- Location:** SRF Consulting Group – Great Plains Conference Room, Case Plaza Building  
One North Second Street, Suite 226  
Fargo, ND 58102
- Client:** City of Moorhead/Metro COG
- Date:** Wednesday, August 16, 2017
- Subject:** SRC Meeting Moorhead ADA Transition Plan
- Attendees:** SRF Consulting Group – Jake Nordick, Cindy Gray, Kevin LaRue, Jamie Wark, Jim Gersema, Joe Kapper, Sarah Schweiger, City of Moorhead – Tom Trowbridge, Jonathan Atkins, Lori Van Beek, FM Metro COG – Bill Christian, Freedom Regional Center – Jerry Christiansen, FHWA – Richard Duran

### Summary of Meeting

The second monthly Moorhead ADA Transition Plan SRC meeting was held Wednesday, August 16 to discuss the status of project in relation to schedule, research approach to field survey and policy review and public outreach.

### Schedule

Jake Nordick discussed the schedule for the project. Currently the project is on track with policy review, development of the sidewalk and curb ramp survey underway. Pedestrian and volume counts will begin once the 2017 school year begins near the end of August/beginning of September.

### Phase I – Research Approach to Field Survey and Policy Review

Status of appointing ADA Coordinator

The city of Moorhead's process of hiring an ADA Coordinator is on-going. Jonathon Atkins stated the City is unsure of a timeframe on a decision to fill the position. The possibility exists that the city may hire an Assistant City Manager who will oversee the ADA Transition Plan's development. In the meantime, Jonathan Atkins will act as the coordinator in the meantime. MATBUS has completed a new complaint form and will email the form onto Metro COG, City of Moorhead and SRF.

Review of existing City of Moorhead policies and procedures

Joe Kapper stated information currently on the City of Moorhead's website in regards to civil right complaints is sufficient. Individuals looking to access the civil rights compliant form can be directed

to the information on the website. The current complaint form is similar to a Human Resources (HR) form that a city employee would use. The complaint form needs to be modified so it is more useful and directly relates to public right-of-way (ROW) and can be used by the public. Jonathan Atkins asked Lori Van Beek if the MATBUS form could be used as the basis for a revised complaint form. SRF can draw from the new MATBUS compliant form and use as a guideline for consistency for the City of Moorhead.

The previous ADA Transition Plan has project prioritization language that will need to be reworded. Language regarding direct routes may not be compliant with ADA as we understand it today. Aside from the bus shelter maintenance policy sent by MATBUS, SRF wants to make sure there are no interagency agreements with other groups outside the City making the city responsible for ADA facilities. Jonathan Atkins stated the City has an agreement with MnDOT in regards to maintenance of traffic signals. The City is responsible for repairs and on-going maintenance (replacement of damaged components), but not capital purchases. MnDOT provides bases, posts, etc., from spares inventories, but city is providing labor and technical assistance for those repairs. The City will be the point of contact for any repairs that will be needed. Tom Trowbridge stated the City's agreement with MnDOT in regards to maintenance on US Highway 75 and US Highway 10 (street sweeping, snow plowing, etc.) including sidewalks and trails. The City calls adjacent property owners when complaints are received. The City should provide a winter policy for winter sidewalk maintenance. In the downtown area, downtown businesses pool their resources and handle a portion of the snow removal as a group. Bike paths remain the responsibility of the City. From properties are responsible for snow removal. The City hires a private contractor to remove snow from railroad crossings. Research is needed to determine the City's policies regarding medians and snow removal of crossings whether there are medians in the streets.

#### Policy Review Memo

Joe Kapper stated he will develop a policy review memo as part of the Moorhead ADA Transition Plan.

#### Field Survey Data Fields

Priority Areas – Tom Trowbridge requested collector/arterial roadways be added to the Priority Areas figure. The need to improve coordination between bike paths and streets is need to identify appropriate landing tie-in locations. Additionally, it was suggested MATBUS bus stop signs be added to the Priority Areas figure as well. Jamie Wark will work with MATBUS to gather GIS information.

Review of Current ADA Inventory (GIS) – A spot check of “good” curb ramps is desired to determine if original data collection methods were consistent. It is assumed curb ramps that are identified as “fair” likely mean the location isn't entirely compliant.

Windshield Survey vs. Data collection – Jim Gersema stated there are no special data fields that are required by federal regulations. SRF has been following guidance that has been available through previously completed ADA transition plans.

Data Entry Fields – City policy on gaps in sidewalk coverage was discussed. Also discussed was the area where sidewalk service terminates. Is there an available space for a person with a disability to turn around? The city desires a clear policy on what to do with gaps in service. Are there other options available to the City besides closing the gap between sidewalk services? Lori Van Beek identified the Menards bus stop as an area that has no landing pad for the disabled to use. MATBUS would like to add criteria to the list for transit services. Jim Gersema stated a set of questions will be provided for the transit stops that aren't shown on the list yet. Jim also stated criteria may want to be added for where sidewalks cross railroad tracks.

Railroad Crossing Panels – Jonathan Atkins asked if railroad crossing equipment is required to be ADA compliant. Jim Gersema stated there are two specific ADA requirements at railroad crossings – truncated domes and flangeway width. Joe Kapper stated he will add ADA requirements at railroad crossings to his documentation for the plan as well.

Johnathan Atkins would like to have APS inventoried for push-buttons. GIS information is available through the City. Jonathan will get the information passed along to Jake Nordick. The City would like to know if a ten foot distance is required between push buttons. This relates to the ability to provide a clear message to the pedestrian about which location to cross.

Parking Lots – The city is concerned about parking lots in the City Parks, such as MB Johnson, etc. The question asked appears to be- is there a pathway between the car to the facility? Also, is there an access panel on the passenger side of the vehicle? Ideally it would be most beneficial to have a perpendicular parking situation on both sides of the parking lot. Jonathan Atkins stated for every six ADA parking spaces, one space has to be van accessible. If a parking lot has seven ADA parking spaces, two spaces have to be van accessible.

ESRI Collector App – Jamie Wark described the process in which the previously described developed group of data collection questions will be incorporated into the City's GIS geodatabase and used to create an updated GIS file/database. The updated file/database can then be uploaded into the ESRI Collector App via electronic tablets which allow for data collection and editing of existing ADA facilities on site. Once data collection is complete, an update to date ADA facility file will be used to show the status of compliant ADA sites throughout the City. The updated GIS file/database will also allow for future editing to be performed by City employees.

GIS and Management Database – Jamie Wark discussed a meeting between himself, Jake Nordick, Kevin LaRue and City of Moorhead officials (Brad Anderson and Johnathan Atkins) to discuss the City's GIS database. The City of Moorhead will provide GIS information on ADA facilities within city owned ROW.

### Public Outreach

Focus Groups – Bill Christian stated he would like to be a member of the focus group that is being created for the plan. Lori Van Beek, Jonathan Atkins and Jerry Christiansen also confirmed their participation as part of the focus group. Cindy Gray and Jamie Wark will continue to contact potential focus group members. Approximately 20-30 focus group members has been identified. Once the list of focus group members has been finalized the first focus group meeting will be scheduled to educate the group on the purpose of the project and gather feedback that will help identify sites/locations throughout the city where ADA facilities need improving, are missing services or need additional services.

Project Website – The project website was reviewed by the SRC meeting participants. Coordination between SRF and the City has occurred on development of the website. Once the transition plan is complete, the website can be handed over to City officials to continue to manager if they choose. Once an ADA Coordinator is hired on by the City, his/her name will need to be added to the project website.

Social Media, Wikimap, On-Line Survey – SRF will provide the on-line survey and Wikimap categories to the SRC to review. The on-line survey questions and Wikimap questions/categories will also be reviewed by the Focus Group for their input. Use of the City's social media will be used as a vehicle to provide information about website updates, public input opportunities and draft project materials information for review.

### Next SRC Meeting

The next SRC meeting is tentatively scheduled for mid-September.

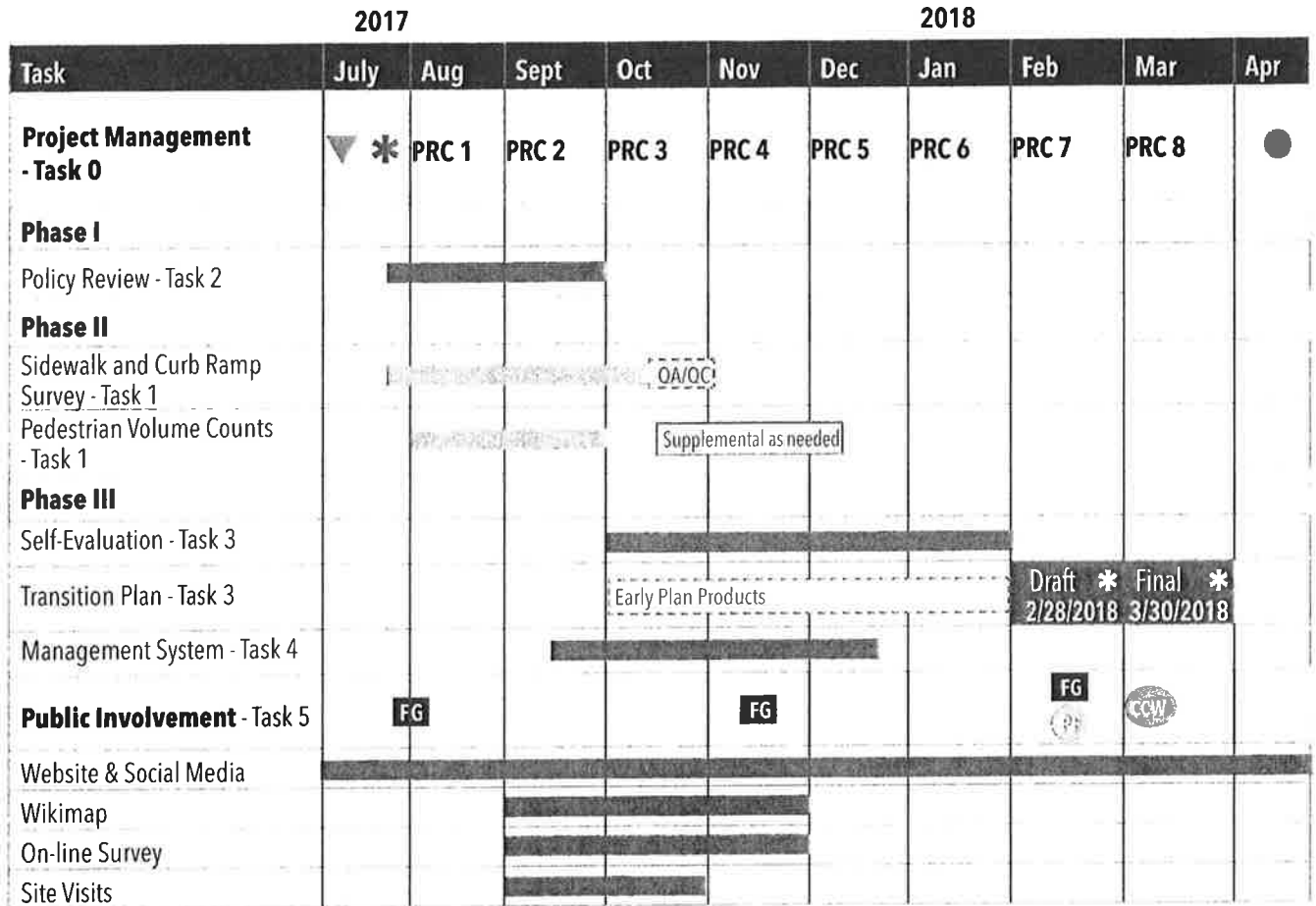
### Actions Needed

Actions Needed	Responsibility
Send new compliant form to City of Moorhead, Metro COG, SRF	MATBUS
Add arterial/collector streets to Priority Areas map	SRF
Provide SRF with MATBUS stop bus data (GIS)	MATBUS
Add Dorothy Todd School to Priority Area map	SRF
Add railroad crossings to Priority Area map	SRF
Add City Park parking lots to Priority Area map	SRF
Provide APS inventory to SRF	City of Moorhead
Finalize Focus Group List & Schedule Focus Group Meeting	SRF
Send On-line survey, wikimap, project website to SRC members	SRF

*E:\Projects\10000\10557\\_Correspondence\Meetings\Meeting Records\170816\_Project Meeting\170824\_SRF Meeting 2.docx*

**Moorhead ADA Transition Plan**  
 SRC Coordination Meeting #1  
 August 16, 2017

Attend	Name	Agency	E-mail	Phone Number
✓	Jonathan Atkins	Moorhead Traffic Engineer	<a href="mailto:jonathan.atkins@ci.moorhead.mn.us">jonathan.atkins@ci.moorhead.mn.us</a>	
✓	Bill Christian	Metro COG	<a href="mailto:christian@mmetrocog.org">christian@mmetrocog.org</a>	
	Rich Duysen	Moorhead Fire Chief	<a href="mailto:rich.duysen@ci.moorhead.mn.us">rich.duysen@ci.moorhead.mn.us</a>	
	Hali Durand	Cass County Emergency Services	<a href="mailto:Durand,Hali&lt;DurandH@casscountymn.gov&gt;">Durand, Hali &lt;DurandH@casscountymn.gov&gt;</a>	
	Steve Moore	Moorhead Public Works	<a href="mailto:steve.moore@ci.moorhead.mn.us">steve.moore@ci.moorhead.mn.us</a>	
✓	Jerry Christlansen	Freedom Regional Center	<a href="mailto:jerryc@freedomrc.org">jerryc@freedomrc.org</a>	
✓	Lori Van Beek	MATBUS	<a href="mailto:lvanbeek@matbus.com">lvanbeek@matbus.com</a>	
✓	Tom Trowbridge	Moorhead Assl. City Engineer	<a href="mailto:tom.trowbridge@ci.moorhead.mn.us">tom.trowbridge@ci.moorhead.mn.us</a>	
✓	Richard Duran	FHWA	<a href="mailto:richard.duran@dot.gov">richard.duran@dot.gov</a>	
	Ranae Tunison	FTA	<a href="mailto:ranae.tunison@dot.gov">ranae.tunison@dot.gov</a>	
	Mike Johnson	NDDOT	<a href="mailto:mjohnson@nd.gov">mjohnson@nd.gov</a>	
	Craig Faul	NDDOT	<a href="mailto:cfaul@nd.gov">cfaul@nd.gov</a>	
	shawn Kuntz	NDDOT	<a href="mailto:skuntz@nd.gov">skuntz@nd.gov</a>	
	Leon Schlafmann	City of Fargo Emergency Manager	<a href="mailto:LSchlafmann@cityoffargo.com">LSchlafmann@cityoffargo.com</a>	
	Mary Safgren	MnDOT	<a href="mailto:mary.safgren@state.mn.us">mary.safgren@state.mn.us</a>	
✓	Jacob Nordick	SRF - Project Manager	<a href="mailto:jnordick@srfconsulting.com">jnordick@srfconsulting.com</a>	701-237-0010
✓	Kevin LaRue	SRF - Task Leader ADA/Field Survey	<a href="mailto:klarue@srfconsulting.com">klarue@srfconsulting.com</a>	701-237-0010
✓	Joseph Kapper	SRF - Task Leader Policy Review/Transition Plan	<a href="mailto:jkapper@srfconsulting.com">jkapper@srfconsulting.com</a>	651-333-4100
✓	Cindy Gray	SRF - Task Leader Public Involvement	<a href="mailto:cgray@srfconsulting.com">cgray@srfconsulting.com</a>	701-237-0010
✓	Sarah Schweiger	SRF - QA/QC Field Survey & Self Evaluation	<a href="mailto:sschweiger@srfconsulting.com">sschweiger@srfconsulting.com</a>	763-475-0010
✓	Jamie Wark	SRF - Task Leader GIS	<a href="mailto:jwark@srfconsulting.com">jwark@srfconsulting.com</a>	701-237-0010
✓	Jim Gersema	SRF - Project Advisor	<a href="mailto:jgersema@srfconsulting.com">jgersema@srfconsulting.com</a>	763-475-0010



= Public Forum

= City Council Workshop

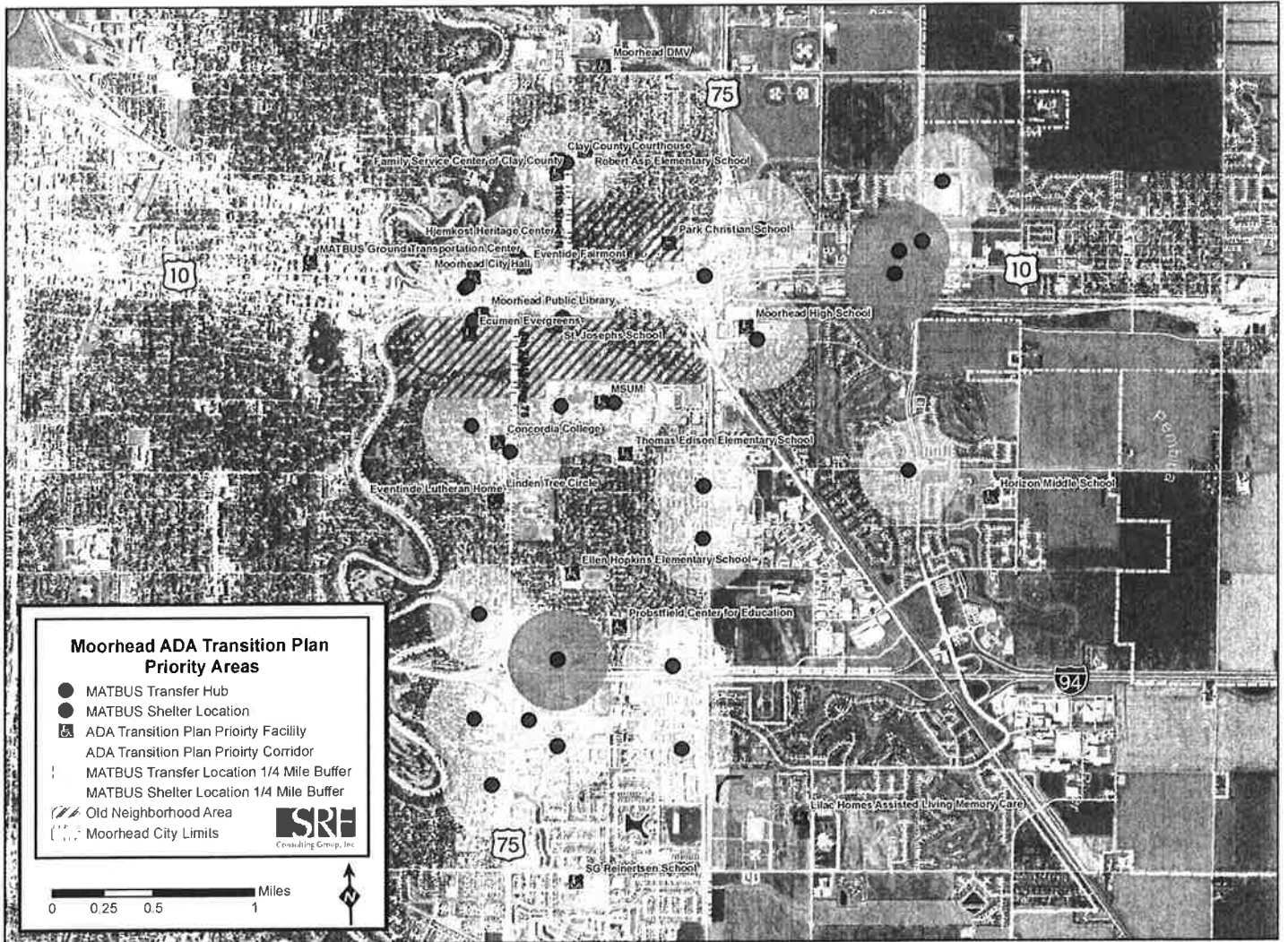
= Focus Group

▼ = Development & Planning 7/1/2017

PRC = Project Review Committee

\* = Kickoff 7/13/2017

● = Final Invoice 4/13/2018





Feature Class	Full Document Question	Short App Question - This Field is Limited to 78 Characters-----	Domain
<b>Crossings</b>	1 If the sidewalk/trail crosses a curb, is there a curb ramp?	1 Is there a curb ramp?	Yes/No
	Is the running slope of the curb ramp no steeper than 1:12, i.e. for every inch of height change there are at least 12 inches of curb ramp run?	1a: Is the running slope less than 8.3%?	Yes/No
	Is the cross slope of the curb ramp, excluding flares, no steeper than 1:48?	1b: Is the cross slope less than 2%?	Yes/No
	Is the curb ramp, excluding flares, at least 48 inches wide?	1c: Is the curb ramp 48in wide or greater?	Yes/No
	2 At the top of the curb ramp is there a landing?	2: Is there a landing?	Yes/No
	Is the landing at least 48 inches long by 48 inches wide?	2a: Is the landing larger than 4' x 4'?	Yes/No
	Is the landing level (slope no steeper than 1:48 in all directions)?	2b: Is the landing slope less than 2% in all directions?	Yes/No
	3 Does the curb ramp have detectable warnings?	3: Does the curb ramp have detectable warnings?	Yes/No
	Are truncated domes present?	3a: Are truncated domes present?	Yes/No
	Do the truncated domes contrast visually with adjacent walking surfaces?	3b: Do the truncated domes contrast visually with adjacent walking surfaces?	Yes/No
	4 Are the ramps compliant?	4: Are the ramps compliant?	Yes/No
		Comment Space	Text

sidewalk	1		1:Choose feature location	Location Drop Down
	2	Is the route stable, firm and slip-resistant?	2:Is the route stable, firm and slip-resistant?	Yes/No
	3	Is the route at least 48 inches wide?	3:Is the route at least 48in wide?	Yes/No
	4	If the route is greater than 200 feet in length and no less than 60 inches wide, is there a passing space no less than 60 x 60 inches?	4:If route >200ft long & <60in wide, is there a 60inx60in passing space?	Yes/No
	5	If there are grates or openings on the route, are the openings no larger than 1/2 inches to the dominant direction of travel?	5:If grates or openings on route, are openings no larger than 0.5in?	Yes/No
	6	Is the long dimension of the grate opening perpendicular to the dominant direction of travel?	6:Is the long dim of the grate opening perpendicular to the dominant direction of travel?	Yes/No
	7	Is the running slope no steeper than 1:20, i.e. for every inch of height change there are at least 20 inches of route run, or not steeper than the parallel roadway?	7:Is running slope no steeper than 5% or the slope of the parallel roadway?	Yes/No
	8	Is the cross slope no steeper than 1:48?	8:Is the cross slope no steeper than 2%?	Yes/No
			Comment Space	Text

<p>APS</p>	<p>1: Is an Accessible Pedesrian Signal(APS) present?</p>	<p>1: Is an Accessible Pedesrian Signal(APS) present?</p>	<p>Yes/No</p>
	<p>Is an Accessible Pedesrian Signal(APS) visually automated?</p>	<p>1a: Is the APS visually automated?</p>	<p>Yes/No</p>
	<p>Is an Accessible Pedesrian Signal(APS) audio automated?</p>	<p>1b: Is the APS audio automated?</p>	<p>Yes/No</p>
	<p>2: Is a pedestrian push button present?</p>	<p>2: Is a pedestrian push button present?</p>	<p>Yes/No</p>
	<p>Is the push button station located within 5 feet of the projected outside edge of the crosswalk?</p>	<p>2a: Is the push button station located within 5ft of crosswalk?</p>	<p>Yes/No</p>
	<p>Is the push button face oriented parallel with the crosswalk?</p>	<p>2b: Is the push button parallel with the crosswalk?</p>	<p>Yes/No</p>
	<p>Is the push button station located between 1.5 feet and 10 feet from the back of curb (measured in the direction of travel)?</p>	<p>2c: Is the push button station located between 1.5ft and 10ft from the back of curb?</p>	<p>Yes/No</p>
	<p>Is there at least 10 feet of separation between push buttons?</p>	<p>2d: Is there at least 10ft of separation between push buttons?</p>	<p>Yes/No</p>
	<p>Is the push button mounted at a height of 42 inches?</p>	<p>2e: Is the push button mounted at a height of 42 in?</p>	<p>Yes/No</p>
	<p>3: Is there a landing adjacent to each push button?</p>	<p>3: Is there a landing adjacent to each push button?</p>	<p>Yes/No</p>
	<p>Is there a level landing (slope no steeper than 1:48 in all directions) that is at least 48 inches long by 48 inches wide?</p>	<p>3a: Is the landing 4' X 4' and level?</p>	<p>Yes/No</p>
	<p>Is a 4 foot PAR (Pedestrian Access Route) maintained?</p>	<p>3b: Is a 4 foot PAR maintained?</p>	<p>Yes/No</p>
		<p>Comment Space</p>	<p>Text</p>

Parking Lot	1 If parking is provided for the public, are an adequate number of accessible spaces provided?	Are an adequate number of accessible spaces provided?	Yes/No
	2 Are accessible spaces at least 8 feet wide with an adjacent access aisle at least 8 feet wide?	Are accessible spaces at least 8' wide with an access aisle at least 8' wide?	Yes/No
	3 Of the accessible spaces, is at least		Yes/No
	4		Yes/No
	5		Yes/No
	6		Yes/No
	7		Yes/No
		Comment Space	Text

## **APPENDIX B- PRIORITY AREAS**

The following criteria have been used to establish the priority levels:

Highest priority -- Category 1A:

- No curb ramp where sidewalk or pedestrian path exists and location near a medical center, school, Metro Green Line Station, government building, or similar facility.

Category 1B:

- Existing curb ramp with running slope greater than 12% and location near a medical center, school, METRO Green Line Station, government building, or similar facility.

Category 2A:

- No curb ramp where a sidewalk or pedestrian path exists (not located near a medical center or similar facility).

Category 2B

- An existing curb ramp with a running slope greater than 12% (not located near a medical center or similar facility).

Category 3:

- No curb ramp where a striped crosswalk exists.

Category 4:

- One curb ramp per corner and another is needed to serve the other crossing direction.

Category 5A:

- An existing curb ramp with either a running slope greater than 1 to 12 or an insufficient landing.

Category 5B:

- An existing curb ramp with obstructions in the ramp or the landing.

Category 5C:

- An existing curb ramp with any of the following conditions:
  - A cross slope greater than 3%
  - A width less than 36 inches
- No flush transition or median or island crossings that are inaccessible.

Category 5D:

- An existing curb ramp with returned curbs where pedestrian travel across the curb is not permitted.

Category 5E:

- An existing diagonal curb ramp without the 48 inch extension in the crosswalk.

Category 5F:

- An existing curb ramp without truncated dome texture contrast or without color contrast.

Lowest Priority – Category 6:

- The pedestrian push button is not accessible from the sidewalk or from the ramp.



18

## Office of the City Attorney

City Attorney  
Erik R. Johnson

September 7, 2017

Assistant City Attorney  
Nancy J. MorrisBoard of City Commissioners  
City Hall  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102**RE: Approval of Quit Claim Deed—Dakota Land Second Addition**

Dear Commissioners:

This matter is purely for the purpose of correcting a clerical error on a plat that was recorded in 2004. Enclosed for your review and approval is a quit claim deed from the city of Fargo to the personal representatives of the Estate of Harold L. Newman, deceased. The subject parcel is located at the intersection of 17<sup>th</sup> Avenue South and 35<sup>th</sup> Street (1655 35<sup>th</sup> Street South). If I recall correctly, the City acquired this parcel, along with other land, from the owner of the old water slide in order to accommodate the extension of the right-of-way for 17<sup>th</sup> Avenue South to the west (under Interstate 29). This subject parcel remained after the right-of-way was dedicated and a City lift station was installed on the westerly edge. Approximately six months after Mr. Newman purchased this subject parcel, the land was platted, as Dakota Land Second Addition and, by clerical error, the plat reflected that the City was still in ownership of this subject parcel—Lot One, Block One. The enclosed quit claim deed will correct the clerical error.

**SUGGESTED MOTION:** I move to approve the quit claim deed of Lot One, Block One, Dakota Land Second Addition, from the city of Fargo to the personal representatives of the Estate of Harold L. Newman, as submitted.

Sincerely,

A handwritten signature in black ink, appearing to be "ERJ", written over a horizontal line.

Erik R. Johnson

ERJ/lmw

Enclosure



**QUIT CLAIM DEED**

THIS INDENTURE, Made this \_\_\_\_\_ day of \_\_\_\_\_, 2017, between the City of Fargo, a North Dakota municipal corporation, GRANTOR, and Mary E. Newman and Kari N. Ness, as Co-Personal Representatives of the Estate of Harold L. Newman, deceased, GRANTEE, whether one or more, whose post office address is c/o Kari Newman-Ness, P.O. Box 1728, Jamestown, North Dakota 58402.

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations GRANTOR does hereby QUIT CLAIM to the GRANTEE all of the following real property lying and being in the County of Cass, and State of North Dakota, and described as follows, to-wit:

Lot 1 in Block 1 of Dakota Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota.

IN TESTIMONY WHEREOF, The said GRANTOR has caused these presents to be executed in its corporate name by its Mayor and attested by its City Auditor.

The City of Fargo, a North Dakota municipal corporation

\_\_\_\_\_  
BY: Timothy J. Mahoney  
ITS: Mayor

ATTEST:

\_\_\_\_\_  
BY: Steven Sprague  
ITS: City Auditor







19

Office of the City Attorney

City Attorney  
Erik R. Johnson

Assistant City Attorney  
Nancy J. Morris

September 7, 2017

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

**Re: 726 Hackberry Drive South**

Dear Commissioners:

Presented to you today for your consideration is a Purchase Agreement for the property located at 726 Hackberry Drive. As you may recall, this property was subject to negotiations in Executive Session almost a year ago. Since that offer was made, the homeowner made a counter offer, prompting a meeting initiated by Mayor Mahoney with the homeowners to explore possible acquisition short of commencing the Eminent Domain action authorized by Resolution of this Commission on March 27, 2017. A meeting was held with the homeowners on August 7, 2017. This discussion was very productive and resulted in the negotiated Purchase Agreement presented to you for approval. This negotiated amount takes into account the passage of time and a reasonable adjustment to the appraised value for market conditions, as the appraiser has suggested would be appropriate due to the age of the appraisal. The homeowners were advised that this agreement is contingent on City Commission approval, and is being presented to you on the Mayor's recommendation.

**SUGGESTED MOTION:** I move to approve the acquisition of the property located at 726 Hackberry Drive South, Fargo, ND in accordance with the terms of the attached Purchase Agreement.

Please feel free to contact me with any questions or concerns.

Regards,

A handwritten signature in black ink, appearing to read "Nancy J. Morris".

Nancy J. Morris

Enclosure



**PURCHASE AGREEMENT**

**THIS AGREEMENT**, made and entered into by and between **LARRY G. STRANDE** and **SHARON R. STRANDE**, hereinafter "Seller", and the **CITY OF FARGO, NORTH DAKOTA**, a 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:

Lot Four (4), Block Three (3), Harwood Groves Addition to the City of Fargo.

(Address of said property is 726 Hackberry Drive South, Fargo, North Dakota).

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

**WHEREAS**, Seller has indicated a desire to sell the real estate; 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, consisting of a single family dwelling, other buildings located thereon, and, except as otherwise provided in this Agreement, all items affixed to the property. Seller shall be allowed to remove some items from the property, as agreed to by the parties, so long as no structural damage is incurred and the removal is accomplished in the least destructive means possible, in a professional manner, and engaging a professional contractor if necessary.
2. **Purchase Price**. The purchase price is Nine Hundred Fifty-four Thousand Seven Hundred Fifty Dollars (\$954,750).
3. **Payment of Purchase Price**. The mortgage, if any, as well as any liens or encumbrances (other than real estate taxes and special assessments for which Buyer is responsible under this Agreement), 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 the items identified on Exhibit A, at no cost to Seller. City further allows Seller to salvage those items identified in Exhibit B in exchange for payment in an amount to be determined using recognized salvage value reference materials. City shall provide a cost for each item, as so determined, and Seller shall provide a list of

all items removed from the house and make payment to City. Seller shall remove all items in a professional manner, and engage a contractor if necessary. Seller agrees to remove all salvage 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 (payable the year following closing) shall be prorated between the parties to the date of closing based upon the prior year's tax statement. Prior year taxes and assessments must be paid by Seller in advance of closing.

7. Deed. Seller shall sign a warranty deed 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. In no event shall closing take place any later than December 31, 2017. Seller shall deliver possession of the real estate no later than the last day of the month of closing, unless other arrangements have been made. If Seller does not deliver 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 delivered to Buyer in satisfactory condition. Seller agrees the \$1,000 deposit may be forfeited if the property is not delivered in such 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 \$1,500/month beginning on the 1<sup>st</sup> day of the month following closing. 2% of the purchase price shall be retained until such time Seller vacates the premises and remits the garage door openers and keys to the City.

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.

DATED this 23 day of August, 2017.

SELLER:



Larry G. Strande



Sharon R. Strande

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

BUYER:

CITY OF FARGO, NORTH DAKOTA  
a municipal corporation

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

Exhibit "A"

1. Washer
2. Dryer
3. Double Oven
4. Refrigerator
5. Dishwasher
6. Cooktop
7. Microwave

Exhibit "B"

1.	Dining Room Cabinets	\$200.00
2.	3 Pendant Lights in Kitchen	\$3.80 each – Total = \$11.40
3.	2 Closets in Master Bedroom	\$63.50 each – Total = \$127.00

September 7, 2017

(20)

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

**Re: 3842 River Drive South – Purchase Agreement Project #MS-15-K0**

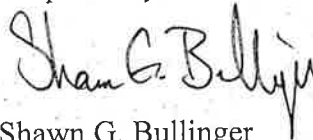
Dear Commissioners:

Enclosed and delivered to the City Commission office for review and approval please find an original copy of a Purchase Agreement for property located at **3842 River Drive South** signed by James E. Simonson. 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 **3842 River Drive South** in association with Project #MS-15-K0 and that the Mayor and City Auditor be instructed to execute the Purchase Agreement on behalf of the City of Fargo.

Please return signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Jody Bertrand  
Mark Bittner  
Nancy J. Morris



**PURCHASE AGREEMENT**

**THIS AGREEMENT**, made and entered into by and between **JAMES E. SIMONSON, AS TRUSTEE OF THE JAMES E. SIMONSON REVOCABLE LIVING TRUST DATED MARCH 9, 2011**, hereinafter "Seller", and the **CITY OF FARGO, NORTH DAKOTA**, a 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:

Lot Seventeen (17), Block Six (6), Burritt-Kennedy Addition to the City of Fargo.

(Address of said property is 3842 River Drive South, Fargo, North Dakota).

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

**WHEREAS**, Seller has indicated a desire to sell the real estate; 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, consisting of a single family dwelling, other buildings located thereon, and, except as otherwise provided in this Agreement, all items affixed to the property. Seller shall be allowed to remove some items from the property, as agreed to by the parties, so long as no structural damage is incurred and the removal is accomplished in the least destructive means possible, in a professional manner, and engaging a professional contractor if necessary.

2. Purchase Price. The purchase price is Six Hundred Thirty-eight Thousand Dollars (\$638,000).

3. Payment of Purchase Price. The mortgage, if any, as well as any liens or encumbrances (other than real estate taxes and special assessments for which Buyer is responsible under this Agreement), 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 the light fixture over the pool table, at no cost to Seller. Seller shall remove this item in a professional manner, and engage a contractor if necessary. Seller agrees to remove such item 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 or expressly assumed by Buyer pursuant to this Agreement).

6. Taxes and Utilities. Taxes and installments of special assessments for the year of closing (payable the year following closing) shall be prorated between the parties to the date of closing based upon the prior year's tax statement. Prior year taxes and assessments must be paid by Seller in advance of closing. Buyer assumes all other taxes and assessments.

7. Deed. Seller shall sign a warranty deed prepared by Buyer and reasonably acceptable to Seller, which warranty deed shall provide the following as exceptions from warranties of title: (a) real estate taxes and installments of special assessments not yet due and payable; (b) easements, reservations, restrictions, covenants and the like of record; (c) zoning, land use, building and similar ordinances of the City; (d) mineral reservations by anyone other than Seller; and (e) any other matters not objected to by Buyer after examination of the Abstract. 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 as soon as possible, but not later than December 31, 2017. Seller shall deliver possession of the real estate no later than the last day of the month of closing, unless other arrangements have been made. If Seller does not deliver 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 delivered to Buyer in the condition required under this Agreement. Seller agrees the \$1,000 deposit may be forfeited if the property is not delivered in such condition.

If Seller vacates prior to closing, Seller shall safeguard the home prior to closing so no damage from temperature or the elements occurs. If Seller vacates after closing, Seller shall safeguard the home prior to vacation so no damage from temperature or the elements occurs, and Seller shall immediately notify Buyer when Buyer vacates so that appropriate measures can be taken by Buyer to secure the premises. City Engineer's office shall be entitled to walk through the property in conjunction with the closing to confirm Seller's compliance with the terms of this Agreement. If vacation occurs after closing, Seller shall schedule a walkthrough with the City Engineer's office at the time of vacation of the property to confirm Seller's compliance with the terms of this Agreement.

9. AS-IS. Buyer acknowledges that except as expressly provided otherwise herein with respect to warranties of title: Buyer is purchasing the Property without warranty or representation by Seller of any kind or nature; and Buyer is purchasing the Property in an AS-IS, WHERE-AS, WITH-ALL- FAULTS-AND-VIRTUES condition. Upon reasonable advance notice to Seller, Buyer may make any inspection or tests and take such photographs of the property it deems necessary concerning the physical condition of the property (e.g. presence of asbestos or lead-based paint, structural condition, etc.), provided such inspections are for informational purposes and the results of such inspections or any conditions discovered during such inspections shall not be deemed a contingency

or otherwise affect Buyer's obligations to close.

10. In-Lieu of Taking. The parties acknowledge and recognize this Agreement, and the transactions contemplated thereby, are made under imminent threat of eminent domain by City as to all of the property.

DATED this 5 day of SEPT, 2017.

SELLER:

James E. Simonson  
James E. Simonson, As Trustee of the  
James E. Simonson Revocable Living Trust

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

BUYER:

CITY OF FARGO, NORTH DAKOTA  
a municipal corporation

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

September 7, 2017

(21)

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, North Dakota

Re: Black Building Sign Encroachment at 114 Broadway

Honorable Commissioners,

Planning Commission approved Conditional Use Permit to allow an iconic sign for the Black Building at 114 Broadway on September 5. The applicant states that the impact of the new sign will highlight the restoration and renovation of the building giving residents and visitors a new exciting element to the streetscape. In addition, reincorporating the sign will also allow pedestrians to gain a better sense of what the streetscape on Broadway felt like in the middle of the 20<sup>th</sup> Century. The proposed sign would be placed on the Black Building.

Staff has reviewed the request and is supportive of granting the request with the following standard provisions:

- The Encroacher agrees to hold the City harmless against any and all expenses, demands, claims or losses sustained by the City by use of the public right of way by the Encroacher. The Encroacher must provide the City a Certificate of Insurance indicating acceptance by the Insurer of its obligation to defend and hold harmless the City.
- Application fee for the encroachment in the amount of \$500.
- Agreement expires upon sale or transfer of the property.

**Recommended Motion:**

Move to approve the sign encroachment agreement for the historical replica sign for the Black Building.

Respectfully,



Kristy Schmidt  
Project Engineer

**Attachments**

C: Nancy Morris  
Brenda Derrig

**ENCROACHMENT AGREEMENT**

**THIS AGREEMENT** (the “Agreement”), made and entered by and between the **CITY OF FARGO, NORTH DAKOTA**, a municipal corporation (the “City”), and **DFI BLACK BUILDING LLC**, a North Dakota limited liability company.

**WITNESSETH:**

**WHEREAS**, Owner owns the following-described real estate (the “Property”):

Lot Four (4), Block Two (2) of Roberts Addition to the City of Fargo, Cass County, North Dakota.

Street Address: 114 Broadway North, Fargo, North Dakota.

**WHEREAS**, Owner intends to erect a marquee sign on the Property; and

**WHEREAS**, a portion of the intended marquee sign will extend into the City right-of- way, at a height approximately 25’ above the City sidewalk adjacent to Owner’s property; and

**WHEREAS**, the Encroachment Area is legally described as follows:

That part of Broadway N. right-of-way adjacent to the south 5.00 feet of the north 13.00 feet of Lot Four (4), Block Two (2) of Roberts Addition and extending 7.00 feet to the east and parallel to the west property line of said Lot Four (4), Block Two (2) of Roberts Addition to the City of Fargo, Cass County, North Dakota.

Said tract contains 35.00 square feet, more or less (the “Encroachment Area”).

**WHEREAS**, City agrees to allow Owner to erect an aerial encroachment in the City right-of-way in accordance with the terms and conditions stated herein.

**NOW, THEREFORE**, for and in consideration of the payment of \$500 from Owner to City, the receipt and sufficiency of which is hereby acknowledged by the City, it is hereby agreed by and between the parties as follows:

1. Owner is hereby granted the right to encroach on the City right-of-way to the extent of the Encroachment Area, at a height no less than 25' from the paved surface.
2. It is the intent of this Agreement that the Owner may encroach on the City right-of-way, but only to the extent that an aerial sign is located within the Encroachment Area.
3. No greater encroachment shall be allowed.
4. It is understood and agreed by and between the parties that Owner is responsible for the repair or replacement of any public property which may be damaged or destroyed as a direct or indirect result of the use of the Encroachment Area. Owner agrees to accept all maintenance responsibility for the surface of the Encroachment Area, and the encroaching sign.
5. Owner agrees to hold the City harmless from and against any and all expenses, demands, claims or losses of any kind that may be sustained by City, its officers, agents and employees, its property, streets, sidewalks, or any other municipal improvements by reason of the use of the Encroachment Area. Owner agrees to provide to the City a certificate of insurance indicating acceptance by its insurer of its obligation to hold the City harmless as hereinabove stated.
6. This Agreement is personal to Owner and cannot be sold, transferred or otherwise assigned. This Agreement shall immediately terminate upon Owner's sale, transfer or assignment of the Property. However, City may agree to enter into a similar encroachment agreement with the

subsequent owner with substantially the same terms as contained herein, such permission to not be unreasonably withheld.

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

8. It is specifically understood and agreed that the City retains authority to operate and maintain existing above-ground and underground municipal facilities, if any, in the Encroachment Area. In the event the City needs to permanently restore the Encroachment Area to public use, City will provide Owner written notice not less than ninety (90) days in advance to remove the encroachment permitted herewith.

9. It is specifically agreed between the parties that a copy of this Encroachment Agreement may be recorded.

10. The City's annual encroachment fee is waived.

(The remainder of this page intentionally left blank.)







REPORT OF ACTION

22

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Approval of Quote to Install Fencing Under Bridge

Location: 1st Ave N Bridge at the Red River

Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed a communication from Jeremy Gorden regarding a request from the Fargo Police Department to install fencing under the 1st Avenue North Bridge. Apparently, Fargo PD has been called out numerous times to this location for various incidents. They would like efforts to be made to make it harder for individuals to gather or create encampments.

Ben Dow, Director of Operations indicated that his staff has also been called upon to remove encampments, couches and various other items from this area.

It was discussed that this bridge is unique in its design because there are two independent bridges side by side and the piers are staggered providing for a sheltered environment. It is also located in the downtown area. During recent construction projects in the area, the traveling public was removed from the area for extended periods allowing for an additional seclusion that was apparently inviting to those who are using this space. All of these factors intensify the need for fencing at this location. However, there are other bridges that could benefit from fencing. This location should be considered the template design that could be implemented elsewhere as needed. Staff solicited 3 quotes to complete this work and received only one back, from Dakota Fence in the amount of \$73,898.

On a motion by Tim Mahoney, seconded by Mark Bittner, the Committee voted to approve the quote from Dakota Fence and use Sales Tax funds as the funding source.

RECOMMENDED MOTION

To approve the quote from Dakota Fence in the amount of \$73,898 to install fencing under the 1st Avenue N bridge at the Red River.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax Funds

	<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>


PWPEC ROA  
6/12/17 -- Page 2

COMMITTEE

Tim Mahoney, Mayor  
Jim Gilmour, Director of Planning  
Steve Dirksen, Fire Chief  
Mark Bittner, Director of Engineering  
Bruce Grubb, City Administrator  
Ben Dow, Director of Operations  
Steve Sprague, City Auditor  
City Engineer  
Kent Costin, Finance Director

Present	Yes	No	Unanimous
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
Brenda Derrig, P.E.  
Division Engineer



## ITEM 8

## ENGINEERING DEPARTMENT

200 3rd Street North  
Fargo, North Dakota 58102  
Phone: (701) 241-1545  
Fax: (701) 241-8101  
E-Mail: feng@cityoffargo.com

## Memo

September 1, 2017

To: Members of PWPEC

From: Jeremy Gorden, P.E., PTOE  
Division Engineer - Transportation

Subject: Approval of Quote for Fencing Project under the 1<sup>st</sup> Avenue N Bridge at Red River

If you recall, we discussed the 1<sup>st</sup> Avenue N bridge at our June 12 meeting and the issue that our Police Department is having with people under the bridge near the bridge abutments. At that meeting our direction was to request quotes from fencing vendors and return to this committee for additional discussion.

Engineering staff asked for quotes from three (3) fencing contractors to install custom fabricated galvanized steel fencing on the south side and underneath the bridge.

We received only 1 quote for the fencing, and it was from Dakota Fence, in the amount of \$73,989.

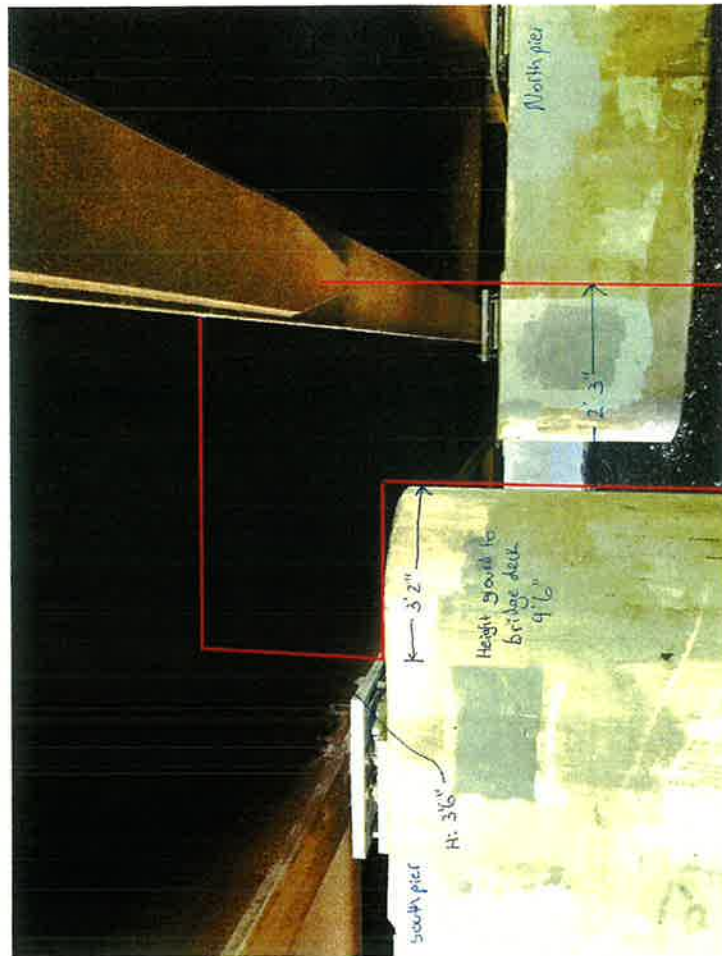
I'd like to have PWPEC approve the quote from Dakota Fence in the amount of \$73,989 so they can get started on project, as we asked for a project completion date of October 31. I would also recommend the funding source for this project be Sales Tax funds.

**Recommended Action:**

Approve the quote from Dakota Fence in the amount of \$73,989 to install custom fencing under the 1<sup>st</sup> Avenue N bridge.

JMG/klo  
Attachments









REPORT OF ACTION

23

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Release of Permanent Easement

Location: Maier First Subdivision

Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	9/11/2017
PWPEC File	X
Project File	Shawn Bullinger

The Committee reviewed communication from Land Acquisition Specialist, Shawn Bullinger regarding a need to relinquish an existing levee easement that was previously acquired, yet should have been designated as a street and utility easement. The new street and utility easement has been recorded and we are looking to release the levee easement.

Staff is recommending approval.

On a motion by Kent Costin, seconded by Bruce Grubb, the Committee voted to recommend approval of the release of permanent easement.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the release of permanent easement.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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)

<u>Yes</u>	<u>No</u>
<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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Gilmour, 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"/>	Ryan Erickson
Mark Bittner, Director of Engineering	<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"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Kent Costin, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda E. Derrig, P.E.  
 Division Engineer





# Memorandum

**To:** Members of PWPEC  
**From:** Shawn G. Bullinger, Land Acquisition Specialist *SGB*  
**Date:** August 21, 2017  
**Re:** Release of Permanent Easement – Jonathan B. Offutt & Marie T. Offutt

---

In November of 2010 an easement was recorded (Doc. #1310806) from Marie T. Offutt and Jonathan B. Offutt to the City of Fargo for the South Acres Levee project #5906. As you can see in the attached map this easement should have been acquired for street and utility purposes rather than levee. The Offutt's have signed a new easement for street and utility purposes which was recorded on August 11, 2017 (Doc. #1517860). The attached Release of Permanent Easement will release the previously recorded document (Doc. #1310806).

**Recommended Motion:**

Approve Release of Permanent Easement for Marie T. Offutt and Jonathan B. Offutt.

Attachments

C: Mark Bittner  
Nancy Morris



**Release of Permanent Easement**  
(Dike or Levee (slope) for Flood Control)  
Document #1310806

On or about November 19, 2010, **Marie T. Offutt** and **Jonathan B. Offutt** (“Grantor”) granted the **City of Fargo**, a North Dakota municipal corporation (“Grantee”) a permanent and perpetual easement for the purpose of laying, constructing and maintaining an earthen dike or levee for flood control, recorded as Document #1310806, over the following described property:

A part of Lot 6 and the West 10 feet of Lot 5, Block 2, MAIER FIRST SUBDIVISION as platted and recorded in the Cass County Recorder's office and located within the Southeast Quarter (SE¼) of Section 36, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows: The south 13.00 feet of said Lot 6, along with the south 13.00 feet of the westerly 10.00 feet of said Lot 5.

Said parcel contains 1,430.00 square feet or 0.03 acres, more or less.

Grantee hereby consents to, and does hereby release, any and all interest of the City in the Dike or Levee (slope) for Flood Control Easement, and does, by this instrument, release the Grantor, or Grantor's successors-in-interest, from the easement established by the Dike Easement instrument (Document No. 1310806).

The Mayor and City Auditor are hereby authorized to execute on behalf of the City of Fargo any other such instrument as may be necessary to effect the terms of this Release of Easement, if any.

IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this \_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY OF FARGO**, a North Dakota  
a municipal corporation,

\_\_\_\_\_  
Timothy J. Mahoney, Mayor

ATTEST:

\_\_\_\_\_  
Steven Sprague, City Auditor

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

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me, a notary public in and for said county and state, personally appeared **Timothy J. Mahoney** and **Steven Sprague**, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, a North Dakota, municipal corporation, described in and that executed the within and foregoing instrument, and acknowledged that said municipal corporation executed the same.

(SEAL)

\_\_\_\_\_  
Notary Public  
Cass County, ND

The legal description was obtained from a previously recorded document.

This document was prepared by:  
Nancy J. Morris  
Assistant City Attorney  
Erik R. Johnson & Associates, Ltd.  
505 Broadway N., Ste. 206  
Fargo, ND 58102  
(701) 280-1901  
nmorris@lawfargo.com



OFFICE OF THE CITY ATTORNEY

1310806  
Page: 1 of 3  
11/23/2010 11:21 AM  
EASE \$16.00

RECORDER'S OFFICE, CASS COUNTY, ND  
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.  
JEWEL A. SPIES, COUNTY RECORDER

11/23/2010 11:21 AM

by Teresa A. Furlug, Dep 1310806



**PERMANENT EASEMENT**  
**(South Acres Dike for Flood Control)**

KNOW ALL MEN BY THESE PRESENTS that MARIE T. OFFUTT and JONATHAN B. OFFUTT, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid, the receipt whereof is hereby acknowledged, HEREBY GRANT UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a permanent and perpetual easement over, under, upon and in the land hereafter described for the purpose of constructing an earthen dike, together with any and all other appurtenant structures or devices, said tract of land being more particularly described as follows:

A part of Lot 6 and the West 10 feet of Lot 5, Block 2, MAIER FIRST SUBDIVISION as platted and recorded in the Cass County Recorder's office and located within the Southeast Quarter (SE¼) of Section 36, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows: The south 13.00 feet of said Lot 6, along with the south 13.00 feet of the westerly 10.00 feet of said Lot 5.

Said parcel is shown on the plat as Parcel 4826-1 and contains 1430.00 square feet or 0.03 acres, more or less.

Said property is pictorially represented on an Easement Plat attached hereto and incorporated herein by reference as Exhibit "A".

Grantor, their successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may, at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and to perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, their successors and assigns, further understands and agrees that they will not disturb, injure, molest or in any manner interfere with said earthen dike as constructed and the customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises, and Grantor expressly warrants and states that any buildings, trees, shrubs









1517860

Page: 1 of 4  
8/11/2017 2:30 PM  
EASE \$20.00

CITY OF FARGO AUDITOR'S OFFICE

RECORDER'S OFFICE, CASS COUNTY, ND  
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.  
JEWEL A. SPIES, COUNTY RECORDER

8/11/2017 2:30 PM

by Teresa A. Kirby Deputy

1517860



**PERMANENT EASEMENT**  
(Street and Utility)

KNOW ALL MEN BY THESE PRESENTS that **JONATHAN B. OFFUTT** and **MARIE T. OFFUTT**, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to them in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of laying, constructing, operating, maintaining and repairing a street and all other public utilities, together with the customary appurtenances including location of any and all utilities, said tract being more particularly described as follows:

A part of Lot Six (6) and the West 10 feet of Lot Five (5), Block Two (2), MAIER FIRST SUBDIVISION as platted and recorded in the Cass County Recorder's office and located within the Southeast Quarter (SE¼) of Section 36, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows: The south 13.00 feet of said Lot Six (6), along with the south 13.00 feet of the westerly 10.00 feet of said Lot Five (5).

Said parcel contains 1,430.00 square feet or 0.03 acres, more or less.

Said property is pictorially represented on an Easement Plat attached hereto and incorporated herein by reference as Exhibit "A".

Grantor, their successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and do perform any and all acts





1517860

Page: 2 of 4  
8/11/2017 2:30 PM  
EASE \$20.00

CITY OF FARGO AUDITOR'S OFFICE

necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, their successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said street and customary appurtenances including location of any and all utilities, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises, and Grantor expressly warrants and states that no buildings, trees, shrubs or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said street including location of any and all utilities or customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said street and customary appurtenances was begun.

**IN WITNESS WHEREOF**, Grantor has set their hands and caused this instrument to be executed this 8 day of August, 2017.

(Signatures on the following page)

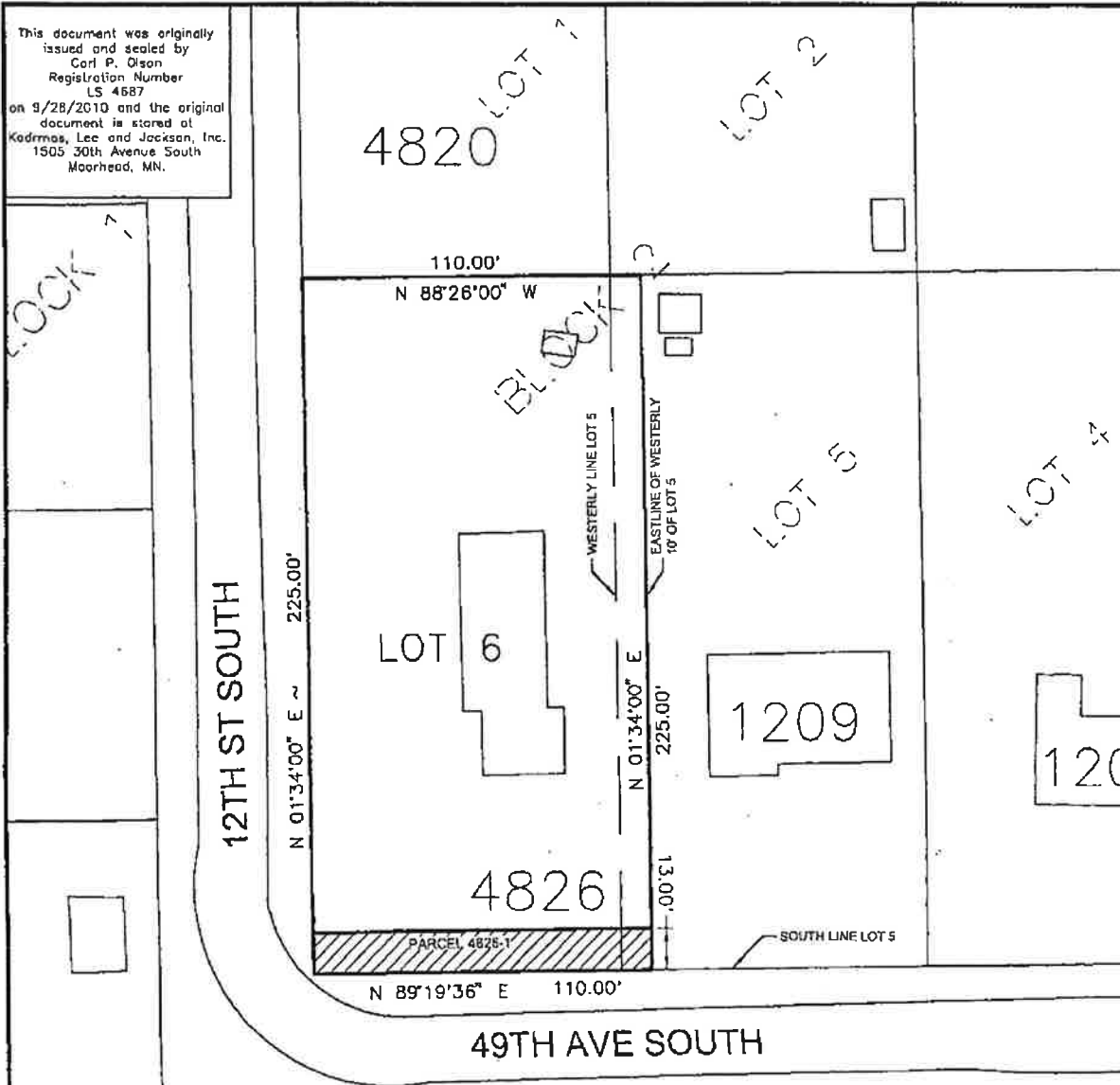




1517860  
 Page: 4 of 4  
 8/11/2017 2:30 PM  
 EASE \$20.00

CITY OF FARGO AUDITOR'S OFFICE

**EXHIBIT "A"**



This document was originally issued and sealed by Carl P. Olson Registration Number LS 4687 on 9/28/2010 and the original document is stored at Kadrmass, Lee and Jackson, Inc. 1505 30th Avenue South Moorhead, MN.

Parcel No. 4826-1 (4826 12th Street South)

A part of Lot 6 and the West 10 feet of Lot 5, Block 2, MAIER FIRST SUBDIVISION as platted and recorded in the Cass County Recorder's office and located within the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 36, Township 139 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

The south 13.00 feet of said Lot 6, along with the south 13.00 feet of the westerly 10.00 feet of said Lot 5.

Said parcel is shown on the plat as Parcel 4826-1 and contains 1430.00 square feet or 0.03 acres, more or less.

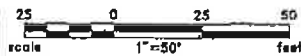
END OF DESCRIPTION



Revised Scale Bar 9-28-2010

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a licensed Land Surveyor under the laws of the State of North Dakota.

Carl P. Olson Reg No. LS 4687 Date



**Kadrmass  
 Lee &  
 Jackson**  
 Engineers Surveyors  
 Planners



ENGINEERING DEPT.

ACQUISITION DESCRIPTION  
 PARCEL NO. 4826-1

FLOOD LEVEL PROTECTION  
 SOUTH ACRES

IMPROVEMENT DISTRICT 5906

DRAWN BY: KWK	SCALE: 1"=50'
CHECKED BY: CPO	DATE: 08/09/2016
APPROVED BY: CPO	SHEET 1 OF 1

J:\municipal\Fargo\50407101\CADD\ROW\ROW.dwg

24

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-15-F1 Type: Final Balancing Change Order #4

Location: Harwood, Hackberry & River Dr S Hearing: 9/6/2017

Routing	Date
City Commission	9/11/2017
PWPEC File	X
Project File	Jody Bertrand

The Committee reviewed the accompanying correspondence from Project Manager, Jody Bertrand, for the Final Balancing Change Order #4 in the amount of \$ -137,063.43, bringing the total contract amount to \$3,26,958.36.

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

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of Final Balancing Change Order #4.

RECOMMENDED MOTION

Approve Final Balancing Change Order #4 in the amount of \$ -137,063.43 to H & S Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: State & Sales Tax Funds

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

COMMITTEE

- Tim Mahoney, Mayor
- Jim Gilmour, Director of Planning
- Steve Dirksen, Fire Chief
- Mark Bittner, Director of Engineering
- Bruce Grubb, City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- City Engineer
- Kent Costin, Finance Director

Present	Yes	No	Unanimous
			<input checked="" type="checkbox"/>
<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"/>	Ryan Erickson
<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"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	



Brenda Derrig, P.E.  
Division Engineer

ATTEST:

C: Kristi Olson



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Project No: FM-15-F1  
Project Name: Flood Risk Management  
Date Entered: 8/24/2017

Change Order No: 4  
For: H & S Contracting 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

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 (\$)	
Miscellaneous	2	Temp Fence - Safety	LF	1,615.00	0.00	1,615.00	-415.00	1,200.00	3.50	-1,452.50	
	4	Remove Fence	LF	478.00	0.00	478.00	-179.00	299.00	6.00	-1,074.00	
	7	Remove Tree	EA	362.00	0.00	362.00	-176.00	186.00	250.00	-44,000.00	
	8	Temp Construction Entrance	EA	8.00	0.00	8.00	-3.00	5.00	1,100.00	-3,300.00	
	9	Silt Fence - Standard	LF	6,164.00	0.00	6,164.00	2.00	6,166.00	1.50	3.00	
	10	Sediment Control Log 6" to 8" Dia	LF	4,612.00	0.00	4,612.00	-500.00	4,112.00	1.98	-990.00	
	11	Inlet Protection - New Inlet	EA	5.00	0.00	5.00	-5.00	0.00	95.00	-475.00	
	13	F&I Turf Reinf Mat Type 2	SY	552.00	0.00	552.00	-167.00	385.00	6.75	-1,127.25	
	<b>Miscellaneous Sub Total (\$)</b>										<b>-52,415.75</b>
	Watermain	23	F&I Hydrant	EA	4.00	0.00	4.00	-3.00	1.00	4,800.00	-14,400.00
		24	Salvage Hydrant	EA	4.00	0.00	4.00	-2.00	2.00	500.00	-1,000.00
		25	Install Salvaged Hydrant	EA	4.00	0.00	4.00	-2.00	2.00	1,100.00	-2,200.00
		27	F&I Pipe C900 DR 18 - 6" Dia PVC	LF	15.00	0.00	15.00	-3.00	12.00	25.00	-75.00
28		F&I Gate Valve 8" Dia	EA	4.00	0.00	4.00	-2.00	2.00	1,750.00	-3,500.00	
<b>Watermain Sub Total (\$)</b>										<b>-21,175.00</b>	
Storm Sewer		30	F&I 1-1/4" Trench Found Rock 14" thru 24" Dia	LF	159.00	0.00	159.00	-159.00	0.00	21.00	-3,339.00
		31	F&I 1-1/4" Trench Found Rock 27" thru 36" Dia	LF	375.00	0.00	375.00	-375.00	0.00	24.00	-9,000.00
	32	F&I 1-1/4" Trench Found Rock 60" Plus Dia	LF	58.00	0.00	58.00	-58.00	0.00	65.00	-3,770.00	



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Item No	Description	Unit	QTY	Unit Price	Amount	Change	Sub Total	Change	Sub Total
<b>Storm Sewer</b>									
34	F&I Pipe C900 DR 18 - 8" Dia PVC	LF	64.00	0.00	64.00	-4.00	60.00	30.00	-120.00
45	Plug Pipe 14" thru 24" Dia	EA	1.00	0.00	1.00	-1.00	0.00	350.00	-350.00
51	F&I Pipe 30" Dia Reinf Conc	LF	10.00	0.00	10.00	-10.00	0.00	80.00	-800.00
52	F&I Pipe 72" Dia Reinf Conc	LF	291.00	0.00	291.00	93.00	384.00	380.00	35,340.00
56	Remove Pipe All Sizes All Types	LF	178.00	0.00	178.00	12.00	190.00	15.00	180.00
57	F&I Pipe w/SB 72" Dia Reinf Conc	LF	226.00	0.00	226.00	-93.00	133.00	550.00	-51,150.00
58	F&I Rip Rap Precast Conc	SY	783.00	0.00	783.00	-106.00	677.00	74.50	-7,897.00
<b>Storm Sewer Sub Total (\$)</b>									
					1,624.00	599.00	2,223.00	2.25	1,347.75
61	Subgrade Preparation	SY	1,624.00	0.00	1,624.00	-417.00	1,207.00	1.60	-667.20
62	F&I Woven Geotextile	SY	1,624.00	0.00	1,624.00	25.00	685.00	7.50	187.50
63	F&I Class 5 Agg - 7" Thick	SY	660.00	0.00	660.00	44.40	292.40	31.50	1,398.60
66	F&I Curb & Gutter Mountable (Type I)	LF	248.00	0.00	248.00	44.40	292.40	6.00	266.40
67	Remove Curb & Gutter	LF	248.00	0.00	248.00	56.30	603.30	65.00	3,659.50
68	F&I Pavement 6" Thick Reinf Conc	SY	547.00	0.00	547.00	-31.30	105.70	60.00	-1,878.00
70	F&I Sidewalk 4" Thick Reinf Conc	SY	137.00	0.00	137.00	-54.00	84.00	65.00	-3,510.00
72	F&I Driveway 7" Thick Reinf Conc	SY	148.00	0.00	148.00	-54.00	94.00	6.00	-324.00
73	Remove Driveway All Thicknesses All Types	SY	148.00	0.00	148.00	-1.00	8.00	50.00	-50.00
74	F&I Det Warn Panels Polymer Composite	SF	9.00	0.00	9.00	10.00	260.00	72.50	725.00
75	F&I Aggregate for Asph Pavement Class 29	TON	250.00	0.00	250.00	143.00	3,739.00	3.50	500.50
76	F&I Asphalt Cement PG 58-28	GAL	3,596.00	0.00	3,596.00	-1.00	0.00	300.00	-300.00
77	Castling to Grade - no Conc	EA	1.00	0.00	1.00	-2.00	2.00	1,000.00	-2,000.00
78	GV Box to Grade - Blvd	EA	4.00	0.00	4.00	-2.00	0.00	300.00	-600.00
79	GV Box to Grade - no Conc	EA	2.00	0.00	2.00	-1.00	0.00	500.00	-500.00
80	Concrete Washout Area	EA	1.00	0.00	1.00				
<b>Paving Sub Total (\$)</b>									
					96,401.00	-19,280.40	77,120.60	0.29	-5,591.32
<b>Flood Mitigation</b>									
89	Mulching Type 1 - Hydro	SY	96,401.00	0.00	96,401.00	-19,280.40	77,120.60	0.29	-5,591.32
90	Seeding Type B	SY	96,401.00	0.00	96,401.00	-96,401.00	0.00	0.06	-5,784.06
91	Overs seeding	SY	96,401.00	0.00	96,401.00				



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Flood Mitigation	92	Weed Control Type B	SY	96,401.00	0.00	96,401.00	-96,401.00	0.00	0.04	-3,856.04
<b>Flood Mitigation Sub Total (\$)</b>										
										-20,822.73
<b>Summary</b>										
<b>Source Of Funding</b>										
<b>Net Amount Change Order # 4 (\$)</b>										-137,063.43
<b>Previous Change Orders (\$)</b>										52,566.90
<b>Original Contract Amount (\$)</b>										3,353,452.89
<b>Total Contract Amount (\$)</b>										3,268,956.36

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

**CONTRACT TIME**

**Current Completion Date**  
09/15/2015

**Additional Days**  
0.00

**New Completion Date**  
09/15/2015

**DESCRIPTION**

**APPROVED**

For Contractor: *Joe Matheny*  
Title: **CONSULTANT**

**APPROVED DATE**

Department Head: *[Signature]*  
Mayor: *[Signature]*  
Date: **9/6/2017**

**ATTEST**

REPORT OF ACTION

25

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. MS-16-M0 Type: Contract Amendment #1  
 Location: Softball Complex Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	9/11/2017
PWPEC File	X
Project File	Brent Wacha

The Committee reviewed the accompanying correspondence from Survey Coordinator, Brent Wacha, related to a Contract Amendment submitted by KLJ in the amount of \$650.00, bringing the total contract amount to \$3,350.00. The additional costs covered in this request are related to additional work for dedicating additional public right-of-way and adding this to the plat.

Staff is recommending approval.

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of the Contract Amendment #1.

RECOMMENDED MOTION

Approve Contract Amendment #1 to KLJ in the amount of \$650.00.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Salary Savings

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>        </u>	<u>        </u>
	N/A
<u>        </u>	<u>        </u>
	N/A
<u>        </u>	<u>        </u>
	N/A

COMMITTEE

Tim Mahoney, Mayor  
 Jim Gilmour, Director of Planning  
 Steve Dirksen, Fire Chief  
 Mark Bittner, Director of Engineering  
 Bruce Grubb, Enterprise Director/Interim City Administrator  
 Ben Dow, Director of Operations  
 Steve Sprague, City Auditor  
 City Engineer  
 Kent Costin, Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<u>        </u>	<u>        </u>	<u>        </u>	<u>        </u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Ryan Erickson</u>
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Brenda Derrig</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson



Brenda E. Derrig, P.E.  
 Division Engineer





# Memorandum

**To:** Members of PWPEC  
**From:** Brent Wacha, Survey Coordinator  
**Date:** August 29, 2017  
**Re:** MS-16-M0 Softball Complex Plat - Amendment #1 KLJ

---

Through the MSA, the City awarded KLJ the plat preparation of the Softball Complex Plat (NSC Addition) for \$2,700.00. In reviewing the submitted plat, it was determined that there is a need to plat additional public right-of-way along the north and west boundaries for future growth, public utility easements should be created around the boundary of the plat, and that the plat should be split into two lots instead of the original single lot proposed. We did not have this defined in the original task order.

We requested a quote for the additional work for dedicating additional public right-of-way, creating public utility easements, and reconfiguring the platted lots. We are asking that they add this to the plat as they already have completed survey field work and have completed the majority of the CAD work necessary for this plat. The quote we received for the additional work is \$650. We feel this quote is reasonable and recommend approval.

**Recommended Motion:**

Approve Amendment #1 for MS-16-M0 for \$650 with KLJ for platting modifications creating addition public right-of-way, public utility easements and a two lot plat configuration.

Attachment  
BWW/klo

C: Carl Olson, KLJ  
Brenda Derrig



August 25, 2017

Mr. Brent Wacha  
Survey Coordinator  
City of Fargo, Engineering Dept.  
1210 25th Street South  
Fargo, North Dakota 58103

**Re: NSC Addition, Section 10, Twp 140 N, Rge 49 W  
Northside Softball Complex - Plat Change Survey Proposal**

Dear Brent:

We have reviewed the requested changes from your email dated August 16, 2017, for the referenced project. Those changes were marked on our preliminary plat dated March 2017, and mainly related to creating two lots (not one) and adding more width to public roadway along the two bounding streets. We would also add the public utility easement all around as requested by City Planning.

We do not foresee additional field work but would require more CAD work and Licensed Surveyor review of these changes. Our estimated fee for providing the changes to the plat would be \$650.

Thank you for requesting our services to complete the plat. You may reach me at 218-287-3178 to discuss further or if you have any questions.

Sincerely,

KLJ

A handwritten signature in cursive script, appearing to read 'Carl Olson'.

Carl Olson  
Licensed Surveyor, ND

Enclosure(s): none  
Project #: 50416100  
cc: Travis Wieber

REPORT OF ACTION

26

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. MS-16-S0 SCADA Type: Contract Amendment #1

Location: Various Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</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 AE2S in the amount of \$22,500.00, bringing the total contract amount to \$47,500.00. The additional costs covered in this request are related to additional work for electrical design and engineering related to lift station improvements and the programming of SCADA components related to the radio base/relay station and the interface screen templates. A portion of the work required for the lift station improvements will be Special Assessed per the infrastructure policy.

Staff is recommending approval.

On a motion by Mark Bittner, seconded by Bruce Grubb, the Committee voted to recommend approval of the Contract Amendment #1.

RECOMMENDED MOTION

Approve Contract Amendment #1 to AE2S in the amount of \$22,500.00.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility & Special Assessments


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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u><input checked="" type="checkbox"/></u>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Jim Gilmour, 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"/>	Ryan Erickson
Mark Bittner, Director of Engineering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, Enterprise Director/Interim City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Kent Costin, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 Division Engineer



# Memorandum

To: Members of PWPEC

From: Jody Bertrand, Division Engineer *JMB*

Cc: Mark Bittner, City Engineer

Date: September 6, 2017

Re: Project #MS-16-S0 – Contract Amendment #1, SCADA for Storm Sewer Lift Stations

---

## **Background:**

In December 2016 the City of Fargo entered into a Master Services agreement with AE2S to design and aide in implementing Supervisory Control and Data Acquisition (SCADA) on several crucial storm sewer lift stations.

## **Progress Update:**

The master radio system with antenna have been purchased and installed at the 32<sup>nd</sup> Avenue South water tower location and the computer software and licenses have been identified and will be purchased in the near future. Ten storm sewer lift stations were identified and evaluated for the cost to implement the desired monitoring upgrades. The costs range from \$3,000.00 to \$20,000.00 depending on the required modifications to each lift station. The next step is for the design for individual lift stations and the necessary plan sheets and special instructions to bidder's documents for construction. A part of the 2017 Capital Improvement plan, five lift stations (9, 14, 16, 54 & 69) have been selected for the SCADA upgrades along with other lift station deficiencies to be completed under project NR-17-A1.

## **Proposed Improvements:**

AE2S has proposed three separate engineering services components described in the attached memo. The most significant is the design and electrical engineering specifications for each of the five identified locations. The proposed cost for this work is \$15,000.00. This work will be included in the storm sewer lift station repair project for 2017, NR-17-A1. Since this project is an assessed project, 50% of the design costs will be spread to each of the assessment areas during project closeout.

The second component is the Master Telemetry Unit (MTU) programming of the master PLC base station located at the 32<sup>nd</sup> Avenue South water tower. The cost for the programming work is \$1,500.00. This cost will be paid for from the storm sewer utility fund.

The third item is the Human Machine Interface (HMI), which is the graphical presentation when operating the control screen at the lift station during maintenance and repair activities. This generated template will be used to standardize the screen layout and specific functionality choices. The maintenance department personnel will become more proficient and efficient with only the one set of standardized operational screens. Each lift station when rehabilitated or upgraded will receive this modification. The cost for this work is \$6,000.00, which will be paid through the storm sewer utility fund.

**Recommended Motion:**

Approve Contract Amendment #1 in the amount of \$22,500.00 to AE2S for additional design, programming and engineering services for implementation of the SCADA system at the above mentioned locations.

The storm sewer utility budget will be a funding source for the approved improvements in the amount of \$15,000.00 with the remaining \$7,500.00 being used for the design services necessary for project NR-17-A1, which will be special assessed.

JRB/klo  
Attachment



Jody Bertrand  
Division Engineer  
City of Fargo  
200 North 3rd Street  
Fargo, ND 58102

**RE: Amendment for AE2S Task Order #10, City of Fargo Project #MS-16-S0 - SCADA for Storm Sewer Lift Stations**

Dear Jody,

AE2S is proposing a contract amendment in the amount of \$22,500 to provide the additional services described below under the current Task Order #10 to the AE2S MSA, Fargo Project #MS-16-S0 SCADA for Storm Sewer Lift Stations.

- 1) Electrical and I&C Design Services for Lift Station #9, #14, #16, #54, #69:
  - a. AE2S has reviewed the electrical and I&C related design components that would be required with these projects based on our meeting on 8/1/2017. We believe we could provide the necessary Drawings and SIBs within the SCADA project if you were to approve a \$15,000 contract amendment. We feel that the standard specifications noted will not be enough detail to bid the work that will be required to retrofit these stations with radio telemetry hardware.
  
- 2) Setup of the Master Telemetry Unit (MTU) and Human Machine Interface (HMI):
  - a. The new PLC has been installed at Water Tower #6 that will function as the MTU for the entire Storm Water Station SCADA System. This PLC will receive data from all remote sites and then transmit that data over the City's fiber optic network to the servers running the proposed SCADA HMI software. This PLC will need to be programmed and that service is currently outside of the Task Order #10 project scope.
    - i. AE2S proposes to provide a PLC program configured for read only communications to 10 lift stations with standard data types to map data into a single data array for a fee of \$1,500.
  - b. The HMI software to be installed at the City's data center will provide the graphical interface for the operators to monitor the SCADA System. The HMI interface will need to be configured and programmed, and that service is currently outside of the Task Order #10 project scope.
    - i. AE2S proposes to provide a "base" SCADA/HMI software program which will include screen navigation, alarm summary, and templates to read standard lift station data types from the master PLC. Templates will include data visualization, alarming, remote alarm notification, and trending. We can provide these noted Engineering service for \$6,000.

Please let me you agree with the proposed additional services and fees and we will prepare an amendment to Task Order #10 to include these additional services.

Sincerely,

AE2S

A handwritten signature in black ink, appearing to read "Jason Sanden". The signature is written in a cursive, flowing style.

Jason Sanden  
I&C Division Manger

**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Project No. MS-15-P0

Type: Contract Amendment #2

Storm Sewer Utility Fee Study

Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	9/11/2017
PWPEC File	X
Project File	Roger Kluck

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, related to a Contract Amendment submitted by AE2S in the amount of \$50,725.00, bringing the total contract amount to \$145,225.00. The additional costs covered in this request are related to additional tasks requested for the Storm Water Utility Fee Study.

Staff is recommending approval.

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of the Contract Amendment #2.

RECOMMENDED MOTION

Approve Contract Amendment #2 to AE2S in the amount of \$50,725.00.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Storm Sewer Utility Fund

	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>
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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Jim Gilmour, 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"/>	<u>Ryan Erickson</u>
Mark Bittner, Director of Engineering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Brenda Derrig</u>
Kent Costin, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson



Brenda E. Derrig, P.E.  
Division Engineer





## Memorandum

**To:** PWPEC *REK, PE*  
**From:** Roger E. Kluck, PE, CFM, Engineer II  
**Cc:** Jody Bertrand, Mark Bittner  
**Date:** August 30, 2017  
**Re:** Project #MS-15-P0 – Storm Water Utility Fee Study – Contract Amendment #2

---

In the fall of 2016, the City developed an RFP to base their storm water utility fee on individual property's parcel parameters rather than the existing method that charges a fixed rate per water meter based on whether a parcel is residential or non-residential. The Consultant was tasked to review current utility fees, analyze the costs assigned to storm water with an emphasis on system operation and maintenance, and look at areas where storm water system maintenance is being funded by other City sources. The goal of the study is to develop a funding model to make sure there is sufficient funding to operate and maintain the existing and projected storm water system needs as the City grows. The final report was intended to include recommendations on how to improve the level of service for operations and maintenance. On January 26, 2017, a contract was entered into with AE2S/Houston for \$77,500.00 to provide the study services. Through the winter, the Consultant set about the study and collecting data.

Contract Amendment #1 was approved in May of 2017 for \$17,000.00 for the additional rate and revenue design efforts to bring the existing financial model to take into effect the change in overall funding of the several multiple year scenarios without the use of flood sales tax dollars.

Contract Amendment #2 is proposed to fund the following requested tasks:

1. Requested Commission Outreach and Education: Consultant staff assisted with focused Commission informational meetings in order to receive Commission feedback for incorporation into the fee structure.
2. Additional Storm Water Fee Implementation Scenarios: The Consultant was asked to develop additional rate modeling scenarios, that resulted from Commission input and feedback received back from the public informational meetings. These new models included the evaluation of alternative timing for the overlay of expenses to the utility funding model, evaluation of the impact to large public landowners by increasing the minimums charges to residential customer base, and the evaluation of the effects on rates by varying the degrees of the continued use of sales tax for capital funding.

PWPEC  
Project #MS-15-P0  
Page 2

3. Additional fee structure benchmarking: Additional work has included the research and benchmarking of the fee structure from peer cities including Billings, MT., St. Cloud, MN, and Omaha, NE.
4. Additional Outreach and Research Assistance: Several large parcel owners have requested a breakdown by parcel of their individual projected rates. Large public landowners have requested analysis and verification of model database to make sure of correct ownership. In order to make answering questions from property owners easier a web based fee-mapping tool was developed to aid property owners in researching the potential new fees for individual parcels. The Consultant assisted City staff in mass mailings to large parcel owners to acquaint them with the study and invite them to the public informational meetings.
5. Additional face to face and conference call meetings were required of the Consultant to evaluate and address the questions and additional model requests from large public land owners and the Commission.

The next step in this process is the development of a progress report to PWPEC and the Commission on updates to the rate study and the evaluation of the different rate scenarios. The report will include a list of decisions needed for the rate study to be finalized. City staff has been meeting individually with NDSU, the Park District, the Airport, the School District, and large commercial parcel owners to address any questions they may have and to review parcel listings for owner accuracy

The quoted request for Contract Amendment #2 from AE2S is \$50,725.00 and the request is attached. The memo identifies the additional tasks requested along with the original tasks still remaining for completion during the remainder of 2017 and the beginning months of 2018.

**Recommended Motion**

To approve Contract Amendment #2 to AE2S for \$50,725.00 for additional work on their study contract. Funds to cover this contract amendment will come from the Storm Sewer Utility fund budget.

Attachment  
JRB/REK/klo



August 30, 2017

City of Fargo  
 Attn: Roger Kluck, P.E.  
 200 3<sup>rd</sup> St North  
 Fargo, ND 58102

**Re: Scope, Fee, and Schedule Amendment Request #2: Storm Water Utility Fee Study  
 Project #MS-15-P0**

Dear Roger:

The purpose of this letter is to request a scope and fee amendment under Section 3 of the existing Agreement between the City of Fargo and Advanced Engineering and Environmental Services, Inc. (AE2S) for the Storm Water Utility Fee Study, Project # MS-15-P0. Section 3 of the Agreement, dated January 26, 2017, notes that the consultant will provide a contract amendment setting out the fees for the requested change. In consideration of current project budget status, additional requested tasks, proposed changes to the project implementation schedule, and adjusted tasks required to completion, AE2S is requesting additional payment in an amount up to **\$50,725**, increasing the total contract maximum to **\$145,225**.

The following outlines the rationale for the additional project costs that comprise the total requested amendment:

1. **Additional Tasks Requested:** Additional tasks requested since the time of the first contract amendment have largely centered on further internal and external stakeholder outreach and education associated with the new fee structure. This additional work has included:
  - i. **Requested Commission Outreach and Education:** Senior staff assisted with focused Commission informational meetings in order to receive commission feedback for incorporation to the fee structure.
  - ii. **Additional Fee Implementation Scenarios:** Develop additional rate modeling scenarios that resulted from Commission input and feedback received from public informational sessions including: the evaluation of alternative timing for the overlay of new expense to the utility, increasing the minimums charged to the residential customer base, and varying degrees of the continued use of sales tax for capital funding.
  - iii. **Additional Fee Structure Benchmarking:** Additional work has included the research and benchmarking of the preferred fee structure to three additional regional peer cities including Billings, MT, St. Cloud, MN, and Omaha, NE.
  - iv. **Parcel Outreach and Research Assistance:** Additional work has included parcel owner outreach assistance including specific parcel research for large parcel owners, other individual parcel research, the development of a web based fee mapping tool, and direct parcel mailing support.
  - v. **Additional Meetings and Coordination:** Additional time associated with further City Staff coordination related to the execution of the additional tasks outlined above.

Additional Tasks Requested	Total Hours	Total
i Commission Outreach and Education	23	\$ 5,090
ii Additional Fee Implementation Scenario Modeling	60	\$ 10,460
iii Additional Fee Structure Benchmarking	6	\$ 1,046
iv Parcel Outreach Coordination, Parcel Research, Web-Based Fee Mapping	38	\$ 5,631
v Additional Meetings and Coordination	30	\$ 5,800
	<b>158</b>	<b>\$ 28,026</b>

City of Fargo

Re: **Scope, Fee, and Schedule Amendment Request #2: Storm Water Utility Fee Study**  
**Project #MS-15-P0**

August 30, 2017

Page 2 of 2

2. **Fee Structure Implementation Extension:** AE2S understands that the City of Fargo intends to delay fee structure implementation in order to execute the first billing under the new fee structure by January 1<sup>st</sup>, 2019 (in lieu of the originally planned date of January 1<sup>st</sup>, 2018). This delay is due in part to feedback received from both the public input meetings and City leadership regarding the timing of implementation and the desire to further evaluate additional implementation alternative considerations, including the consideration for large parcel fee caps. Due to the proposed delay, many of the implementation tasks that were underway in 2017 will now be deferred to late 2017/early 2018. To assist with the facilitation of delayed implementation, AE2S has outlined the following tasks and estimated hours required to complete the project:

Tasks to Complete	Total Hours	Total
i Further Large Stakeholder Outreach and Correspondence Support	6	\$ 936
ii Draft Fee Cap Policy	8	\$ 1,420
iii Further Implementation Scenario Development - "Caps" Scenario	20	\$ 3,512
iv Abridged Tech Memo Progress Report	12	\$ 1,872
v Additional Commission Outreach Sessions	16	\$ 3,336
vi Finalize Billing Database - 2018 Parcel and Impervious Area Data	36	\$ 4,136
vii Finalize Fee Credits and Caps Policy	8	\$ 1,272
viii Final Project Summary Memorandum	22	\$ 3,256
ix 2018 PWPEC and Commission Meetings (4 additional meetings assumed)	32	\$ 6,785
x Ordinance Preparation for Legal Review	14	\$ 2,284
xi Utility Billing Staff Support and Education	16	\$ 2,618
	<b>190</b>	<b>\$ 31,427</b>


In consideration of the additional tasks completed to date, the tasks required to completion, and current project budget status, the following table outlines the requested project fee amendment:

Current Contract Maximum	\$ 94,500	a
Total Expended to Date Including Additional Tasks	\$ 113,798	b
Contract Amount Remaining as of 8-1-17	\$ -	c
Total Amendment for Additional Tasks to Date	\$ 19,298	d = b - a - c
Total Ammendment for Task Required to Completion	\$ 31,427	e
<b>Total Amendment Requested for Additional and Remaining Tasks</b>	<b>\$ 50,725</b>	<b>e + d</b>

AE2S greatly appreciates the continued opportunity to provide professional service to the City of Fargo. If you have any questions or require any additional information regarding this amendment request, please do not hesitate to contact me at (701) 746-8087.

Sincerely,

AE2S



Shawn Gaddie, PE  
 Project Manager



(28)

September 6, 2017

ENGINEERING DEPARTMENT

200 3rd Street North  
Fargo, North Dakota 58102  
Phone: (701) 241-1545  
Fax: (701) 241-8101  
E-Mail: feng@cityoffargo.com

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Project No. FM-14-63

Dear Commissioners:

Bids were opened at 11:30 AM on Wednesday, September 6, 2017, for Drain 27 – Prairie Rose Flood Risk Management – Phase 3, Project No. FM-14-63, located at Drain 27 – Prairie Rose Flood Protection Levee.

The bids were as follows:

Excavating, Inc.	\$261,671.58
Asplin Excavating, Inc.	\$268,342.49
Industrial Builders, Inc.	\$277,242.60
Dirt Dynamics	\$283,207.05
Earthwork Services, Inc.	\$308,723.86
Richards Excavating	\$313,415.62
R J Zavoral & Sons	\$329,632.99
M & M Contractors LLC	\$335,552.90
Gladen Construction, Inc.	\$335,956.30
Sellin Brothers, Inc.	\$436,770.00
Engineer's Estimate	\$503,331.20

The special assessment escrow is not required.

This office recommends award of the contract to Excavating, Inc. in the amount of \$261,671.58 as the lowest and best bid.

Sincerely,

Tom Knakmuhs  
Division Engineer

AEW/klo



**ENGINEER'S STATEMENT OF ESTIMATED COST**

**PROJECT # FM-14-63**

**Drain 27 - Prairie Rose Flood Risk Management Project - Phase 3**

Drain 27 - Prairie Rose flood protection levee phase 3 - connects phase 1 and 2 projects

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 Division Engineer for the City of Fargo, North Dakota;

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

Drain 27 - Prairie Rose Flood Risk Management Project - Phase 3 Project # FM-14-63 of the City of Fargo, North Dakota.

<b>Line Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price (\$)</b>	<b>Amount (\$)</b>
<b>Sanitary Sewer</b>				
1 Remove Pipe All Sizes All Types	LF	399.00	20.00	7,980.00
2 Casting to Grade - w/Conc	EA	1.00	1,200.00	1,200.00
			<b>Sanitary Sewer Total</b>	<b>9,180.00</b>
<b>Water Main</b>				
3 F&I Fittings Ductile Iron	LB	75.00	5.00	375.00
4 F&I Pipe C900 DR 18 - 6" Dia PVC	LF	3.00	31.00	93.00
5 Remove Pipe All Sizes All Types	LF	420.00	20.00	8,400.00
6 F&I Gate Valve 6" Dia	EA	1.00	2,500.00	2,500.00
			<b>Water Main Total</b>	<b>11,368.00</b>
<b>Storm Sewer</b>				
7 Remove Manhole	EA	1.00	1,400.00	1,400.00
8 Remove Inlet	EA	1.00	900.00	900.00
9 Remove Pipe All Sizes All Types	LF	82.00	15.00	1,230.00
10 Casting to Grade - no Conc	EA	1.00	450.00	450.00
			<b>Storm Sewer Total</b>	<b>3,980.00</b>
<b>Paving</b>				
11 Remove Pavement All Thicknesses All Types	SY	580.00	9.00	5,220.00
12 Subgrade Preparation	SY	481.00	2.60	1,250.60
13 F&I Woven Geotextile	SY	481.00	2.40	1,154.40
14 F&I Class 5 Agg - 7" Thick	SY	481.00	7.60	3,655.60
15 F&I Edge Drain 4" Dia PVC	LF	149.00	8.40	1,251.60
16 F&I Curb & Gutter Mountable (Type I)	LF	149.00	29.50	4,395.50
17 Remove Curb & Gutter	LF	149.00	4.00	596.00
18 F&I Sidewalk 4" Thick Reinf Conc	SY	149.00	49.60	7,390.40
19 F&I Det Warn Panels Cast Iron	SF	9.00	49.00	441.00
20 Remove Sidewalk All Thicknesses All Types	SY	23.00	21.75	500.25
21 F&I Aggregate for Asph Pavement FAA 43	TON	165.00	50.50	8,332.50
22 F&I Asphalt Cement PG 58-28	GAL	2,373.00	1.85	4,390.05
23 Temp Construction Entrance	EA	2.00	2,100.00	4,200.00
24 Traffic Control - Type 1	LS	1.00	1,115.00	1,115.00
			<b>Paving Total</b>	<b>43,892.90</b>
<b>Miscellaneous</b>				
25 Mobilization	LS	1.00	7,500.00	7,500.00
26 Temp Fence - Safety	LF	391.00	1.60	625.60
27 Clear & Grub	LS	1.00	2,000.00	2,000.00
28 Remove Tree	EA	25.00	125.00	3,125.00
29 Remove Foundation All Types	EA	2.00	5,016.00	10,032.00
30 Remove Landscaping	LS	1.00	500.00	500.00



**ENGINEER'S STATEMENT OF ESTIMATED COST**

**PROJECT # FM-14-63**

**Drain 27 - Prairie Rose Flood Risk Management Project - Phase 3**

31 Stormwater Management	LS	1.00	1,500.00	1,500.00
32 Silt Fence - Standard	LF	1,881.00	1.75	3,291.75
33 Sediment Control Log 10" to 15" Dia	LF	830.00	2.80	2,324.00
34 Inlet Protection - Existing Inlet	EA	13.00	120.75	1,569.75
35 Demolition	EA	2.00	9,418.00	18,836.00
			<b>Miscellaneous Total</b>	<b>51,304.10</b>

**Flood Mitigation**

36 Topsoil - Strip	CY	5,270.00	2.50	13,175.00
37 Topsoil - Spread	CY	3,471.00	2.50	8,677.50
38 Topsoil - Import	CY	500.00	8.50	4,250.00
39 Fill - Import	CY	5,004.00	6.90	34,527.60
40 Fill - Haul	CY	1,799.00	4.10	7,375.90
41 Embankment	CY	7,509.00	3.00	22,527.00
42 Excavation	CY	2,505.00	2.80	7,014.00
43 Subcut	CY	500.00	3.10	1,550.00
44 Mulching Type 1 - Hydro	SY	26,585.00	0.32	8,507.20
45 Seeding Type B	SY	26,585.00	0.30	7,975.50
46 Overseeding	SY	26,585.00	0.06	1,595.10
47 Weed Control Type B	SY	26,585.00	0.06	1,595.10
48 F&I Erosion Control Blanket Type 3	SY	6,749.00	1.32	8,908.68
49 Inspection Trench	CY	3,567.00	4.00	14,268.00

**Flood Mitigation Total 141,946.58**

**Total Construction in \$ 261,671.58**

Engineering	4.00 %	10,466.86
Legal & Misc	7.00 %	18,317.01
Contingencies	10.00 %	26,167.16
Interest	4.00 %	10,466.86
Outside Engineering	0.00 %	0.00

**Total Estimated Costs 327,089.47**

Sales Tax Funds - Flood Control - 460 327,089.48

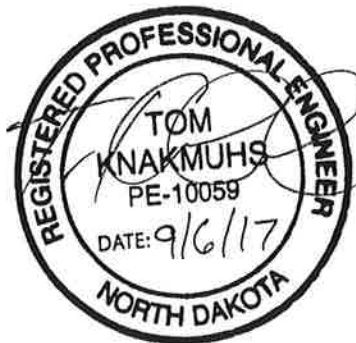
**Unfunded Costs -0.01**

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

Date: 09/06/2017

Tom Knakmuhs

Division Engineer



COVER SHEET  
CITY OF FARGO PROJECTS

(29)

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:

Fiber Optic Cable Installation & Incidentals

Project No. TR-17-B

Call For Bids September 11, 2017

Advertise Dates September 12, 18, & 25, 2017

Bid Opening Date October 4, 2017

Substantial Completion Date June 1, 2018

Final Completion Date July 1, 2018

N/A PWPEC Report (Attach Copy) **Part of 2017 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 Jacob Rick

Phone No. 701-297-7780

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:

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

FIBER OPTIC CABLE INSTALLATION & INCIDENTALS

PROJECT NO. TR-17-B

**Nature & Scope**

This project is aimed to improve the City-wide fiber optic communications network by filling in two gaps; a short gap on 13<sup>th</sup> Ave S between 10<sup>th</sup> St S and University Dr, and a longer gap on 12<sup>th</sup> Ave N from 35<sup>th</sup> St N to 45<sup>th</sup> St N then to the Public Safety Building. This project will also include 60 fiber/ethernet switches that will be used with the existing traffic controller cabinets to improve communications that help for timings and software/firmware updates.

**Purpose**

The fiber/ethernet switches connect all the devices in the traffic signal cabinet and send that information to the central system. With connecting these gaps in the City fiber network, we are able to transfer intersection control from a full system to a system that is able to accept more intersections. With the increase in technology with traffic monitoring, the need to keep constant communications to the central system is very important.


**Feasibility**

The estimated construction cost of the project is \$271,600.00. The project will be funded with Traffic Engineering Capital Outlay funds and Sales Tax funds.

Estimated Construction Cost:	\$ 271,600.00
Plus 6% Engineering fees:	\$ 16,296.00
Plus 3% Miscellaneous/Legal:	\$ 8,148.00
Plus 4% Interest:	\$ <u>10,864.00</u>
Total Project Cost:	\$ 306,908.00

We believe this project to be cost effective.



  
\_\_\_\_\_  
Jeremy Gorden, P.E.  
Division Engineer

September, 2017

REPORT OF ACTION

32

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-18-B1 Type: Cost Participation & Maintenance Agreement  
 NHU-CPU-8-081(038)927, PCN 21168

Location: 10th Street N – 4th to 12th Avenue N Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The committee reviewed communication from Transportation Division Engineer, Jeremy Gorden, regarding a cost participation and maintenance agreement associated with the upcoming 10<sup>th</sup> Street reconstruction project between 4<sup>th</sup> Avenue N and 12<sup>th</sup> Avenue N. Staff has coordinated with the NDDOT and is comfortable with the language and is recommending approval.

On a motion by Ben Dow, seconded by Steve Sprague, the Committee voted to recommend approval of the cost participation and maintenance agreement.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the CPM agreement with the NDDOT for the street reconstruction project on 10th Street between 4th Avenue N and 12th Avenue N.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Federal, Sales Tax Funds, Special Assessments, Water Utility and Sewer Utility Funds.

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

COMMITTEE

	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>✓</u>
Tim Mahoney, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Jim Gilmour, 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"/>	Ryan Erickson
Mark Bittner, Director of Engineering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Bruce Grubb, City Administrator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ben Dow, Director of Operations	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Sprague, City Auditor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
Kent Costin, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda Derrig, PE  
 Division Engineer

C: Kristi Olson



200 3rd Street North  
Fargo, North Dakota 58102  
Phone: (701) 241-1545  
Fax: (701) 241-8101  
E-Mail: feng@cityoffargo.com

Memo

August 31, 2017

To: PWPEC  
From: Jeremy Gorden, P.E., PTOE *JMG*  
Division Engineer - Transportation  
Subject: Approval of Cost, Participation and Maintenance (CPM) Agreement with NDDOT for  
10<sup>th</sup> Street Reconstruction Project – 4<sup>th</sup> Avenue N to 12<sup>th</sup> Avenue N  
City Improvement District No. BR-18-B1  
NDDOT Project No. NHU-CPU-8-081(038)927 PCN 21168

I have attached a CPM Agreement from the Local Government Division of the NDDOT for this project on 10<sup>th</sup> Street N. This project contains the following features:

- Full street reconstruction, with concrete pavement and width to remain as-is.
- Lining of City water transmission line, 10<sup>th</sup> to 12<sup>th</sup> Avenue N, Spot repairs of same line 4<sup>th</sup> to 10<sup>th</sup> Avenue N.
- Replacement of City local water main, storm sewer system, and sanitary sewer mainline and services.
- Replacement of storm sewer lift station within the underpass.
- Replacement of traffic signals.
- Replacement of signing and striping.
- Spot repairs to sidewalk.

Funding for the project will consist of Federal Highway Funds from the NDDOT's Regional Highway System (Federal), NDDOT State Funds, Water Utility Funds, Sewer Utility Funds, Sales Tax Funds and Special Assessment Funds (Local). The project's cost breakout is as follows:

Estimated Construction Cost	\$6,558,721
<u>Funding</u>	
Regional Highway System (Federal)	\$4,060,501
ND State Funds	\$ 455,069
Local Funds	\$2,043,151

This project is set to be bid in Bismarck on November 17 and the project is scheduled to have a substantial completion date of September 30, 2018.

**Recommended Motion**

I recommend approval of the CPM Agreement.

Attachments  
JMG/klo

Street Lighting  
Sidewalks

Design & Construction  
Traffic Engineering

Truck Regulatory  
Flood Plain Mgmt.

Mapping & GIS  
Utility Locations

NDDOT Contract No. 38171140

**North Dakota Department of Transportation  
COST PARTICIPATION AND MAINTENANCE AGREEMENT**

**Federal Award Information – to be provided by NDDOT**

CFDA No: 20.205

CFDA Title: Highway Planning &amp; Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Admin

NDDOT Program Mgr: Striefel, Ardin L.

Telephone: 328-2559

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

**Project No. NHU-CPU-8-081(038)927**

WHEREAS, the North Dakota Department of Transportation intends to proceed with the construction of the following-described street improvement:

**Location: 10th Street from 4th Avenue to 12th Avenue North**

**Type of Improvement: Roadway Reconstruction, Concrete Paving, Storm Water Lift Station & Incidentals**

**Point of Beginning: RP 927.169**

**Point of Ending: RP 927.849**

NOW, THEREFORE, in consideration of the mutual benefits to be derived therefrom, it is agreed between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, that NDDOT will construct the project in accordance with the current edition of NDDOT's *Standard Specifications for Road and Bridge Construction* and with the plans approved by the City, identified as project NHU-CPU-8-081(038)927, and incorporated into this agreement by reference.

1. The City
  - a. Will pay 10 percent of the cost of rights of way and easements acquired for the roadway project and 100% for the lift station between 4<sup>th</sup> and 6<sup>th</sup> Avenue North; and
  - b. Will pay 10 percent of the total cost of all items which are determined eligible for federal aid participation. This total cost will include the actual construction cost plus 10 percent for the preliminary and construction engineering; and
  - c. Will pay 100 percent of the construction costs plus 10 percent for the preliminary and construction engineering of all items not eligible for federal aid participation.
2. The City will pay to NDDOT as the work progresses or when completed its share of the total cost of the project as defined in paragraph 1.



3. It is specifically agreed that if at any time the City fails to pay the amount billed to NDDOT within 60 days after billings, this document shall constitute an assignment of funds derived from the State Highway Tax Distribution Fund now or hereafter coming into the hands of the State Treasurer to the credit of the City, and the State Treasurer is hereby directed to deliver and pay over to NDDOT all funds credited to the City until the total thereof equals the sum billed pursuant to this agreement. The preliminary cost estimate of the project is \$6,558,721, with the City's estimated share being \$2,043,151.
4. All signs, signals, markings, and other protective structures erected on or in connection with the project, including those installed at the sole cost and expense of the City or by others, shall be approved by NDDOT. All traffic control devices will be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.
5. All existing right of way within the project limits will be provided by the City with clear title and available for use in the project. All right of way for the project will be maintained free of all encroachments except utilities and others in accordance with the current edition of NDDOT's "A Policy for Accommodation of Utilities on State Highway Right-of-Way". All obstructions to, interference with, or hazards to traffic flow will be removed by the City at the request of NDDOT. The City will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of the streets, inconveniences to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.
6. The City will control the length and location of curb openings for future entrances and will not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on a sketch of typical entrances for similar entrances; and will prohibit the construction or use of any entrances along the project within the City other than those shown on the plans, without prior approval of NDDOT.
7. The City will not change any speed limit signs as shown on the plans without prior approval of NDDOT.
8. The City will prohibit double and diagonal parking and will control all parallel parking where allowed within the limits of the project in a manner satisfactory to NDDOT and to the Federal Highway Administration (FHWA), or both.
9. Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.
10. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
11. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
12. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or



determination of ineligibility by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

13. NDDOT is not responsible for any Property Taxes or Special Assessments on property which has been acquired as part of the roadway reconstruction project. The City is responsible to make arrangements for deferral or payment of such Taxes and/or Special Assessments.
14. The City will, at its own expense, maintain or cause to be maintained, all portions of the project included but not limited to the roadway, curb and gutter, lighting, sidewalk, storm sewer, lift station, traffic signals, HAWK signal, pavement markings, signing, and snow and ice control. The maintenance will be in a manner satisfactory to NDDOT and FHWA. Exact limits of the project are shown on the attached map.



APPROVED:

Erik Johnson  
CITY ATTORNEY (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

City of Fargo

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\*Mayor  
TITLE

\_\_\_\_\_  
DATE

ATTEST:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the last date below signed.

APPROVED as to substance by:

\_\_\_\_\_  
DIVISION DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

CLA 17058 (Div. 38)  
L.D. Approved 11-07; 02-16



**AUTHORIZATION**

At a City Commission meeting held on the 11 day of September, 2017, it was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the attached certification and agreement be approved, and that the \* Mayor and City Auditor be authorized to execute in behalf of the City of Fargo and that two executed copies be returned to the NDDOT Director.

Adopted on a vote of \_\_\_ aye, \_\_\_ nay, \_\_\_\_\_ absent.

ATTEST:

APPROVED:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

City of Fargo

\_\_\_\_\_  
SIGNATURE

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

**CERTIFICATION**

It is hereby certified that the City of Fargo will issue improvement warrants to finance the amounts that the City is obligated to pay under terms of the attached agreement with the North Dakota Department of Transportation and that authority to do so has been obtained in accordance with the Section 40-22-06 of the North Dakota Century Code.

Executed at Fargo, North Dakota, the last date below signed.

ATTEST:

APPROVED:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

City of Fargo

\_\_\_\_\_  
SIGNATURE

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission





**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that the City of Fargo will provide non-federal funds, whose source is identified below, as match for the amount the City is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided by City.** Please designate the source(s) of funds in the city budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

**Source:**  
Sales Tax, Water Utility Funds, Sewer Utility Funds, and  
Special Assessments

Executed at Fargo, North Dakota, the last date below signed.

ATTEST:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

APPROVED:

City of Fargo

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

\*Mayor or President of City Commission

CLA 17058 (Div. 38)  
L.D. Approved 11-07; 02-16



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



**Risk Management Appendix**

**Routine\* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties:** **State** – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party 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 and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person and \$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person and \$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor 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: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.



STATE	ND	PROJECT NO.	NHU-CPU-8-081(038)927	PCN	21168	SECTION NO.	1	SHEET NO.	1
-------	----	-------------	-----------------------	-----	-------	-------------	---	-----------	---

**JOB # 46**  
**NORTH DAKOTA**

**DEPARTMENT OF TRANSPORTATION**

NHU-CPU-8-081(038)927

Cass County

10th St N Fargo

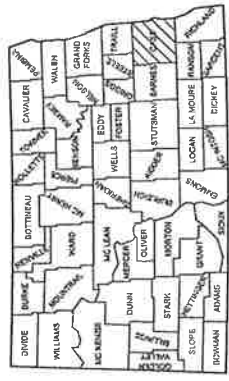
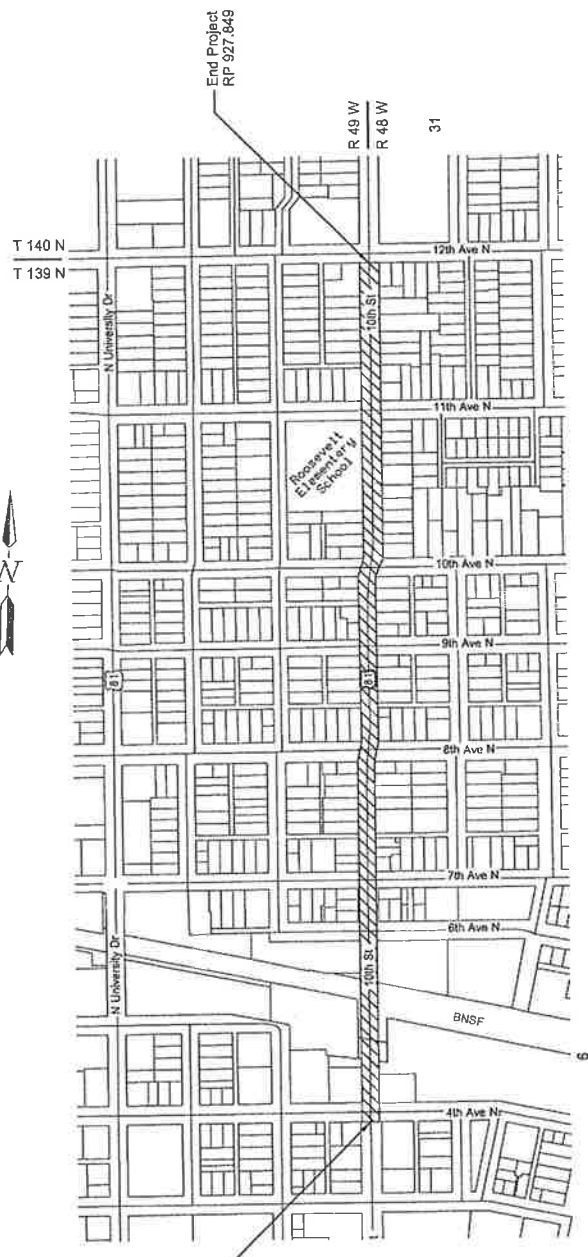
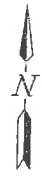
RP 927.157 to RP 927.849

Roadway Reconstruction, Concrete Paving, Storm Water Lift Station, and Incidentals

GOVERNING SPECIFICATIONS:  
2014 Standard Specifications adopted by the North Dakota Department of Transportation and the Supplemental Specifications effective on the date the project is advertised.

PROJECT NUMBER | DESCRIPTION | NET MILES | GROSS MILES  
NHU-CPU-8-081(038)927 | 0.69 | 0.69

DESIGN DATA	
Traffic	Average Daily
Current 2016	Pass: 13365 Trucks: 475 Total: 13830
Forecast 2036	Pass: 16296 Trucks: 580 Total: 16875
Clear Zone Distance: 14'	Design Speed: 30
Minimum Sight Dist. for Stopping: 200'	Bridges: 0081-927.254 R
Sight Dist. for No Passing Zone: N/A	
Pavement Design Life 30 (years)	
Design Accumulated One-way Rigid ESALS: 525	



DESIGNERS	
Aaron Murra /s/	
Joe Wagner /s/	
Kyle Strandberg /s/	
Makala Simon /s/	
Rachel Krulc /s/	

I hereby certify that the attached plans were prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the state of ND.

APPROVED DATE 8/23/17

James Rath /s/  
Design Division

This document was originally issued and sealed by James Douglas Rath, Registration Number PE-4288, on 8/22/17 and the original document is stored at the North Dakota Department of Transportation

APPROVED DATE 8/23/17

Roger Weigel /s/  
OFFICE OF PROJECT DEVELOPMENT  
ND DEPARTMENT OF TRANSPORTATION

200 3rd Street North  
Fargo, North Dakota 58102  
Phone: (701) 241-1545  
Fax: (701) 241-8101  
E-Mail: feng@cityoffargo.com

Memo

August 31, 2017

To: PWPEC

From: Jeremy Gorden, P.E., PTOE *JMG*  
Division Engineer - Transportation

Subject: Approval of Cost, Participation and Maintenance (CPM) Agreement with NDDOT for  
10<sup>th</sup> Street Reconstruction Project – 4<sup>th</sup> Avenue N to 12<sup>th</sup> Avenue N  
City Improvement District No. BR-18-B1  
NDDOT Project No. NHU-CPU-8-081(038)927 PCN 21168

I have attached a CPM Agreement from the Local Government Division of the NDDOT for this project on 10<sup>th</sup> Street N. This project contains the following features:

- Full street reconstruction, with concrete pavement and width to remain as-is.
- Lining of City water transmission line, 10<sup>th</sup> to 12<sup>th</sup> Avenue N, Spot repairs of same line 4<sup>th</sup> to 10<sup>th</sup> Avenue N.
- Replacement of City local water main, storm sewer system, and sanitary sewer mainline and services.
- Replacement of storm sewer lift station within the underpass.
- Replacement of traffic signals.
- Replacement of signing and striping.
- Spot repairs to sidewalk.

Funding for the project will consist of Federal Highway Funds from the NDDOT's Regional Highway System (Federal), NDDOT State Funds, Water Utility Funds, Sewer Utility Funds, Sales Tax Funds and Special Assessment Funds (Local). The project's cost breakout is as follows:

Estimated Construction Cost	\$6,558,721
<u>Funding</u>	
Regional Highway System (Federal)	\$4,060,501
ND State Funds	\$ 455,069
Local Funds	\$2,043,151

This project is set to be bid in Bismarck on November 17 and the project is scheduled to have a substantial completion date of September 30, 2018.

**Recommended Motion**

I recommend approval of the CPM Agreement.

Attachments  
JMG/klo

Street Lighting  
Sidewalks

Design & Construction  
Traffic Engineering

Truck Regulatory  
Flood Plain Mgmt.

Mapping & GIS  
Utility Locations

NDDOT Contract No. 38171140

**North Dakota Department of Transportation  
COST PARTICIPATION AND MAINTENANCE AGREEMENT**

**Federal Award Information – to be provided by NDDOT**

CFDA No: 20.205

CFDA Title: Highway Planning &amp; Construction

Award Name: Federal Aid Highway Program

Awarding Fed. Agency: Federal Highway Admin

NDDOT Program Mgr: Striefel, Ardin L.

Telephone: 328-2559

**Notice to Subrecipients: Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.**

**Project No. NHU-CPU-8-081(038)927**

WHEREAS, the North Dakota Department of Transportation intends to proceed with the construction of the following-described street improvement:

**Location: 10th Street from 4th Avenue to 12th Avenue North**

**Type of Improvement: Roadway Reconstruction, Concrete Paving, Storm Water Lift Station & Incidentals**

**Point of Beginning: RP 927.169**

**Point of Ending: RP 927.849**

NOW, THEREFORE, in consideration of the mutual benefits to be derived therefrom, it is agreed between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the city of Fargo, North Dakota, hereinafter referred to as the City, that NDDOT will construct the project in accordance with the current edition of NDDOT's *Standard Specifications for Road and Bridge Construction* and with the plans approved by the City, identified as project NHU-CPU-8-081(038)927, and incorporated into this agreement by reference.

1. The City
  - a. Will pay 10 percent of the cost of rights of way and easements acquired for the roadway project and 100% for the lift station between 4<sup>th</sup> and 6<sup>th</sup> Avenue North; and
  - b. Will pay 10 percent of the total cost of all items which are determined eligible for federal aid participation. This total cost will include the actual construction cost plus 10 percent for the preliminary and construction engineering; and
  - c. Will pay 100 percent of the construction costs plus 10 percent for the preliminary and construction engineering of all items not eligible for federal aid participation.
2. The City will pay to NDDOT as the work progresses or when completed its share of the total cost of the project as defined in paragraph 1.



3. It is specifically agreed that if at any time the City fails to pay the amount billed to NDDOT within 60 days after billings, this document shall constitute an assignment of funds derived from the State Highway Tax Distribution Fund now or hereafter coming into the hands of the State Treasurer to the credit of the City, and the State Treasurer is hereby directed to deliver and pay over to NDDOT all funds credited to the City until the total thereof equals the sum billed pursuant to this agreement. The preliminary cost estimate of the project is \$6,558,721, with the City's estimated share being \$2,043,151.
4. All signs, signals, markings, and other protective structures erected on or in connection with the project, including those installed at the sole cost and expense of the City or by others, shall be approved by NDDOT. All traffic control devices will be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.
5. All existing right of way within the project limits will be provided by the City with clear title and available for use in the project. All right of way for the project will be maintained free of all encroachments except utilities and others in accordance with the current edition of NDDOT's "A Policy for Accommodation of Utilities on State Highway Right-of-Way". All obstructions to, interference with, or hazards to traffic flow will be removed by the City at the request of NDDOT. The City will be responsible for any consideration, avoidance, and minimization of impacts upon real property related to this project, such as changes in the grades of the streets, inconveniences to property or business, and any loss of light, air, view, access, egress, drainage, support, or nuisance.
6. The City will control the length and location of curb openings for future entrances and will not permit the length of curb openings for entrances to exceed the length shown on the plans or as shown on a sketch of typical entrances for similar entrances; and will prohibit the construction or use of any entrances along the project within the City other than those shown on the plans, without prior approval of NDDOT.
7. The City will not change any speed limit signs as shown on the plans without prior approval of NDDOT.
8. The City will prohibit double and diagonal parking and will control all parallel parking where allowed within the limits of the project in a manner satisfactory to NDDOT and to the Federal Highway Administration (FHWA), or both.
9. Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.
10. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
11. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than \$750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.
12. The City is advised that its signature on this contract or agreement certifies that any person associated therewith is not currently under suspension, debarment, voluntary exclusion, or





determination of ineligibility by any federal agency within the past three years; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction on any matter involving fraud or official misconduct within the past three years.

13. NDDOT is not responsible for any Property Taxes or Special Assessments on property which has been acquired as part of the roadway reconstruction project. The City is responsible to make arrangements for deferral or payment of such Taxes and/or Special Assessments.
14. The City will, at its own expense, maintain or cause to be maintained, all portions of the project included but not limited to the roadway, curb and gutter, lighting, sidewalk, storm sewer, lift station, traffic signals, HAWK signal, pavement markings, signing, and snow and ice control. The maintenance will be in a manner satisfactory to NDDOT and FHWA. Exact limits of the project are shown on the attached map.



APPROVED:

City of Fargo

Erik Johnson  
CITY ATTORNEY (TYPE OR PRINT)

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

ATTEST:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the last date below signed.

APPROVED as to substance by:

NORTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
DIVISION DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
DIRECTOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission

CLA 17058 (Div. 38)  
L.D. Approved 11-07; 02-16



**AUTHORIZATION**

At a City Commission meeting held on the 11 day of September, 2017, it was moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the attached certification and agreement be approved, and that the \* Mayor and City Auditor be authorized to execute in behalf of the City of Fargo and that two executed copies be returned to the NDDOT Director.

Adopted on a vote of \_\_\_ aye, \_\_\_ nay, \_\_\_\_\_ absent.

ATTEST:

APPROVED:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

City of Fargo

\_\_\_\_\_  
SIGNATURE

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

**CERTIFICATION**

It is hereby certified that the City of Fargo will issue improvement warrants to finance the amounts that the City is obligated to pay under terms of the attached agreement with the North Dakota Department of Transportation and that authority to do so has been obtained in accordance with the Section 40-22-06 of the North Dakota Century Code.

Executed at Fargo, North Dakota, the last date below signed.

ATTEST:

APPROVED:

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

City of Fargo

\_\_\_\_\_  
SIGNATURE

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

\*Mayor or President City Commission



**CERTIFICATION OF LOCAL MATCH**

It is hereby certified that the City of Fargo will provide non-federal funds, whose source is identified below, as match for the amount the City is obligated to pay under the terms of the attached agreement with the North Dakota Department of Transportation. The certified amount does not duplicate any federal claims for reimbursement, nor are the funds used to match other federal funds, unless expressly allowed by federal regulation.

**Non-Federal Match Funds provided by City.** Please designate the source(s) of funds in the city budget that will be used to match the federal funds obligated for this project through the North Dakota Department of Transportation.

**Source:**

Sales Tax, Water Utility Funds, Sewer Utility Funds, and  
Special Assessments

Executed at Fargo, North Dakota, the last date below signed.

**ATTEST:**

Steve Sprague  
CITY AUDITOR (TYPE OR PRINT)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**APPROVED:**

City of Fargo

Dr. Tim Mahoney  
NAME (TYPE OR PRINT)

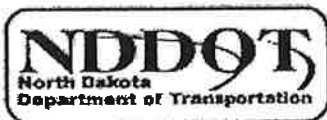
\_\_\_\_\_  
SIGNATURE

\* Mayor  
TITLE

\_\_\_\_\_  
DATE

\*Mayor or President of City Commission

CLA 17058 (Div. 38)  
L.D. Approved 11-07; 02-16



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



**Risk Management Appendix**

**Routine\* Service Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:**

**Parties:** State – State of North Dakota, its agencies, officers and employees

**Governmental Entity** – The Governmental Entity executing the attached document, its agencies, officers and employees

**Governments** – State and Government Entity, as defined above

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Each party 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 and automobile liability** insurance – minimum limits of liability required of the Governmental Entity are **\$250,000 per person** and **\$500,000 per occurrence**. The minimum limits of liability required of the State are **\$250,000 per person** and **\$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

**The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.**

Each party that hires subcontractors shall require any non-public subcontractors, prior to commencement of work set out under an agreement between that party and the non-public subcontractor, to:

Defend, indemnify, and hold harmless the Governments, its agencies, officers and employees, from and against claims based on the vicarious liability of the Governments or its agents, but not against claims based on the Government's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Subcontractor to the Governments under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Governments is necessary. Subcontractor also agrees to defend, indemnify, and hold the Governments harmless for all costs, expenses and attorneys' fees incurred if the Governments prevail in an action against Subcontractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Subcontractor 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: 1) commercial general liability; 2) automobile liability; and 3) workers compensation insurance all covering the Subcontractor for any and all claims of any nature which may in any manner arise out of or result from this agreement. The minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence for commercial general liability and automobile liability coverages, and statutory limits for workers compensation. The Governments shall be endorsed on the commercial general liability policy and automobile liability policy as additional insureds. Said endorsement shall contain a "Waiver of Subrogation" waiving any right of recovery the insurance company may have against the Governments as well as provisions that the policy and/or endorsement may not be canceled or modified without thirty (30) days prior written notice to the undersigned representatives of the Governments, and that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08. Subcontractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Governments. Any insurance, self-insurance or self-retention maintained by the Governments shall be excess of the Contractor's insurance and the Subcontractor's insurance and shall not contribute with them. The insolvency or bankruptcy of the insured Subcontractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Subcontractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the Subcontractor's policy(ies) shall be the sole responsibility of the Subcontractor. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Governments will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Subcontractor in excess of the minimum requirements set forth above. The Government Entity that hired the Subcontractor shall be held responsible for ensuring compliance with the above requirements by all Subcontractors. The Governments reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time.

\*See *North Dakota Risk Management Manual*, section 5.1 for discussion of "unique" and "routine" agreements.







33

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BR-17-F1 Type: Encroachment Agreement
Location: 415 4th Street North Date of Hearing: 5/15/2017
Backside in the 3rd St ROW

Routing Date
City Commission 9/11/2017
PWPEC File X
Project File Nathan Boerboom, Aaron Edgar

Third Street North and 4th Avenue North to the Railroad is included in a street reconstruction project in 2017. The area will have the water lines replaced and have improvements made to the sanitary sewer. Through the design process, two undocumented encroachments have been identified. Staff brought this to the attention of the School District and they are now requesting to be allowed to continue to encroach. They would like all fees (application and annual) to be waived.

Staff is recommending approval provided the School District agree to the following terms:

- The School District must hold the City harmless and provide a certificate of insurance.
The School District must be willing to incur all costs above and beyond what it would cost the City to provide a surface similar to the adjacent surface in this area on this project and any future projects.
Agreement will expire upon sale or transfer of the property.

On a motion by Bruce Grubb, seconded by Jim Gilmour, the Committee voted to recommend approval of the Encroachment Agreement and to waive the application fee and annual fees subject to the terms outlined above.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Encroachment Agreement waiving the application fee and the annual fee.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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
N/A
N/A
N/A

COMMITTEE

Tim Mahoney, Mayor
Jim Gilmour, Director of Planning
Steve Dirksen, Fire Chief
Mark Bittner, Director of Engineering
Bruce Grubb, City Administrator
Ben Dow, Director of Operations
Steve Sprague, City Auditor
April Walker, City Engineer
Kent Costin, Finance Director

Table with 4 columns: Present, Yes, No, Unanimous. Rows for each committee member with checkboxes. Unanimous column has a checkmark.

ATTEST:

April E. Walker, P.E., C.F.M.
City Engineer



# Memorandum

**To:** Members of PWPEC  
**From:** Aaron Edgar, Project Engineer *ADE*  
**Cc:** Jim Frueh, Fargo Public Schools  
**Date:** May 9, 2017  
**Re:** 415 4<sup>th</sup> Street North Encroachment  
 Improvement District No. BR-17-F1

Attached you will find a request for the encroachment at 415 4<sup>th</sup> Street North. This is an existing undocumented encroachment. The Owner is asking for an encroachment into the ROW on the west side of 3<sup>rd</sup> Street North. The Owner is asking for a 10' x 10' encroachment for the attached entrance into the building and a 23' x 7' encroachment for a concrete wall and railing. Please see the attached drawing showing the area they want to encroach on.

The Owner was supplied the following information regarding the basic terms that have been used when an encroachment is deemed appropriate:

- The Encroacher agrees to hold the City harmless against any and all expenses, demands, claims or losses sustained by the City by use of the public right of way by the Encroacher. The Encroacher must provide the City a Certificate of Insurance indicating acceptance by the Insurer of its obligation to defend and hold harmless the City.
- Encroacher will be responsible for paying all costs above and beyond those the City would have incurred to return the area to a material similar to the adjacent surface.
- Application fee for the encroachment in the amount of \$500.
- Agreement expires upon sale or transfer of the property.
- An annual fee for the encroachment
  - As determined by taking the assessed value of the land adjacent to the right of way and determining a SF value. 10% of this square foot (SF) value will then be applied to the area of the encroachment and will be due annually.  
 $261 \text{ SF} \times .1(\$3.00) = \$78.30$   
 Therefore the \$500 minimum annual payment would apply.

Attached you will find the Applicant's request and a site map with layout of the encroachment.

### **Recommended Motion:**

Consider request to waive fees and approve the encroachment request at 415 4<sup>th</sup> Street North, contingent upon the Owner signing the Agreement and providing the Certificate of Insurance.

ADE/jmg  
 Attachments

**Aaron Edgar**

---

**From:** Jim Frueh <fruehj@fargo.k12.nd.us>  
**Sent:** Tuesday, April 04, 2017 9:07 AM  
**To:** Aaron Edgar  
**Subject:** District Office encroachment request

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Aaron

This is a request for an encroachment unto city right way for a railing and a small entrance located on the east side of 415 N. 4<sup>th</sup> St. Fargo, ND 58102

I would also ask that you waive the application fee and the annual fee that is associated with this encroachment.

If you have any further questions please give me a call.

Thanks

Jim

Jim Frueh, Director Maintenance & Operations

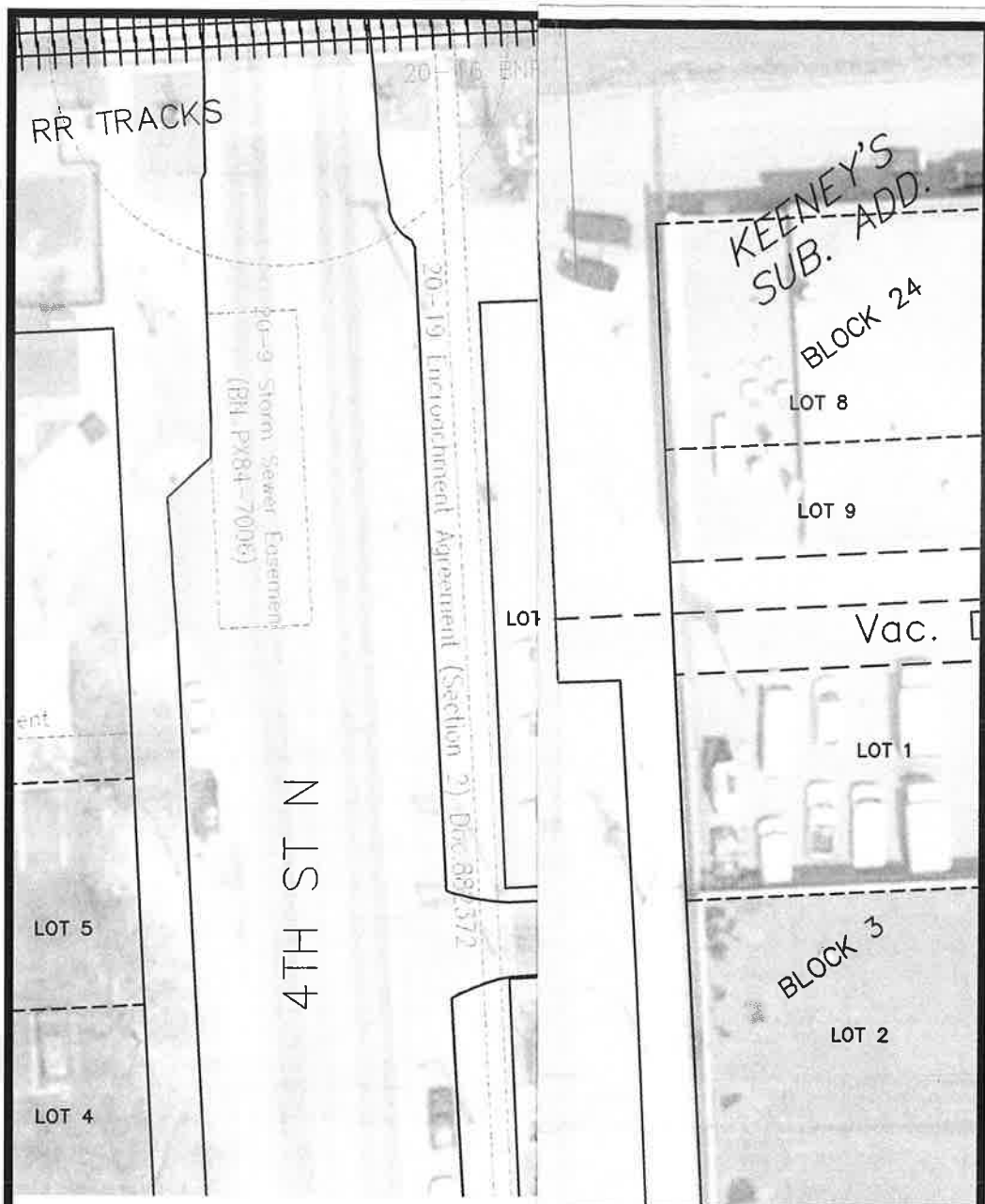
415 North 4<sup>th</sup> St.

Fargo, ND 58102

Office 701-446-1023

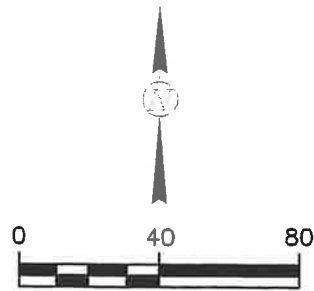
Fax 701-446-1200

[fruehj@fargo.k12.nd.us](mailto:fruehj@fargo.k12.nd.us)



**Exhibit A**

 - Proposed Encroachment Area



#415 4th Street North

EXHIBIT A

ENGINEERING DEPT. DATE: APRIL 2017

**ENCROACHMENT AGREEMENT**

**THIS AGREEMENT**, made and entered by and between the **CITY OF FARGO, NORTH DAKOTA**, a municipal corporation, hereinafter referred to as “City”, and **CITY OF FARGO FOR THE USE OF SCHOOLS**, hereinafter referred to as “Fargo Public Schools” or “Owner”;

**WITNESSETH:**

**WHEREAS**, Fargo Public Schools desires to encroach on a portion of City right-of-way (described below) to install a small building entrance and a concrete wall with a railing;

**WHEREAS**, Fargo Public Schools has requested permission to encroach on a portion of the right-of-way hereinafter particularly described, thus allowing it to utilize City rights-of-way for such purpose;

**WHEREAS**, the Public Works Projects Evaluation Committee has reviewed the request for encroachment and recommends approval; and,

**WHEREAS**, Fargo Public Schools has agreed to execute this agreement required by City for encroachment on City right-of-way.

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto as follows:

Fargo Public Schools, its successors and assigns, is hereby granted the right to encroach and use a portion of the right-of-way, said encroachment being for the purpose of a building entrance and a concrete wall with a railing, located as follows:

DIA portion of public street right of way known as 3<sup>rd</sup> Street North (formerly C Street) described as follows:

Beginning at the NE corner of Lot 5, Block 23, Leach and Wells Subdivision, City of Fargo, Cass County, North Dakota; thence easterly along an extension of the northerly line of said Lot 5 a distance of 23.00 feet; thence southerly parallel to the easterly line of said Lot 5 a distance of 7.00 feet; thence westerly parallel to an extension of the northerly line of said lot 5 a distance of 23.00 feet to a point on the easterly line of said Lot 5; thence northerly along the easterly line of said lot 5 a distance of 7.00 feet to the point of beginning.

Said described tract contains 161 square feet, more or less.

A portion of public street right of way known as 3<sup>rd</sup> Street North (formerly C Street) described as follows:

Commencing at the NE corner of Lot 5, Block 23, Leach and Wells Subdivision, City of Fargo, Cass County, North Dakota; thence southerly along the easterly line of said Lot 5 a distance of 18.40 feet to the point of beginning; thence easterly parallel to an extension of the northerly line of said Lot 5 a distance of 10.00 feet; thence southerly parallel to the easterly line of said Lot 5 a distance of 10.00 feet; thence westerly parallel to an extension of the northerly line of said lot 5 a distance of 10.00 feet to a point on the easterly line of said Lot 5; thence northerly along the easterly line of said lot 5 a distance of 10.00 feet to the point of beginning.

Said described tract contains 100 square feet, more or less.

Said encroachment is more particularly described and indicated in attached Exhibit "A" showing the property, building entrance location and the concrete wall with railing location. Exhibit "A" is attached hereto and incorporated herein by reference.

2. It is the intent of this agreement that Owner may utilize City right-of-way for the purpose of installing a building entrance and a concrete wall with a railing.

3. Owner, its successors and assigns will, during any use of said public right-of-way, use due care to protect City streets, utilities and all other public property, minimize disruption to

pedestrian travel in accordance with MUTCD Standards and Specifications; and that upon discontinuance of use, Owner will restore and replace all public property to its vegetated surface, or pay all costs above those that would be incurred by City to restore such surface.

4. It is understood and agreed by and between the parties that Owner will be responsible for the repair or replacement of any public property which may be damaged or destroyed as a direct or indirect result of the use of the public rights-of-way for the installation of a building entrance and concrete wall with a railing. Fargo Public Schools agrees to accept all maintenance responsibility for the building entrance and a concrete wall with a railing.

5. Owner agrees to further 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, its property, streets, sidewalks, or any other municipal improvements by reason of the use of the public rights-of-way as aforesaid. Owner agrees to provide to the City a certificate of insurance indicating acceptance by its insurer of its obligation to defend and hold the City harmless as hereinabove stated.

6. This agreement is personal to Owner and cannot be sold, transferred or otherwise assigned. This agreement shall immediately terminate upon Owner's sale, transfer or assignment of the encroaching property. Subsequent owners may request permission to encroach, and enter into a separate agreement with City. City shall not withhold permission to encroach under the terms herein without due cause.

7. It is understood and agreed by and between the parties that this agreement and permission to encroach is given subject to any limitation on the authority of City to grant such permission, which may now or hereafter exist.

8. It is specifically understood and agreed that the City retains authority to operate and

maintain existing above ground and underground municipal facilities in the encroachment area. In the event the City needs to permanently retake the encroachment area, City will provide Owner written notice ninety (90) days in advance to remove the encroaching private facilities, to the extent deemed necessary by City. If City determines, in its sole discretion, that Owner has failed to maintain the building entrance and concrete wall with a railing in an acceptable manner, City may terminate as provided herein. Further, this agreement shall terminate if the encroaching property is repaired, reconstructed or improved at a cost of 25% or more of the market value of the property prior to such improvement or repair. If the encroaching property is damaged, market value will be determined as the value before the damage occurred.

9. It is specifically agreed between the parties that a copy of this Encroachment Agreement may be recorded.

10. City will waived all fees associated with this encroachment.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2017.

(Signatures on the following pages)









**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Improvement District No. BR-17-J1 Type: Time Extension  
 Location: 22<sup>nd</sup> Ave S, 23<sup>rd</sup> Ave S, 6<sup>th</sup> St S Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	9/11/2017
PWPEC File	X
Project File	Rob Hasey

The Committee reviewed the attached letter from Project Manager, Rob Hasey, regarding a time extension requested by Tom's Backhoe Service. The Contractor is allowed a time extension of one half day per sewer service as per the contract.

Staff is recommending the time extension as follows:

Original Completion Dates	Revised Previously	Recommended by Staff
Intermediate – August 28, 2017	-	Intermediate – September 5, 2017
Substantial – September 28, 2017	-	Substantial – October 6, 2017
Final – October 28, 2017	-	Final – November 6, 2017

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of the time extension.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the time extension.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: None

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>        </u>	<u>        </u>
N/A	
<u>        </u>	
N/A	
<u>        </u>	


COMMITTEE

Tim Mahoney, Mayor  
 Jim Gilmour, Director of Planning  
 Steve Dirksen, Fire Chief  
 Mark Bittner, Director of Engineering  
 Bruce Grubb, City Administrator  
 Ben Dow, Director of Operations  
 Steve Sprague, City Auditor  
 City Engineer  
 Kent Costin, Finance Director

Present	Yes	No	Unanimous
<u>        </u>	<u>        </u>	<u>        </u>	<u>        </u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
 Brenda Derrig, P.E.  
 Division Engineer



# Memorandum

**To:** PWPEC

**From:** Rob Hasey, Civil Engineer I, Storm Sewer Utility *RH*

**Cc:** Brenda Derrig, Division Engineer

**Date:** 09/05/2017

**Re:** Project #BR-17-J1 - Water Main Replacement, Street Reconstruction & Incidentals - Time Extension

## Background:

The bids for Project #BR-17-J1 were opened on May 17<sup>th</sup>, 2017 and the project was awarded by the City Commission on May 22<sup>nd</sup>, 2017. Construction began on July 10<sup>th</sup>, 2017. The project bid documents included a substantial completion date of August 28<sup>th</sup>, 2017 and a final completion date of September 28<sup>th</sup>, 2017.

The Contractor has completed 12 sewer service replacements from the sewer main in the street to 5' behind the curb on phase 1. The Contractor is allowed a time extension of one half day per sewer service as per the contract.

Attached to this memorandum is a letter from Steve Merten with Tom's Backhoe Service requesting 6 additional days be added to the contract. The attached change order is for an additional 8 days due to September 30<sup>th</sup> & October 1<sup>st</sup> falling on Saturday and Sunday. The intermediate completion date for phase 1 shall also be adjusted from August 28<sup>th</sup> to September 5<sup>th</sup>. Final completion shall be adjusted from October 28<sup>th</sup> to November 6<sup>th</sup>.

## Recommended Motion:

Approve a time extension for the intermediate, substantial, and final completion dates.

Original Completion Dates	Revised Previously	Recommended by Staff
Intermediate – August 28, 2017	-	Intermediate – September 5, 2017
Substantial – September 28, 2017	-	Substantial – October 6, 2017
Final – October 28, 2017	-	Final – November 6, 2017

RJH/klo  
Attachment



August 28, 2017

RE: Additional 6 days

Robert J Hasey  
City of Fargo / Engineer  
200 N 3<sup>rd</sup> Street  
Fargo, ND 58102

Via Email

Robert J Hasey:

Let this letter represent that we are requesting an additional 6 days be added to the substantial completion date per our contract for the addition of a total of 12 sewer services on phase one moving our phase one date to Tuesday September 5<sup>th</sup>.

Thank You

A handwritten signature in black ink, appearing to read "Steve Merten", written in a cursive style.

Steve Merten  
Vice President

**Tom's Backhoe Service Inc.**  
323 Woodland Hills Ln. Brainerd, MN 56401  
(218) 828-4232



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Improvement District No BR-17-J1 Change Order No 1  
 Project Name Water Main Replacement, Street Reconstruction & Incidentals  
 Date Entered 8/28/2017 For Toms Backhoe Service 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:** Add days to contract for extra work performed (sanitary sewer service replacement at 6 houses)

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 (\$)
<b>Summary</b>										
<b>Source Of Funding</b>										
Net Amount Change Order # 1 (\$)										
Previous Change Orders (\$)										
Original Contract Amount (\$)										
Total Contract Amount (\$)										

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

**CONTRACT TIME**

<b>Current Completion Date</b>	09/28/2017	<b>Additional Days</b>	8.00	<b>New Completion Date</b>	10/06/2017
--------------------------------	------------	------------------------	------	----------------------------	------------

**Description**

**APPROVED**

For Contractor *Hathyr Johnson*  
 Title *Owner* *8/28/17*

**APPROVED DATE**

Department Head *[Signature]*  
 Mayor *[Signature]* *9/6/2017*



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Attest



**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Improvement District No. BR-17-F1 Type: Time Extension  
 Location: 4<sup>th</sup> Ave N from Bdwy to 3<sup>rd</sup> St & 3<sup>rd</sup> St N from 4<sup>th</sup> Ave to RR Tracks Date of Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</u>
PWPEC File	<u>X</u>
Project File	<u>Aaron Edgar</u>

The Committee reviewed the attached letter from Project Manager, Aaron Edgar, regarding a time extension requested by Master Construction. The time extension is due to two separate factors. Xcel Energy has been installing new gas mains along 4<sup>th</sup> Ave causing delays on portions of construction. There were also delays due to the City Hall construction on 3<sup>rd</sup> Ave causing Master Construction to wait to close down 4<sup>th</sup> Ave due to the need for access into the City Employee Parking lot.

Staff is recommending the time extension as follows:

Original Completion Dates	Revised Previously	Revised This Memo
4 <sup>th</sup> Avenue/4 <sup>th</sup> Street – 50 days		4 <sup>th</sup> Avenue/4 <sup>th</sup> Street – 50 days
Interim Phase 1 - 65 days (Sept. 18 <sup>th</sup> , 2017)	—	Interim Phase 1 - 108 days (November 2, 2017)
Interim Phase 2 - 80 days (October 19 <sup>th</sup> , 2017)	—	Interim Phase 2 - 94 days (November 2, 2017)
Substantial – November 1, 2017	—	Substantial – November 15, 2017
Final – June 15, 2018	—	Final – June 15, 2017

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of the time extension.

**RECOMMENDED MOTION**

Concur with the recommendations of PWPEC and approve the time extension.

**PROJECT FINANCING INFORMATION:**

Recommended source of funding for project: None

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

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)

PWPEC ROA  
ID BR-17-F1  
9/6/17 -- Page 2


COMMITTEE

Tim Mahoney, Mayor  
Jim Gilmour, Director of Planning  
Steve Dirksen, Fire Chief  
Mark Bittner, Director of Engineering  
Bruce Grubb, City Administrator  
Ben Dow, Director of Operations  
Steve Sprague, City Auditor  
City Engineer  
Kent Costin, Finance Director

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
Brenda Derrig, P.E.  
Division Engineer



# Memorandum

**To:** Members of PWPEC  
**From:** Aaron Edgar, Project Engineer *ADE*  
**Date:** August 23<sup>rd</sup>, 2017  
**C:** Nathan Boerboom – Division Engineer  
**Re:** Time Extension for ID #BR-17-F1 Water Main Replacement, Street Reconstruction & Incidentals

---

## Background:

Improvement District BR-17-F1 runs along 4<sup>th</sup> Avenue North from Broadway to 3<sup>rd</sup> Street and on 3<sup>rd</sup> Street North from 4<sup>th</sup> Avenue to the RR Tracks.

Master Construction is the prime contractor on this project.

Master Construction is requesting a 2 week time extension on the substantial completion date, a 43 day time extension on the interim completion date on Phase 1 (to make the Phase 1 completion date the same as Phase 2), and a 14 day time extension on the interim completion date on Phase 2. The time extensions, that Master Construction is requesting, will not include the intersection of 4<sup>th</sup> Avenue and 4<sup>th</sup> Street.

Master Construction's time extension requests are mainly due to two separate of factors.

- 1.) Xcel Energy has been installing new gas mains and services along 4<sup>th</sup> Avenue North, which has resulted in Master Construction being delayed on portions of construction.
- 2.) Master Construction was not allowed to install the concrete paving on 4<sup>th</sup> Avenue North from 4<sup>th</sup> Street to 3<sup>rd</sup> Street per their original schedule because 4<sup>th</sup> Avenue needed to remain open on this block to allow access to the City Employee parking lot. Master Construction has had the class 5 installed, on 4<sup>th</sup> Avenue North from 4<sup>th</sup> Street to 3<sup>rd</sup> Street, and the road ready for paving for about 2 weeks but will not be able to pave it until the work on 3<sup>rd</sup> Avenue (City Hall Construction) is completed and access to the City Employee parking lot off of 3<sup>rd</sup> Avenue is restored. This is resulting in a 3-4 week delay.

Due to these delays incurred, Master Construction is asking that the time extension on Phase 1 match the completion date on Phase 2. The Contractor will continue to keep 4<sup>th</sup> Avenue North from 3<sup>rd</sup> Street to 4<sup>th</sup> Street open to traffic until they start paving.

Master Construction has 50 days to have the intersection of 4<sup>th</sup> Avenue/4<sup>th</sup> Street opened back up to traffic. They are on schedule to have this intersection opened up to traffic in about 30 days and will receive incentives on this portion of the project.

Members of PWPEC  
 I.D. #BR-17-F1  
 Page 2

**Recommended Motion:**

Approve the time extensions, for Improvement District BR-17-F1, as shown below.

Original Completion Dates	Revised Previously	Revised This Memo
4 <sup>th</sup> Avenue/4 <sup>th</sup> Street – 50 days Interim Phase 1 - 65 days (Sept. 18 <sup>th</sup> , 2017) Interim Phase 2 - 80 days (October 19 <sup>th</sup> , 2017) Substantial – November 1, 2017 Final – June 15, 2018	– – – – – –	4 <sup>th</sup> Avenue/4 <sup>th</sup> Street – 50 days Interim Phase 1 - 108 days (November 2, 2017) Interim Phase 2 - 94 days (November 2, 2017) Substantial – November 15, 2017 Final – June 15, 2017

ADE/klo

30

**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Improvement District No. BR-17-C1 Type: Change Order #1 and Time Extension  
 Location: 4<sup>th</sup> St (Main-2<sup>nd</sup> St S), Main Ave (2<sup>nd</sup> St-4<sup>th</sup> St S) Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</u>
PWPEC File	<u>X</u>
Project File	<u>Rick Larson</u>

The Committee reviewed the accompanying correspondence from Project Manager, Rick Larson, for a Change Order in the amount of \$24,300.00, bringing the total contract amount to \$2,213,862.90.

The Contractor has requested a time extension due to a delay of the traffic signal poles from the manufacturer.

Staff is recommending approval of Change Order #1 and time extension as shown below.

Original Phase 1 Completion Date	Revised This Memo
70 Days from Starting Phase 1	18 Additional Interim Completion Days for Phase 1
Started – June 20 <sup>th</sup> , 2017 Ending – August 28 <sup>th</sup> , 2017	From - August 29 <sup>th</sup> , 2017 Thru - September 15 <sup>th</sup> , 2017

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of Change Order #1 and time extension as shown above.

**RECOMMENDED MOTION**

Concur with PWPEC recommendation and approve Change Order #1 in the amount of \$24,300.00 to Master Construction, bringing the total contract amount to \$2,213,862.90, along with the time extension for Improvement District No. BR-17-C1, Water Main Replacement, Force Main Construction, Street Reconstruction & Incidentals.

**PROJECT FINANCING INFORMATION:**

Recommended source of funding for project:	<u>Special Assessments</u>	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>
Letter of Credit required (per policy approved 5-28-13)		<u>N/A</u>	<u>        </u>

PWPEC ROA  
I.D. #BR-17-C1  
9/6/2017 -- Page 2


COMMITTEE

Tim Mahoney, Mayor  
Jim Gilmour, Director of Planning  
Steve Dirksen, Fire Chief  
Mark Bittner, Director of Engineering  
Bruce Grubb, City Administrator  
Ben Dow, Director of Operations  
Steve Sprague, City Auditor  
City Engineer  
Kent Costin, Finance Director

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
Brenda E. Derrig, P.E.  
Division Engineer



# Memorandum

**To:** Members of PWPEC  
**From:** Rick Larson, Project Manager *RL*  
**Date:** August 30, 2017  
**Re:** Improvement District #BR-17-C1 – Change Order # 1 & Time Extension

**Background:**

Improvement District #BR-17-C1 is for the water main replacement, force main construction, street reconstruction and incidentals on 4<sup>th</sup> Street South from Main Avenue to 2<sup>nd</sup> Street South and on Main Avenue from 2<sup>nd</sup> Street to 4<sup>th</sup> Street.

The attached Change Order # 1 includes all additional costs associated with the installation of a new bike trail in Island Park as requested by the Fargo Park District to be constructed with Improvement District #BR-17-C1 and a time extension due to the delay of traffic signal poles from the manufacturer. An explanation of the work is shown below:

1. The Contractor will excavate the existing soils, install 2" of class #5 gravel base, pour 342 LF of 10' wide x 5" thick reinforced concrete bike trail, grade top soil, seed & hydro mulch for a lump sum price of \$24,300.00 to be 100% Special Assessed to the Fargo Park District.
2. The poles are currently scheduled to be finished by the manufacturer on September 1, 2017 and with the uncertainty of the exact shipping date, the Contractor is asking for a revised interim completion date for Phase 1 of September 15, 2017. The Contractor has indicated prompt installation when traffic signal poles arrive and may not need the entire time requested.

**Recommended Motion:**

Approve Change Order # 1 in the amount of \$24,300.00 to be Special Assessed to the Fargo Park District and the time extension to the new interim completion date for the installation of the traffic signals as shown below:

Original Phase 1 Completion Date	Revised This Memo
70 Days from Starting Phase 1	18 Additional Interim Completion Days for Phase 1
Started – June 20 <sup>th</sup> , 2017 Ending – August 28 <sup>th</sup> , 2017	From - August 29 <sup>th</sup> , 2017 Thru - September 15 <sup>th</sup> , 2017

RJL/klo  
Attachment

C: Jeremy Gordon  
Tom Knakmuhs



# MASTER CONSTRUCTION

**BOX 788 • FARGO, ND 58107 • (701) 237-4950 • FAX (701) 237-5027**

TRENCHING

August 17, 2017

HORIZONTAL BORING

City Of Fargo Engineering Dept.

DIRECTIONAL BORING

Attn: Rick Larson

CRANE SERVICE

200 North 3<sup>rd</sup> Street

CURB GUTTER

Fargo, ND 58102

CONCRETE WORK

RE: Improvement District BR-17-C1 Signal Interim Time Extension

UNDERGROUND WORK

Dear Mr. Larson,

EQUIPMENT RENTAL

As you are aware we are currently looking at completing phase 1 of this project on Monday August 28, 2017. Master will have all the items completed as per the contract requirements except the signal lights. We discussed this at the preconstruction meeting that do to manufacture lead times on the traffic signals we wouldn't have them available for the phase 1 completion. Attached to this letter you will find a letter from Moorhead Electric and also Millerbernd which shows that there were not any delays within the contractor's control. The delays incurred are manufacturing delays from Millerbernd. In summary from the letters Millerbernd shuld have the signals completed by September 1, 2017 and taking into consideration shipping MEI feels they can have them up by September 15, 2017.

DEMOLITION

ASPHALT WORK

EXCAVATION

ERECTION WORK

STREETS

SIDEWALKS

Due to the above signal delays Master Construction is requesting the interim completion date for the signals on phase one be extended to September 15, 2017. Please note this does not take into consideration any further manufacturing delays or delays caused by power supply.

Should you have any questions please contact me.

Regards,

Jason Winter  
Project Manager  
Master Construction Co., Inc.





8/10/2017

Jason Winter  
Master Construction  
1572 45<sup>th</sup> St N  
Fargo, ND 58102

Attn: Jason Winter

Subject: City of Fargo BR-17-C1 Completion Date Extension

We would like to request an extension on the City of Fargo project number BR-17-C1 due to the lead time of the traffic signal poles. We knew there could have been a problem with the excessive lead time of this material before the project even started. We would like to request an extension to September 15, 2017. We sent PO's to our vendor for the signal standards on 5/25/2017 and received shop drawings on 6/9/2017. We stamped and sent these shop drawings to the General Contractor the same day 6/9/2017. We received the shop drawings back as approved from the General Contractor on 6/9/2017 and the order was then sent back to our vendor and released on 6/9/2017. The signal standards are scheduled for completion on 8/25/2017 with shipment sometime the following week, and if delivered in good condition and on-time by September 1<sup>st</sup>, MEI is proposing a new completion date for the signals would be 9/15/2017. \*Dates may change depending on manufacturer, shipping dates, and condition of shipment

Please acknowledge.

Thanks,

Kyle Pederson  
MEI  
Project Manager



August 17, 2017

Moorhead Electric  
Attn: Kyle Pederson  
3451 University Drive S  
Fargo, ND 58104

**RE: CITY OF FARGO BR-17-C1 MMC# 76422/PO#5501512364 Order Completion Date**

To whom it may concern,

This order currently has an estimated completion date of 9/1 with shipment to follow within one to two weeks of completion.

Respectfully Submitted,



Kelsey Hartkopf  
Customer Service Representative

P: 320.485.5260  
E: [kelseyh@millerberndmfg.com](mailto:kelseyh@millerberndmfg.com)



**CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT**

Improvement District No	BR-17-C1	Change Order No	1
Project Name	Water Main Replacement, Force Main Construction, Street Reconstruction & Incidentals		
Date Entered	8/30/2017	For	Master Construction Co 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:** Additional Bike Trail

Additional work to install 10' wide x 342 long 5" thick bike trail as requested by the Fargo Park District.

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 (\$)
Paving	160	Extra - SiteGrading	LS	0.00	0.00	0.00	1.00	1.00	9,100.00	9,100.00
	161	F&I Shared Use Path 5" Thick Reinf Conc	SY	0.00	0.00	0.00	380.00	380.00	40.00	15,200.00
									<b>Paving Sub Total (\$)</b>	<b>24,300.00</b>

**Summary**

Source Of Funding	Special Assessments
Net Amount Change Order # 1 (\$)	24,300.00
Previous Change Orders (\$)	0.00
Original Contract Amount (\$)	2,189,562.90
Total Contract Amount (\$)	2,213,862.90

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



**CONTRACT TIME**

Current Completion Date	10/14/2017	Additional Days	0.00	New Completion Date	10/14/2017
-------------------------	------------	-----------------	------	---------------------	------------

**Description**  
The poles are currently scheduled to be finished by the manufacturer on September 1, 2017 and with the uncertainty of the exact shipping date, the Contractor is asking for a revised interim completion date for Phase 1 of September 15, 2017. No Additional days will be added to the substantial completion date.



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

APPROVED		APPROVED DATE	
For Contractor	Mister Least	 Department-Head Mayor	9/6/2017
Title	Project Manager	Attest	

**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Improvement District No. BR-17-B1 Type: Change Order #1 and Time Extension

Location: Broadway, 15<sup>th</sup> to 12<sup>th</sup> Ave N Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	<u>9/11/2017</u>
PWPEC File	<u>X</u>
Project File	<u>Aaron Edgar</u>

The Committee reviewed the accompanying correspondence from Aaron Edgar, Project Manager, for a Change Order in the amount of \$13,751.40, bringing the total contract amount to \$2,722,567.81.

The Contractor has requested a time extension for extra work that was performed and a delay in materials for the 30" force main.

Staff is recommending approval of Change Order #1 and time extension as shown below.

<b>Original Completion Dates</b>	<b>Revised Previously</b>	<b>Revised This Memo</b>
Interim Phase 1 - 75 days Interim Phase 2 - 70 days Substantial – October 21, 2017 Final – November 21, 2017	- - - -	Interim Phase 1 - 88 days Interim Phase 2 - 70 days Substantial – November 4, 2017 Final – December 4, 2017

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of Change Order #1 and time extension as shown above.

**RECOMMENDED MOTION**

Concur with PWPEC recommendation and approve Change Order #1 in the amount of \$13,751.40 to Dakota Underground, bringing the total contract amount to \$2,722,567.81, along with the time extension for Improvement District No. BR-17-B1, Water Main Replacement, Force Main Construction, Street Reconstruction & Incidentals.

**PROJECT FINANCING INFORMATION:**

Recommended source of funding for project: State/Federal Funds – HMGP, Utility, Sales Tax & Special Assessments

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)

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

PWPEC ROA  
I.D. #BR-17-B1  
9/6/2017 -- Page 2

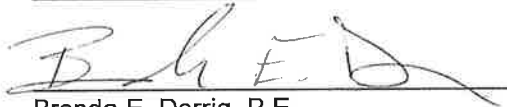
COMMITTEE

Tim Mahoney, Mayor  
Jim Gilmour, Director of Planning  
Steve Dirksen, Fire Chief  
Mark Bittner, Director of Engineering  
Bruce Grubb, City Administrator  
Ben Dow, Director of Operations  
Steve Sprague, City Auditor  
City Engineer  
Kent Costin, Finance Director

Present	Yes	No	Unanimous
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
Brenda E. Derrig, P.E.  
Division Engineer



# Memorandum

**To:** Members of PWPEC  
**From:** Aaron Edgar, Project Engineer *ADE*  
**Date:** August 28<sup>th</sup>, 2017  
**C:** Tom Knakmuhs – Division Engineer  
**Re:** Change Order 1 for ID #BR-17-B1 Water Main Replacement, Force Main Construction, Street Reconstruction & Incidentals

**Background:**

Improvement District BR-17-B1 runs along Broadway North from 15<sup>th</sup> Avenue to 12<sup>th</sup> Avenue

Dakota Underground is the prime contractor on this project.

The attached Change Order in the amount of \$13,751.40 (0.50% of the original contract), which increases the total contract amount to \$2,722,567.81, is for additional work as shown on Change Order #1.

Dakota Underground is requesting a 13 day time extension on the interim completion date for Phase 1 (Broadway North from 15<sup>th</sup> Avenue to the mid-Block of 13<sup>th</sup> & 14<sup>th</sup> Avenue) and a 2 week time extension for the substantial and final completion dates.

Dakota Underground’s time extension request on the Phase 1 interim completion date is due to the extra work that was performed and a delay in materials for the 30” force main. The Contractor wants 3 days added on for the extra work that was performed and 10 days added on for the delay in the 30” force main materials. The Contractor is working diligently to get the road opened back up to traffic as soon as possible and will likely not need the full 13 day time extension in order to get the road opened up. I’m anticipating that the road will be opened up within a week of the original interim completion date.

The Contractor is requesting that the substantial completion date and final completion date be extended two weeks due to the project being awarded two weeks later than expected at the time of bidding.

**Recommended Motion:**

Approve Change Order #1 and the time extensions, for Improvement District BR-17-B1, as shown below:

Original Completion Dates	Revised Previously	Revised This Memo
Interim Phase 1 - 75 days	-	Interim Phase 1 - 88 days
Interim Phase 2 - 70 days	-	Interim Phase 2 - 70 days
Substantial – October 21, 2017	-	Substantial – November 4, 2017
Final – November 21, 2017	-	Final – December 4, 2017



**CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT**

Improvement District No **BR-17-B1** Change Order No **1**  
 Project Name **Water Main Replacement, Force Main Construction, Street Reconstruction & Incidentals**  
 Date Entered **8/28/2017** For **Dakota Underground Co 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:**

- This change order is for additional work as follows:  
 1.) In the 30" sanitary sewer valve vault, change the existing 2" SS Cap to a 2" SS Threaded Flange and a 2" Blind Flange.  
 2.) Change the existing bid item from Grooved Plastic Film 4" Wide to Grooved Plastic Film 7" Wide.  
 3.) The existing storm sewer pipe, that is suppose to be lined, had a section of pipe that was reduced down from 15" to 12". In order to get the storm sewer lined, the Contractor has to install a special order transition sleeve in the pipe.  
 4.) Due to a pipe conflict with Century Link, the contractor had to adjust a stretch of storm sewer pipe and 2 inlets (ST-1 and ST-1.1).  
 5.) The Contractor had to connect to an existing storm sewer pipe that ran from the Rosewood parking lot.  
 6.) The Contractor had to maintain access to the Rosewood nursing home, so they installed a temporary access road.

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 (\$)
Pavement Markings	115	F&I Grooved Plastic Film 4" Wide	LF	2,998.00	0.00	2,998.00	-2,176.00	822.00	4.07	-8,856.32
	122	F&I Grooved Contrast Film 7" Wide	LF	0.00	0.00	0.00	2,176.00	2,176.00	7.55	16,428.80
									<b>Pavement Markings Sub Total (\$)</b>	<b>7,572.48</b>
HMGP Eligible	121	* Extra - 2" Flange for Force Main	LS	0.00	0.00	0.00	1.00	1.00	100.00	100.00
Storm Sewer	122	* Extra- Transition Sleeve for Pipe Lining	LS	0.00	0.00	0.00	1.00	1.00	2,760.00	2,750.00
	123	* Extra - Adjust Storm Inlets	LS	0.00	0.00	0.00	1.00	1.00	571.56	571.56
	123	Connect Pipe to Exist Structure	EA	0.00	0.00	0.00	1.00	1.00	1,051.73	1,051.73
									<b>Storm Sewer Sub Total (\$)</b>	<b>4,373.29</b>
Paving	124	* Extra- Temporary Access Road	LS	0.00	0.00	0.00	1.00	1.00	1,705.63	1,705.63
										<b>Paving Sub Total (\$)</b>
									<b>Grand Total (\$)</b>	<b>13,751.40</b>

\* NC Items

**Summary**





CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Source Of Funding  
Federal Funds - HMGP, Sales Tax Funds - Infrastructure - 420, Sales Tax Funds - Wastewater - 455, Special Assessments, State Funds - Other ND

Net Amount Change Order # 1 (\$)	13,751.40
Previous Change Orders (\$)	0.00
Original Contract Amount (\$)	2,708,816.41
Total Contract Amount (\$)	2,722,567.81

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

CONTRACT TIME

Current Completion Date  
10/21/2017

Additional Days  
14.00

New Completion Date  
11/04/2017

Description

APPROVED

*Bob Nelson*  
For Contractor  
Dakota Underground Company  
Title Project Manager

APPROVED DATE

Department Head  
Mayor  
Attest  
*[Signature]*  
9/6/2017

**JE DAKOTA**  
**UNDERGROUND CO**  
**MUNICIPAL AND HEAVY CONTRACTORS**

4001 15 Avenue N. W. • Fargo, ND 58102 • Phone (701) 282-9753 • Fax (701) 282-0016

City of Fargo Engineering  
200 3<sup>rd</sup> Street North  
Fargo, ND 58102

August 16, 2017

Attn: Aaron Edgar

Re: Imp District No. BR-17-B1 -- North Broadway Reconstruction; 12<sup>th</sup> Ave to 15<sup>th</sup> Ave

Dakota Underground Company requests additional time to complete the Phase 1 interim completion provision, and substantial & final completion.

**Interim Completion:**

The reason for the request to extend the time on Phase 1 is the late delivery of the 30" plug valve and subsequent temporary spool piece, and extra work completed.

It was determined that in the best interest of the project, work should commence in Phase 1 (15<sup>th</sup> Ave to midblock of 13<sup>th</sup> & 14<sup>th</sup> Ave). By beginning on the north end, the underground work could be completed in the intersection, thereby eliminating the need to temporarily asphalt patch the 15<sup>th</sup> Ave intersection, only to remove it later in the project for pipe connections and concrete paving. That would disrupt this intersection for a second time and also would occur when school is back in session.

Phase 1 was dependent upon timely delivery of the 30" valve. Initially, an acceptable delivery schedule was promised by the supplier. Unfortunately, after commencing work in Phase 1, we were notified that the valve delivery was delayed for up to 4 weeks. As you know, installation of the valve in proper sequence within the large diameter pipeline is critical to the proper alignment and fit. So, a spool piece (a temporary fabrication with exact dimensions of the valve) was ordered to fit into the valve location, thereby minimizing further delay. We were held up 10 days awaiting fabrication and delivery of the spool piece so we could continue installation of the forcemain.

For these reasons, we request an additional 10 days for the delay in receiving the spool piece, and 3 days for the additional sewer service and extra work.

**Substantial & Final Completion:**

This project was awarded two weeks later than expected at the time of bid submission. For this reason we ask to be afforded the same overall time interval to procure materials, prepare, and perform the work as offered in the instructions to bidders. We request an additional two weeks for substantial and final completion.

Thank you for your consideration regarding this request.

Sincerely,

DAKOTA UNDERGROUND COMPANY

  
Bob Nelson

138

**PUBLIC WORKS PROJECTS EVALUATION COMMITTEE**

Improvement District No. PN-15-J1 Type: Final Balancing Change Order #3

Location: Deer Creek Addition Hearing: 9/6/2017

<u>Routing</u>	<u>Date</u>
City Commission	9/11/2017
PWPEC File	X
Project File	Jason Satterlund

The Committee reviewed the accompanying correspondence from Project Manager, Jason Satterlund, for the Final Balancing Change Order #3 in the amount of \$ -50,498.14, bringing the total contract amount to \$1,397,143.21.

Staff is recommending approval of Final Balancing Change Order #3.

On a motion by Mark Bittner, seconded by Ben Dow, the Committee voted to recommend approval of Final Balancing Change Order #3.

RECOMMENDED MOTION

Approve Final Balancing Change Order #3 in the amount of \$ -50,498.14 to Northern Improvement.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

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
	N/A
	N/A
	N/A


COMMITTEE

Tim Mahoney, Mayor  
 Jim Gilmour, Director of Planning  
 Steve Dirksen, Fire Chief  
 Mark Bittner, Director of Engineering  
 Bruce Grubb, City Administrator  
 Ben Dow, Director of Operations  
 Steve Sprague, City Auditor  
 City Engineer  
 Kent Costin, Finance Director

Present	Yes	No	Unanimous
			<input checked="" type="checkbox"/>
<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"/>	Ryan Erickson
<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"/>	Brenda Derrig
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
 Brenda Derrig, P.E.  
 Division Engineer



**CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT**

<b>Improvement District No</b>	PN-15-J1	<b>Change Order No</b>	3
<b>Project Name</b>	Concrete Curb & Gutter, Asphalt Paving, Street Lights & Incidentals		
<b>Date Entered</b>	8/25/2017	<b>For</b>	Northern Improvement Co

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 (\$)
Miscellaneous	2	F&I Fence	LF	126.00	0.00	126.00	-30.10	95.90	88.20	-2,654.82
	7	Silt Fence - Heavy Duty	LF	500.00	0.00	500.00	-74.00	426.00	3.95	-292.30
	8	F&I Driveway 7" Thick Reinf Conc	SY	436.00	0.00	436.00	-9.48	426.52	53.80	-510.02
<b>Miscellaneous Sub Total (\$)</b>										<b>-3,457.14</b>
Paving	9	Boulevard Grading	SY	23,207.00	0.00	23,207.00	-207.00	23,000.00	2.45	-507.15
	10	Excavation	CY	6,158.00	0.00	6,158.00	-926.00	5,232.00	4.35	-4,028.10
	16	F&I Curb & Gutter Mountable (Type I)	LF	12,343.00	0.00	12,343.00	-2.00	12,341.00	11.65	-23.30
	17	F&I Sidewalk 4" Thick Reinf Conc	SY	1,847.00	0.00	1,847.00	-111.33	1,735.67	41.50	-4,620.20
	18	F&I Sidewalk 6" Thick Reinf Conc	SY	128.00	0.00	128.00	-4.78	123.22	49.50	-236.61
	19	F&I Det Warn Panels Cast Iron	SF	264.00	0.00	264.00	-8.00	256.00	36.00	-288.00
	20	F&I Aggregate for Asph Pavement FAA 43	TON	6,838.00	0.00	6,838.00	-500.33	6,337.67	33.00	-16,510.89
	21	F&I Asphalt Cement PG 58-34	GAL	92,720.00	0.00	92,720.00	-10,982.72	81,737.28	2.10	-23,063.71
	27	Seeding Type B	SY	26,300.00	0.00	26,300.00	29,942.00	56,242.00	0.26	7,784.92
	28	Mulching Type 1 - Hydro	SY	26,300.00	0.00	26,300.00	29,942.00	56,242.00	0.26	7,784.92
29	Inlet Protection - Existing Inlet	EA	22.00	0.00	22.00	-22.00	0.00	90.00	-1,980.00	
32	Temp Construction Entrance	EA	5.00	0.00	5.00	-5.00	0.00	850.00	-4,250.00	
50	* Raise inlet to grade	LS	0.00	0.00	0.00	1.00	1.00	739.06	739.06	
<b>Paving Sub Total (\$)</b>										<b>-39,199.06</b>



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Signing	33	F&I Sign Assembly	EA	4.00	0.00	4.00	1.00	5.00	52.50	52.50
	34	F&I Sign Assembly & Anchor	EA	33.00	0.00	33.00	1.00	34.00	84.00	84.00
	36	F&I Diamond Grade Cubed	SF	37.50	0.00	37.50	6.25	43.75	27.30	170.63
								<b>Signing Sub Total (\$)</b>	<b>307.13</b>	
Levee	44	Fill - Contractor Supply	CY	2,600.00	0.00	2,600.00	-600.00	2,000.00	10.90	-6,540.00
	45	Mulching Type 1 - Hydro	SY	2,600.00	0.00	2,600.00	-354.00	2,246.00	0.32	-113.28
	46	Seeding Type B	SY	2,600.00	0.00	2,600.00	-354.00	2,246.00	0.32	-113.28
	47	Silt Fence - Heavy Duty	LF	350.00	0.00	350.00	-350.00	0.00	3.95	-1,382.50
								<b>Levee Sub Total (\$)</b>	<b>-8,149.06</b>	
								<b>Grand Total (\$)</b>	<b>-50,498.14</b>	

\* NC Items

**Summary**

Source Of Funding	
Net Amount Change Order # 3 (\$)	-50,498.14
Previous Change Orders (\$)	10,855.00
Original Contract Amount (\$)	1,436,786.35
Total Contract Amount (\$)	1,397,143.21

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

**CONTRACT TIME**

Current Completion Date	11/02/2016	Additional Days	0.00	New Completion Date	11/02/2016
-------------------------	------------	-----------------	------	---------------------	------------

**Description**

APPROVED *Glenn DeLong* 8/30/2017  
 For Contractor  
 Northern Improvement Co.  
 TIPS Project Manager

**APPROVED DATE**

Department Head  
 Mayor *[Signature]* 9/6/2017



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Attest