

FARGO CITY COMMISSION AGENDA
Monday, April 17, 2023 - 5:00 p.m.

Executive Session at 4:30 p.m.

Roll Call.

PLEASE NOTE: The City Commission will convene at 4:30 p.m. and retire into Executive Session for the purpose of attorney consultation regarding litigation in Citizens for a Clean Environment, LLC v. City of Fargo to receive its attorneys' advice and guidance on the legal risks, strengths and weaknesses of an action of a public entity, which, to discuss these matters in open meeting will have a negative fiscal effect on the bargaining and/or litigation position of the City and to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding pending litigation which are currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future. Thus, an Executive Session for these matters is authorized pursuant to North Dakota Century Code 44-04-19.1 subsections 2, 5 and 9.

Regular Meeting at 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, April 3, 2023; Special Meeting, April 11, 2023).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. Submittal of a Pre-Award Information Sheet and Grant Application for funding under the Department of Energy (DOE) Energy Efficiency and Conservation Block Grant (EECBG) Program.
2. Receive and file an Ordinance Amending Section 25-1509.2 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Restrictions on Sale to Obviously Intoxicated Person and an Ordinance Amending Section 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licenses – Termination, Suspension, Revocation and Sanctions.
3. Receive and file an Ordinance Amending Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Definitions and an Ordinance Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Licenses – Classifications and an Ordinance Amending Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License – Fees – Seasonal Licenses.
4. 1st reading of an Ordinance Repealing Section 25-1504.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Mandatory Meeting and an Ordinance Amending

Page 2 Section 25-1504.4 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Additional Requirements for Class FA-Entertainment Licenses.

5. 2nd reading and final adoption of an Ordinance Amending and Repealing and Replacing Article 18-09 of Chapter 18 of the Fargo Municipal Code Relating Excavation Code; 1st reading, 4/3/23.
6. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in Amended Plat of Oak Grove Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 4/3/23.
7. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Adams Seventh Addition to the City of Fargo, Cass County, North Dakota; 1st reading, 4/3/23.
8. Applications for Games of Chance:
 - a. Brady Prochnow Benefit for a raffle on 4/26/23; Public Spirited Resolution.
 - b. Eventide for a raffle on 6/14/23.
 - c. St. John Paull II Catholic Schools for a raffle on 4/29/23.
 - d. Homeward Animal Shelter for a raffle on 4/27/23.
9. Excavation Fees and Guidelines, as presented.
10. Addition of Project No. SL-23-B1 to the 2023 Capital Improvement Plan.
11. No bids received for Project No. UN-23-B1; project to be rebid at a future date.
12. Bid award to Master Construction Company, Inc. in the amount of \$831,015.00 for Project No. SR-23-B1.
13. Bid award to Border States Paving Inc. in the amount of \$464,518.05 for Project No. PR-23-F1.
14. Bid advertisement for Project No. TM-23-A.
15. Create Improvement District No. BR-23-J.
16. Create Improvement District No. UN-23-A.
17. Contract and bond for Project No. NR-23-B1.
18. Contract and bond for Project No. PR-22-B1.
19. Contract and bond for Improvement District No. PR-23-C1.
20. Contract and bond for Improvement District No. PR-23-E1.
21. Direct the City Attorney to prepare the necessary amendments to Fargo Municipal Code Section 3-0102 of Article 3-01 of Chapter 3 Relating to Purchasing Procedure.
22. Notice of Grant Award from the ND Department of Health and Human Services for the Ryan White Part B Program (CFDA #93.917).
23. Agreement for Services with Creating Community Consulting.

- Page 23. Notice of Grant Award from the ND Department of Health and Human Services with the Centers for Disease Control and Prevention for Increasing TB Infection Identification and Treatment (CFDA #93.116).
25. Agreement for Services with Megan Nies.
 26. Acceptance of grant funds from the FY 2022 Homeland Security Grant Program.
 27. Amendment to the 2022 HUD Action Plan.
 28. Resolution Approving Plat of Global Development Addition.
 29. Receive and file Hate Crimes Investigative Report for first quarter of 2023.
 30. Purchase of one high compaction front load refuse truck from Sanitation Products in the amount of \$336,185.00 (RFP23064).
 31. Task Order with Stantec in the amount of \$333,534.70 for Professional Engineering Services for Project No. SW23-01.
 32. Amendment No. 1 to AE2S Task Order No. 12 in the amount of \$36,000.00 for Project No. WA2158.
 33. Task Order No. 25 with AE2S in the amount of \$642,200.00 for Project No. WA2158.
 34. Change Order No. 1 in the amount of -\$30,812.88 for Project No. WA2005.
 35. Change Order No. 3 in the amount of \$109,660.00 for Project No. WA1863.
 36. Bills.

REGULAR AGENDA:

37. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**
38. Presentation of the 2022 Annual Fire Department Report.
39. Update from the Police Department on Legislative Initiatives concerning street drag racing.
40. Recommendations for Federal Highway Bill Carbon Reduction Project Applications for the Years 2024 and 2025.
41. Recommendation for appointments to the Fargo Dome Authority.
42. Recommendation for appointments to the Sustainability and Resiliency Committee.
43. Recommendation for appointment to the Municipal Airport Authority.
44. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. Nicholas Gubbels and Nichole Wilson, 5305 17th Street South (5 years).
 - b. Guy Thomas Jr., 421 23rd Street South (5 years).

- c. Paul and Ann Jarvis, 172 North Woodcrest Drive North (5 years).
- d. Stan and Pamela Johnson, 1609 13 1/2 Street South (5 years).
- e. Peine Properties LLC, 1105 10th Street North (5 years).
- f. Fargo Moorhead Association of Realtors, 1535 42nd Street South (5 years).

45. Spring Flood Update.

46. Legislative Update.

47. Liaison Commissioner Assignment Updates.

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

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



April 13, 2023
MEMORANDUM

To: City Commission
From: Michael J. Redlinger, City Administrator
Subject: EECBG Program Pre- Award Application

The City of Fargo (City) was recently notified by the Department of Energy (DOE) about the City's eligibility to receive formula grant funding through the Energy Efficiency and Conservation Block Grant (EECBG) Program. The City has been allocated \$176,940 in grant funding to be used in 15 different eligible use areas ranging from developing energy efficiency and conservation strategies, to deploying electric vehicle infrastructure, to installing renewable energy technologies. The EECBG funding does not have a local match requirement.

An initial required step, prior to the submittal of a formal grant application, is to complete and submit a Pre-Award Information Sheet which is due on April 28, 2023. A copy of the Pre-Award Information Sheet has been attached for your reference. We are seeking approval to proceed with the Pre-Award Information and grant application submittals.

Your consideration in this matter is appreciated.

Suggested Motion:

Approve the submittal of a Pre-Award Information Sheet and Grant Application for funding under the DOE EECBG Program.



EECBG PROGRAM PRE-AWARD INFORMATION SHEET

Each Energy Efficiency and Conservation Block Grant (EECBG) Program recipient shall provide the following information on behalf of itself and all subrecipients and certify that the information is accurate and complete. Recipients may choose to provide this information in whatever format they like, as this form is optional.

EECBG Program recipients representing local and tribal entities may select from two options: 1) a grant or 2) a voucher for technical assistance and/or equipment rebates. EECBG Program recipients choosing a grant must provide data requested in sections 1 through 8 below. EECBG Program recipients choosing a voucher may skip sections 4 through 7. Please submit this form to the EECBG Program Inbox: eecbg@hq.doe.gov.

SECTION 1: CONTACT & LOCATION INFORMATION *(All recipients)*

Recipient Name:		Award Number:	
UEI:		DUNS (if applicable):	
Business Officer:		BO Phone Number/Email:	
Principal Investigator (PI):		PI Phone Number/Email:	

A. TYPE OF ORGANIZATION – Please indicate the type of organization of the Recipient by selecting one of the following:

- Local Government
- Tribal Government
- State

B. LOCATION AND CONGRESSIONAL DISTRICT

List the address and Congressional district(s) for the primary location where the grant will be performed.

Street Address:	
City:	
State:	
Zip:	
Congressional District(s):	

SECTION 2: GRANT OR VOUCHER *(All recipients)*

EECBG Program recipients representing local and tribal entities must select whether to receive their EECBG Program award in the form of a grant or a voucher for technical assistance and/or equipment rebates. Please indicate your choice here. All States & Territories must select “Grant.” (Select one option) [response to this question is non-binding]

- Voucher for Technical Assistance
- Voucher for Equipment Rebate
- Voucher for both Technical Assistance and Equipment Rebate
- Grant

SECTION 3: BUSINESS ASSURANCES *(All recipients)*

A. DISCLOSURE OF POTENTIAL IMPROPRIETIES

Below, please disclose if any of the following conditions exist. If the answer to any question (a) through (g) below is yes, provide a detailed explanation in an attachment to this form.

- a. Is the proposed Recipient, Subrecipient(s), or any of the Recipient's or Subrecipient's principals¹ under investigation for or charged with a covered offense²?
 Yes
 No
- b. Has the proposed Recipient, Subrecipient(s), or any of the Recipient's or Subrecipient's principals been convicted of a covered offense in the last five years or had a civil judgment rendered against them for one of those offenses in that time period?
 Yes
 No

- c. Is the proposed Recipient, Subrecipient(s), or any of the Recipient's or Subrecipient's principals under investigation for potential violation of U.S. export control laws and regulations, or has the proposed Recipient, Subrecipient(s), or any of the Recipient's or Subrecipient's principals been convicted of any violations of U.S. export control laws and regulations?
 Yes
 No
- d. Is the proposed Recipient or Subrecipient(s) under investigation for potential violations of the Drug-Free Workplace Act of 1988, or has the proposed Recipient or Subrecipient(s) been convicted of any violations of the Drug-Free Workplace Act of 1988?
 Yes
 No
- e. Is the proposed Recipient, Subrecipient(s), or any of the Recipient's or Subrecipient's principals under investigation for research misconduct, or has the proposed Recipient, Subrecipient(s), or the Recipient's or Subrecipient's principals been convicted of research misconduct?
 Yes
 No
- f. Has any Federal Agency recommended or initiated proceedings against the proposed Recipient, Subrecipient(s), or the Recipient's or Subrecipient's principals for suspension or debarment, or is the proposed Recipient, Subrecipient(s), or the Recipient's or Subrecipient's principals debarred, suspended, publicly banned from doing business with the Federal government, or otherwise declared ineligible from

¹ For this form, "principal" means: (1) An officer, director, owner, partner, PI, or other person (as defined in 2 C.F.R. 180.95) within the Project Team with management or supervisory responsibilities related to this project and any resulting transaction; or (2) A consultant or other person, whether or not employed by the Recipient, Subrecipient, or their principals, or paid with Federal funds, who (a) is in a position to handle Federal funds, (b) is in a position to influence or control the use of those funds, or (c) occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the transaction, including but not limited to, any Co-PIs.

² For this form, "covered offenses" include: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the Recipient's present responsibility.

receiving Federal Contracts, subcontracts or financial assistance?

Yes

No

g. Is the proposed Recipient or Subrecipient(s) delinquent on federal debt or insolvent or at risk of insolvency or have the proposed Recipient or Subrecipient(s) filed for bankruptcy in any domestic or foreign jurisdiction?

Yes

No

B. POTENTIAL CONFLICTS OF INTEREST

1. **Financial Conflicts of Interest.** The Recipient must disclose in writing any managed or unmanageable financial conflicts of interest involving a member of the project team (i.e., Investigators) and include sufficient information to enable DOE to understand the nature and extent of the financial conflict, and to assess the appropriateness of the non-Federal entity's management plan. See Section V(b)(3) of the DOE Interim Conflict of Interest Policy. As part of this DOE funded project, does the recipient or any subrecipients have any managed or unmanageable financial conflicts of interest involving a member of the project team (i.e., Investigators)?

No

Yes. If yes, in a separate attachment, the Recipient must provide relevant disclosures/supporting documentation as required by the DOE Interim Conflict of Interest Policy Section V(b)(3).

C. **Organizational Conflicts of Interest³.** The Recipient must disclose in writing any potential or actual organizational conflict of interest to DOE. See DOE Interim Conflict of Interest Policy Section VI and 2 CFR 200.318 for more information. As part of this DOE funded project, does the recipient or any subrecipients intend to engage in a procurement with a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe?

No

Yes. If yes, in a separate attachment, the Recipient must provide relevant disclosures/supporting documentation as required by the DOE Interim Conflict of Interest Policy Section VI.

Recipients choosing a voucher may skip to Section 8

SECTION 4: PAYMENT INFORMATION (*Grant recipients only*)

Provide (1) the awardee seven-digit ASAP (Automated Standard Application for Payment System) ID number that is under the DOE / Golden Field Office (GO) Agency Locator Code (ALC) and Region Code (#8900-0001-04) if available; (2) the name, phone number and email for the ASAP / Payments Contact Person; and (3) indicate whether the preferred payment method is by advance or reimbursement.

- | |
|--|
| 1) ASAP Number:
2) ASAP/Payments Contact Person:
3) The preferred payment method is: |
|--|

³ Organizational Conflict of Interest means a situation where because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 CFR 200.318(c)(2).

SECTION 5: PERFORMANCE AND FINANCIAL INFORMATION REQUEST (*Grant recipients only*)

Before providing this information, please read the ADDITIONAL INFORMATION at the end of this form. Each field identified below must be completed.

1. Has the Recipient had prior Federal awards? Yes No

If Yes:

Is the Recipient up to date on all reporting requirements on all other current and prior awards, including submitting acceptable final technical reports, with other Federal or non-Federal organizations? If you check No to this question, please attach an explanation. Yes No

2a. Has the Recipient had an independent Single Audit or independent Compliance Audit per Federal regulations, or had a prior Defense Contract Audit Agency (DCAA) Audit performed? (Please see attached instructions regarding Independent Audit requirements.) Yes No

2b. Has the Recipient undergone a Financial Audit within the last 3 years? Yes No

If Yes to either 2a. or 2b.:

- a. A copy of the audit is attached to this form. Yes No
- b. An electronic copy of the audit was provided with application package. Yes No

An electronic copy of the audit can be found at _____

If audit was not provided, please explain why it has not been completed and/or provided:

3. Recipient's fiscal year end date is _____

4a. Identify the Federal Agency providing the preponderance of funding from ALL Government Awards which the Recipient's organization is/was the prime recipient, including any DOE Awards.

Provide Agency name, Cognizant Agency point of contact (individual in charge of negotiating billing rates), phone number, and e-mail.

(If the Recipient's organization has a DCAA contact, please provide this information in 4(c) below):

Agency: _____

Point of Contact: _____

Phone/Email: _____

4b. DCAA Contact Information:

DCAA Office: _____

Point of Contact: _____

Phone/Email: _____

SECTION 6: FINANCIAL MANAGEMENT SYSTEM – ACCOUNTING SYSTEM SURVEY (*Grant recipients only*)

To qualify for Financial Assistance, compliance with 2 CFR 200 as amended by 2 CFR 910 is required. This includes assurance of an adequate accounting system for estimating, accounting and billing for governmental funding received. Please complete the checklist below as assurance of this requirement.

For additional information, please visit <https://www.dcaa.mil>. Please refer specifically to the “Pre-award Accounting System Adequacy Checklist” under CUSTOMERS-->Checklists and Tools.

	<u>Yes</u>	<u>No</u>	<u>NA</u>
1. Is the Accounting System in accordance with Generally Accepted Accounting Principles applicable to the circumstances and associated applicable Federal regulations?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Accounting System provides for:			
a. Segregation of direct costs from indirect costs.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b. Identification and accumulation of direct costs by project.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c. A logical and consistent method for the allocation of indirect costs to intermediate and final cost objectives. (Project line items are final cost objective)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d. Accumulation of costs under general ledger control.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e. A timekeeping system that identifies employees’ labor by intermediate and final cost objective (i.e., project level, division level).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f. A labor distribution system that charges direct and indirect labor to appropriate cost objectives.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g. Interim (at least monthly) determination of costs charged to a project through routine posting of books of account.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h. Excluding costs charged to Government projects which are not allowable in terms of FAR 31, Contract Cost Principles and Procedures, or other provisions.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
i. Identification of costs by project line item and by units (as if each unit or line item were a separate project) if required by the proposed award.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Is the Accounting System designed, and are the records maintained in such a manner that adequate, reliable data are developed for use in developing cost proposals?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Is the Accounting System currently in full operation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

SECTION 7: REPRESENTATION/CERTIFICATION (*Grant recipients only*)

Certification of the information is required by the organization’s authorized representative

- I certify that I have registered in the System for Award Management (SAM).
- I certify that I have registered in FedConnect.net in order to receive award documentation.
- I certify that all subrecipient cost information has been reviewed, and that all subrecipient costs are reasonable, allowable, and allocable in accordance with the applicable cost principles. All subrecipient budget documents should be available upon DOE request.

- I certify that all direct costs proposed in the application (under the personnel, travel, equipment, supplies, contractual, construction, and/or other direct costs categories) are direct to the project and are not duplicated in the proposed indirect costs.
- I certify that the processes undertaken to solicit any subrecipients, subawards, subcontracts and vendors comply with our organization's written procurement procedures as outlined in "Procurement Standards" 2 CFR 200.317 through 2 CFR 200.326 inclusive.
- I certify the Recipient:
 - (1) Has in effect an up-to-date, written, and enforced administrative process to identify and manage conflicts of interest with respect to all projects for which financial assistance funding is sought or received from DOE;
 - (2) Shall promote and enforce Investigator compliance with DOE's Interim Conflict of Interest (COI) Policy's requirements including those pertaining to disclosure of significant financial interests;
 - (3) Shall manage financial conflicts of interest and provide initial and ongoing financial conflicts of interest reports to DOE;
 - (4) Agrees to make information available, promptly upon request, to DOE relating to any Investigator disclosure of financial interests and the Recipient's review of, and response to, such disclosure, whether or not the disclosure resulted in the Recipient's determination of a financial conflict of interest; and
 - (5) Shall fully comply with the requirements of the DOE Interim COI Policy.

SECTION 8: SIGNATURES *(All recipients)*

I, the Authorization Official named below, represent by my signature that I am authorized to certify this information on behalf of the Recipient. I certify to the best of my knowledge and belief that the information contained in this Pre-Award Information Sheet is true, complete and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. 3729-3730 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

Name:

Title:

Signature of Authorized
Official:

Date:

I, the Principal Investigator named below, certify to the best of my knowledge and belief that the information contained in this Pre-Award Information Sheet is true, complete and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. 3729-3730 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to DOE's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

Name:

Title:

Signature of Principal
Investigator:

Date:

ADDITIONAL INFORMATION

This information will assist DOE in determining: 1) cognizance; 2) whether the Recipient has adequate internal financial and management controls; and 3) whether the Recipient has an adequate accounting system. Generally, cognizance means that an organization has a Federal oversight agency (cognizant agency). Cognizance of an organization is used for many purposes including: determining which agency is responsible for verifying correct allocation of indirect rates to incurred costs; issuing the Provisional and Final Indirect Rate Agreements; and ordering audits. Adequate internal controls and accounting systems are essential to ensure that the Recipient's costs are correctly estimated, recorded, and billed. The Recipient has the responsibility to ensure that these systems are in place. The cognizant Agency has the responsibility for verifying these systems through audits or other methods.

For additional information, please visit <https://www.dcaa.mil>. Please refer specifically to the "Pre-award Accounting System Adequacy Checklist" under CUSTOMERS-->Checklists and Tools.

Cognizance is determined by TOTAL Federal award/contract dollars received by the Recipient/Contractor from all Federal agencies. This information is used to determine which Federal agency has the largest preponderance of funding and is cognizant. Once a Federal agency assumes cognizance for a contractor, it should remain cognizant for at least 5 years to ensure continuity and ease of administration.

Cognizance related duties are the responsibility of the Cognizant Federal Agency (CFA). The CFA is the Federal agency (e.g., Department of Defense, Department of Energy, Navy, etc.) that provided the preponderance (largest amount) of funding for your awards, across all federal agencies. It is very important to confirm that you work with the correct office.

General Rule of Thumb: Department of Health & Human Services (DHHS) is usually the CFA for Universities, Cities, States, and Counties. DHHS cognizance is not usually transferred.

If it is determined that the Department of Energy/Golden Field Office (GO) is the Cognizant Federal Office, the Recipient will have the following ANNUAL responsibilities:

1. Submit a Certified Annual Incurred Cost Claim (ICE Model – see #3 below) to the GO Cost/Price mailbox (CostPrice@ee.doe.gov). **This should represent the total organization's costs (representing the Company General Ledger), not just the Recipient's DOE award(s).**
2. Due Date: 180 days after the Recipient's fiscal year end.
3. For an example of the ICE Model, please visit <https://www.dcaa.mil>. Under "CUSTOMERS->Checklists and Tools", click on ICE (Incurred Cost Electronically) Model and download the ICE model.

Once the information is received, GO will have the responsibility of providing your organization with an annual indirect rate agreement. This indirect rate must be used on all Federal grants and contracts.

If it is determined that GO is not the Cognizant Federal Office, the Recipient should contact the Cognizant Office for additional instructions.

ANNUAL AUDIT REQUIREMENTS

Independent (Single & Compliance) Audit Requirements

2 CFR 200, Section F located at:

<http://www.ecfr.gov/cgi-bin/text-idx?SID=6e187b05cfeca4f534c659f20983b14e&mc=true&node=pt2.1.200&rgn=div5>

For-Profits: 2 CFR 910, Section F located at:

<http://www.ecfr.gov/cgi-bin/text-idx?node=pt2.1.910&rgn=div5>

Below are excerpts from Section F.

Audit requirements.

- (a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single (program-specific, *not applicable for For-Profits*) or compliance audit conducted for that year in accordance with the provisions of this part.
- (b) *Single* audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 - Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.
- (b) *Compliance* audit. (1) If a for-profit entity has one or more DOE awards with expenditures of \$750,000 or more during the for-profit entity's fiscal year, they must have a compliance audit for each of the awards with \$750,000 or more in expenditures. A compliance audit should comply with the applicable provisions in §910.514—Scope of Audit. The remaining awards do not require, individually or in the aggregate, a compliance audit.
- (c) Program-specific audit election. (*Not applicable to For-Profits*). When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.
- (d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).
- (e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.
- (f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.331 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(h) For-profit *subrecipient*. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §200.332 Requirements for pass-through entities.

CITY ATTORNEY
Nancy J. Morris

**OFFICE OF THE
CITY ATTORNEY**

2

SERKLAND LAW FIRM

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

ASSISTANT CITY ATTORNEYS

Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

April 13, 2023

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

RE: Ordinance amendment – Overserving alcohol and administrative penalties

Dear Mayor Mahoney and Commissioners,

At the request of the Commission at the February 21, 2023 meeting, I am enclosing for your consideration, amendments to Fargo Municipal Code sections 25-1509.2 and 25-1512, relating to serving alcohol to intoxicated individuals and related administrative penalties.

The proposed amendments to the “overserving” and “admin penalty” sections are as follows:

- Added the word “impaired” to “intoxication,” so that serving alcohol to drug-impaired persons is barred;
- Updated examples of impairment and intoxication;
- Deleted the requirement an officer observe the overserving, to allow greater flexibility when determining whether the conduct has occurred;
- Deleted the safe-haven exception when law enforcement is contacted by the licensee;
- Combined Fargo Municipal Code sections 25-1512(F) and 25-1512(G). These are the two administrative penalty sections for (1) serving an intoxicated person and (2) allowing an intoxicated person to consume alcohol on the premises. The conduct and penalty hierarchy is similar enough to justify only one penalty section;
- Administrative penalties are increased and clarified; and
- Cosmetic edits.

Suggested Motion: I move to receive and file the following ordinance amending Fargo Municipal Code section 25-1509.2 and 25-1512 of Article 25-15 of Chapter 25, relating to serving alcohol to intoxicated individuals and associated administrative penalties, and to place the ordinance on for first reading at the next regularly-scheduled City of Fargo Commission meeting.

Sincerely,



William B. Wischer

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2 AN ORDINANCE AMENDING SECTION 25-1509.2 OF ARTICLE 25-15
3 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
4 RELATING TO RESTRICTIONS ON SALE TO OBVIOUSLY INTOXICATED PERSON
5 AND

6 AN ORDINANCE AMENDING SECTION 25-1512 OF ARTICLE 25-15
7 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
8 RELATING TO LICENSES—TERMINATION, SUSPENSION, REVOCATION, AND
9 SANCTIONS

10 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
11 accordance with Chapter 40-05.1 of the North Dakota Code; and,

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

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

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

19 NOW, THEREFORE,

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

21 Section 1. Amendment.

22 Section 25-1509.2 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
23 amended to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 25-1509.2. - Restrictions on ~~sale to~~ obviously intoxicated or impaired persons.

No licensee, ~~or~~ partner, principal, agent, or employee of any licensee shall sell, serve, or furnish alcoholic beverages to, or allow possession ~~and~~ or consumption of alcoholic beverages on the licensed premises, by any person who is or has become intoxicated ~~and/or impaired by alcohol or drugs incapacitated by the consumption of alcoholic beverages~~. A person may be considered to be obviously intoxicated or impaired when it can be plainly determined by appearance, conduct, ~~and/or~~ demeanor. The term "obviously intoxicated or impaired" shall mean that the person's obvious intoxication or impairment be reasonably discernible or evident to a person of ordinary experience." Such indicators of intoxication or impairment may include, but are not limited to, a combination of any of the following types of conditions:

- A. Problems with, ~~balance,~~ or inability to maintain, balance, i.e., stumbling, swaying, staggering gait, bumping into furniture while walking, falling against bar or off stool, resting head on bar;
- B. Ineffective muscular coordination, i.e., spilling and/or knocking over drinks, unable to pick up change ~~and the like~~;
- C. Delayed responses, rambling, ~~D~~ disorientation, and mental confusion ~~as to locations, date, names and the like~~;
- D. Strong smell of alcohol;
- E. Unusual or distorted speech, i.e., slurred, thick tongue, uncontrollable voice pitch, muttering, ~~and the like~~;
- F. Bloodshot, watery, ~~and/or~~ glassy eyes, flushed face, ~~and the like~~;
- G. Condition of clothes and hair, i.e., soiled clothing, urinated upon clothing, disheveled ~~and the like~~;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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2 H. Unusual behavior, i.e., vomiting, profanity, crying, hiccups, fighting, loud,
3 boisterous, obnoxious behavior, sleeping or unconscious;

4 I. Anxious, scratching, paranoia, dry mouth, or dilated pupils.

5 Violation of this ordinance may result in sanctions as prescribed in Section 25-1512(F)(H)
6 and (I) hereinafter. ~~Sanctions for a licensee selling, serving, or furnishing alcoholic~~
7 ~~beverages shall require a sale and a showing that the police officer observed and determined~~
8 ~~the person to be intoxicated. Sanctions for a licensee allowing the consumption of alcoholic~~
9 ~~beverages on the licensed premises shall require a showing that the police officer observed~~
10 ~~and determined the intoxicated person to be intoxicated on the licensed premises, as well~~
11 ~~as a showing that the intoxicated person was allowed to consume alcoholic beverages on~~
12 ~~the licensee's premises. Violations may be established with direct and indirect evidence.~~

13 ~~If a licensee, partner, principal, agent or employee of any licensee shall contact law~~
14 ~~enforcement to report the presence of an obviously intoxicated patron or to obtain law~~
15 ~~enforcement assistance in removing an obviously intoxicated patron, a rebuttable~~
16 ~~presumption is created and sanctions shall not be imposed. This presumption may be~~
17 ~~overcome, however, by evidence that the licensee, partner, principal, agent or employee of~~
18 ~~any licensee did not contact law enforcement in good faith.~~

19 Section 2. Amendment.

20 Section 25-1512 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
21 amended to read as follows:

22 * * * *

23 F. ~~Administrative penalties for violation of section 25-1509.2 regarding sale to an~~
~~intoxicated person or person incapacitated by consumption of alcoholic beverages~~
~~are as follows:~~

1. ~~First offense: Warning. There will also be mandatory server training~~
~~refresher course within 30 days after the offense.~~

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

2. ~~Second offense: \$1,000 monetary penalty, plus one day suspension of alcoholic beverage license to be determined by the liquor control committee. For Class "AB", "A" and "B" license holders, one day suspension of license (liquor sales only) with the date selected by licensee within thirty (30) days of either occurrence of the offense or final decision upon appeal. For all other classes of liquor licenses, two days suspension of liquor sales only with the dates selected by licensee within thirty (30) days of either occurrence of the offense or final decision on appeal.~~
3. ~~Third offense: \$2,000 monetary penalty, plus a three day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, three days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, six consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.~~
4. ~~Fourth offense: \$2,000 monetary penalty, plus a four day day suspension of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.~~
5. ~~Fifth offense: \$2,000 monetary penalty, plus a 10 day suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, ten days suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, twenty consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.~~

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2 The level of offenses shall be determined by reference to a 18-month period from the first
3 offense by licensee. By way of illustration, a second offense occurring more than 18-
4 months after a first offense would then be deemed a first offense.

5 Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales
6 only so that food sales could, if applicable, continue on the licensed premises.

7
8 GF. Administrative penalties for violation of section 25-1509.2 regarding allowing
9 consumption of alcoholic beverages on the licensed premises by any intoxicated
10 person are as follows:

11 1. ~~First offense: Warning. There will also be mandatory server training
12 refresher course within 30 days after the offense.~~

13 2. ~~Second~~ First offense: \$500 monetary administrative penalty.

14 3. ~~Third~~ Second offense: \$1,000 monetary administrative penalty, plus a one-
15 day suspension of alcoholic beverage license to be determined by liquor
16 control ~~committee~~ board. For Class "AB", "A" and "B" license holders, one
17 day suspension of license (liquor sales only) with the date selected by
18 licensee ~~within thirty (30) days of either occurrence of the offense or final~~
19 ~~decision upon appeal. Such suspension shall be within thirty (30) days of~~
20 ~~either the occurrence of the offense or final decision upon appeal.~~

21 4. ~~Fourth~~ Third offense: \$1,500 ~~\$2,000~~ monetary administrative penalty, plus
22 a two-day day suspension of alcoholic beverage license to be determined by
23 liquor control ~~committee~~ board. For Class "AB", "A" and "B" license
holders, two days in one week suspension of liquor license (liquor sales
only) on consecutive dates chosen by licensee requiring the business to be
closed. ~~For all other classes of liquor licenses, four consecutive days~~
~~suspension of liquor sales only. Such suspension shall be within thirty (30)~~
days of either the occurrence of the offense or final decision upon appeal.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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- 5. ~~Fifth~~ Fourth offense: Revocation. ~~\$2,000 monetary penalty, plus a four-day suspension, and a possible revocation of alcoholic beverage license to be determined by liquor control committee. For Class "AB", "A" and "B" license holders, four days in one week suspension of liquor license (liquor sales only) on consecutive dates chosen by licensee requiring the business to be closed. For all other classes of liquor licenses, eight consecutive days suspension of liquor sales only. Such suspension shall be within thirty (30) days of either the occurrence of the offense or final decision upon appeal.~~

Any suspension of alcoholic beverage license provided for herein shall relate to liquor sales only so that food sales could, if applicable, continue on the licensed premises.

The level of offense shall be determined by reference to an 18-month period from the first offense by licensee. A second offense occurring more than 18-months after a first offense would be deemed a first offense.

It is the intent of this ordinance that no multiple offenses shall be deemed to have occurred from a single incident. For example, on an officer contact with the licensed premises, if there should be two or more offenses involving intoxicated persons on the premises, the same will constitute one offense and not multiple offenses. Any subsequent officer contact with the establishment at a different time may constitute a separate offense.

Section 3. 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. _____

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Section 4. Effective Date.

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

Dr. Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication

CITY ATTORNEY
Nancy J. Morris

**OFFICE OF THE
CITY ATTORNEY**

3

SERKLAND LAW FIRM

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

ASSISTANT CITY ATTORNEYS

Ian R. McLean ■ Alissa R. Farol ■ William B. Wischer

April 13, 2023

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

RE: Ordinance Amendment – Adding “FA-Golf” to alcohol licenses with seasonal designation

Dear Mayor Mahoney and Commissioners,

At the request of the Commission at the February 6, 2023 meeting, I am enclosing for your consideration, an amendment to Fargo Municipal Code, sections 25-1501 (definitions), 25-1506 (FA-Golf), and 25-1507 (Seasonal Licenses).

At the request of the Fargo Park District, the City Auditor and Liquor Control Board recommended adding “FA-Golf” to the list of liquor licenses that may be issued seasonally. A seasonal license allows a pro-ration of fees for the months when the license is in use. This ordinance adds “FA Golf” to other licenses allowed to be issued seasonal licenses (FMC § 25-1507), defines the word “Seasonal License” (FMC § 25-1501), and revises the minimum food sale requirement to align with the operation of the golf course, instead of on arbitrary months of the year (FMC § 25-1506).

Suggested Motion: I move to receive and file the following ordinance amending Fargo Municipal Code sections 25-1501, 25-1506, and 25-1507 of Article 25-15 of Chapter 25, relating to Definitions, License-Classifications (FA-Golf), and License – Fees (Seasonal Alcohol Licenses), and to place the ordinance on for first reading at the next regularly-scheduled City of Fargo Commission meeting.

Sincerely,



William B. Wischer

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 AN ORDINANCE AMENDING SECTION 25-1501 OF ARTICLE 25-15
2 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE,
3 RELATING TO DEFINITIONS;

4 AND

5 AN ORDINANCE AMENDING SECTION 25-1506 OF ARTICLE 25-15
6 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE,
7 RELATING TO LICENSES – CLASSIFICATIONS;

8 AND

9 AN ORDINANCE AMENDING SECTION 25-1507 OF ARTICLE 25-15
10 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE,
11 RELATING TO LICENSE – FEES – SEASONAL LICENSES

12 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
13 accordance with Chapter 40-05.1 of the North Dakota Code; and,

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

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

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

21 NOW, THEREFORE,

22 Be It Ordained by the Board of City Commissioners of the City of Fargo:
23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 Section 1. Amendment.

2 Section 25-1501 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
3 amended as follows:

4 * * * *

5
6 29. "Wine bar" shall mean an establishment serving primarily on-sale wine and
7 sparkling wine, with incidental on-sale beer, non-alcoholic beverages and food
8 sales, but does not include any sale of alcohol or off-sale wine, sparkling wine, or
9 beer. Such establishment shall offer patrons wines by the glass, flight, bottle and
10 taste, and will allow for presentation of beverages at the table, as well as at the bar.
11 A "wine bar" shall also be focused on education of wines from around the world;
12 may occasionally offer primarily acoustical live performances in the genre of jazz,
13 blues, and classical music; and shall be a non-smoking.

14 30. "Seasonal license" shall mean a period of time shorter than a year and tied to a
15 specific activity or purpose.

16 Section 2. Amendment.

17 Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
18 amended as follows:

19 * * * *

20 L. Class FA-GOLF. A Class "FA-GOLF" license shall authorize the licensee to sell "on-
21 sale" only, subject to the following restrictions and conditions:

22 1. A Class "FA-GOLF" licensee may sell alcoholic beverages as the food and
23 beverage concessionaire at a golf course which also holds a restaurant license
 or permit pursuant to the provisions of article 13-04 of the Fargo Municipal

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Code and which derives a percentage (hereinafter stated) of its gross receipts from the sale of prepared meals and not alcoholic beverages. A recipient of "FA-GOLF" license must derive at least 25% of its gross receipts from the sale of prepared meals and food products and not alcoholic beverages during the months ~~from April through October of each year~~ when full golf course operations are open. During the remaining months of the year, said recipient must derive 50% or more of its gross receipts from the sale of prepared meals and not alcoholic beverages. It is the intention of this restriction that the purpose of a "FA-GOLF" license is to allow the sale of alcoholic beverages as an adjunct to the operation of the golf course and restaurant and not that of operating a full-time liquor establishment. Further, such licensee must be located at and serve a golf course of at least nine (9) or more holes. Said golf course must be USGA approved.

* * * *

Section 3. Amendment.

Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended as follows:

* * * *

H. Class "F", "FA-GOLF", "G", "H", "I", and "N" licenses may be issued as seasonal licenses ~~for minimum periods of six months~~. Application for such licenses shall be made prior to June 30 each year and the application shall indicate the months in which the license is to be effective. Fees for such licenses shall be prorated to the nearest fractional month of the effective period and payment therefor shall accompany the application.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 4. Effective Date.

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

Dr. Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

4

ORDINANCE NO. _____

1 AN ORDINANCE REPEALING SECTION 25-1504.3 OF ARTICLE 25-15
2 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE
3 RELATING TO MANDATORY MEETING

4 AND

5 AN ORDINANCE AMENDING SECTION 25-1504.4 OF ARTICLE 25-15
6 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO
7 ADDITIONAL REQUIREMENTS FOR CLASS FA-ENTERTAINMENT LICENSES

8 WHEREAS, the electorate of the city of Fargo has adopted a home rule charter in
9 accordance with Chapter 40-05.1 of the North Dakota Code; and,

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

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

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

17 NOW, THEREFORE,

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

19 Section 1. Repeal.

20 Section 25-1504.3 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby
21 repealed in its entirety.
22
23

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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Section 2. Amendment.

Section 25-1504.4 of Article 25-15 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-1504.4. - Renewal of combined food/business proceeds/liquor licenses.

In addition to the requirements of Articles 25-1504, 25-1504.1, and 25-1504.2 ~~and 25-1504.3~~, Renewal of combined food/business proceeds/liquor licenses. - All holders of Class FA-ENTERTAINMENT licenses shall also be required to file with the City, with the request for renewal of the license, an opinion by certified public accountant indicating that he or she has audited the books and records of the licensee and that the licensee's gross revenue from the sale of food and the business income is equal to or exceeds the gross revenue from the sale of alcoholic beverages for the most recent 12 month period. At the option of the licensee, in lieu of a certified public accountant's opinion, licensee may request from the State Tax Commissioner's office and furnish to the City Auditor's office a certified copy of licensee's sales tax returns for the most recent 12 month period prior to renewal.

Notwithstanding furnishing of such sales tax returns, the City may, in its discretion, require licensee to comply with the requirement that an opinion by a certified public accountant be furnished as aforesaid. Any costs incurred in connection with the requirements of this section shall be the sole responsibility of the licensee. The City may also, or any other time during the year, in its discretion, conduct an independent investigation of the sales ratio of food and business receipts to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records. In the event that the results of an independent investigation by the City results in a determination that the sale of food and business income does not equal or exceed the sale of alcoholic beverages, the licensee shall be required to pay all costs of such investigation.

As part of the licensee's obligation that the licensee derive more gross receipts from the sale of prepared meals, the sale of food and business receipts than from the sale of alcoholic beverages, the licensee shall retain and keep appropriate business records concerning purchase of food, business income and alcoholic beverages and sales receipts for the same. Such business records shall be organized and maintained according to standard business practices and in such form as to be auditable for purposes of confirming that the licensee satisfies the sales ratio of food and

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 business income to alcoholic beverages. A licensee who fails to maintain the business records
2 required by this section, or to otherwise make such records available to the City upon reasonable
3 request to do so, is subject to the penalties listed in 25-1512(D)(F).

4 Section 3. Effective Date.

5 This ordinance shall be in full force and effect from and after its passage, approval, and
6 publication.
7

8 _____
9 Dr. Timothy J. Mahoney, Mayor

10 Attest:

11 _____
12 Steven Sprague, City Auditor

13 First Reading:
14 Second Reading:
15 Final Passage:
16 Publication
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND
REPEALING AND REPLACING ARTICLE 18-09
OF CHAPTER 18 OF THE FARGO MUNICIPAL CODE
RELATING EXCAVATION CODE

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

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

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

Article 18-09 of Chapter 18 of the Fargo Municipal Code is hereby amended to read as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

ARTICLE 18-09

EXCAVATION ORDINANCE

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Section

- 18-0900 Applicability.
- 18-0901 Definitions.
- 18-0902 Excavator’s License.
- 18-0903 Permit to Excavate.
- 18-0904 Exemptions.
- 18-0905 Denial or Revocation of Permit.
- 18-0906 Pre-Excavation Requirements.
- 18-0907 Excavation Protection.
- 18-0908 Preservation of Monument.
- 18-0909 Compliance with Guidelines and Specifications.
- 18-0910 Revocation of Excavator license.
- 18-0911 Emergency Excavation.
- 18-0912 Warranty.
- 18-0913 Inspections.
- 18-0914 Maintenance of Substructure Records.
- 18-0915 Forms.
- 18-0916 Rules, Regulations, and Penalties.
- 18-0917 Severability.

18-0900. Applicability.

This Excavation Code applies to any and all excavation of the City of Fargo’s public right-of-way, publicly-owned property, and all locations that must be permitted, as more specifically defined herein, and as otherwise determined by the City Engineer.

18-0901. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this Article:

1. “Boulevard” means that right-of-way from the back of the curb or edge of the traveled way to the owner’s property line.
2. “City Engineer” means the City Engineer of the City of Fargo or designee.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 3. "Excavation" means any removal or disturbance of material within the traveled way of any
2 street or alley or the removal or disturbance of any material, sod, or soil areas of any street,
3 alley, public right-of-way, street boulevards (except boulevard gardens as allowed by
4 Article 13-17), and public utility easements, including but not limited to grading, cutting,
5 trenching, digging, ditching, drilling, pot holing, auguring, tunneling, jacking, boring,
6 scraping, plowing and pile driving, and any disturbance of the surface by any means under,
7 in, on, over, or through any locations required to be permitted within the corporate limits
8 of the City of Fargo.
- 9 4. "Excavator" means any person, firm, or entity who performs the act of excavation by any
10 means.
- 11 5. "Guidelines" refers to the Excavation Fees and Guidelines Supplement created by the City
12 Engineer and approved by the Board of City Commissioners by Resolution, effective at the
13 time of permit issuance. A copy of the Guidelines is accessible at: [a link will be provided
14 upon approval of a Resolution adopting the Guidelines].
- 15 6. "Specifications" refers to the Standard Specifications for Construction in effect at the time
16 of permit issuance. A copy of the Specifications is accessible at: [https://fargond.gov/city-
17 government/departments/engineering/design-construction/construction-specifications](https://fargond.gov/city-government/departments/engineering/design-construction/construction-specifications).
- 18 7. "Street" means the length as dedicated for use by the public and the width as defined by
19 the property lines on each side thereof. For purposes of this Article, all references to
20 "Street" includes alleys.
- 21 8. "Traveled way" means the width from curb to curb on curbed streets, from edge to edge
22 on any non-curbed streets, and from shoulder to shoulder on gravel streets.
- 23 9. "Utilities" means, for the purpose of this Article, all underground cables, conduit, and pipe
used for the transportation or distribution of fuel, electricity, communication services,
water, or sewage.

18-0902. Excavator's License.

No person, firm, or entity shall perform excavation, as defined in 18-0901(3), unless licensed as a contractor by the State of North Dakota and licensed as an excavator by the City of Fargo. An excavator's license will be issued by the City Auditor upon submission of a written application on forms obtained from the auditor and upon fulfilling the fee, bonding, and insurance requirements

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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2 as specified in the Guidelines. A license shall be effective upon issuance until March 1 of the
3 following year.

4 **18-0903. Permit to Excavate.**

5 Except as otherwise provided in 18-0904 and 18-0911, no person may perform excavation, as
6 defined in 18-0901(3), without first obtaining a permit from the City of Fargo Engineering
7 Department. A permit to excavate shall be issued only to an excavator licensed by the City of
8 Fargo, and those exempt under 18-0904(B). The issuance of a permit shall not relieve any
9 permittee from compliance with all requirements of this Article nor relieve the permittee of any
10 liability for damage to any existing utility. The City assumes no liability whatsoever by virtue of
11 the issuance of a permit. Except as set forth elsewhere herein, the excavator performing the
12 excavation must obtain the permit to excavate. Excavation must occur during the permitted time
13 period.

14 **18-0904. Exemptions.**

15 A. All utility companies franchised with the City of Fargo and authorized to operate
16 within the corporate limits are exempt from the license requirement of this Article.

17 B. The following shall be exempt from the permit requirements of this Article:

- 18 1. All governmental units of the City of Fargo;
- 19 2. All contractors performing under a written contract with the City of Fargo
20 or a governmental unit of the City of Fargo; and
- 21 3. A property owner planting or maintaining a garden on the boulevard
22 adjacent to their property in accordance with Fargo Municipal Code Article
23 13-17.

18-0905. Denial or Revocation of Permit.

A. Mandatory Denial. Except in the case of an emergency, no permit will be granted:

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1. To any person, firm, or entity who has failed within the past three years to comply with, or is presently not in compliance with, the requirements of this Article.
 2. To any person, firm, or entity who has outstanding debt owed to the City of Fargo that is due, owing, and unpaid.
 3. To any person, firm, or entity as to whom there exist grounds for the revocation of a permit under this Article or other applicable law.

B. Permissive Denial. The City Engineer may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The City Engineer, at the City Engineer's discretion, may consider one or more of the following factors in denying a permit:

1. The degree of compliance of the applicant with this Article and other applicable ordinances and regulations.
2. The degree of disruption to surrounding communities and businesses that will result from the issuance of a permit.
3. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction.
4. The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the issuance of a permit.
5. The number of incomplete permits held by the applicant.
6. Any other factors the City Engineer deems just and appropriate under the circumstances.

C. Revocation of Permit. A permittee holds a permit issued hereunder as a privilege and not as a right. The City Engineer is authorized, as provided herein, to revoke a permit, without fee refund, upon finding any of the following:

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1. The permittee violated or failed to comply with any statute, ordinance, rule, regulation, Guidelines, Specifications, or condition of the permit.
2. An evasion or attempt to evade any term of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City of Fargo or its citizens.
3. Any material misrepresentation of fact in the application for a permit.
4. The failure to maintain the required construction security, bond, or insurance.
5. The failure to complete the permitted work in a timely manner.
6. The failure to correct a condition as requested by the City Engineer.

If the City Engineer determines grounds for revocation of a permit exist, the City Engineer will make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit, and the City Engineer may place additional or revised conditions on the permit. The permittee shall then have the amount of time provided in the Guidelines or as otherwise afforded by the City Engineer to contact the City Engineer with a plan, acceptable to the City Engineer, for correction, including a date of anticipated completion. The permittee's failure to timely contact the City Engineer, failure to submit an acceptable plan, or failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. If a permit is revoked, the permittee shall also reimburse the City for its costs incurred in connection with such revocation, including restoration costs and reasonable attorney's fees.

18-0906. Pre-Excavation Requirements.

It shall be the responsibility of each permittee to comply with federal, state, and local laws, including North Dakota One-Call laws, and the terms of the Guidelines and Specifications.

18-0907. Excavation Protection.

The permittee shall be responsible for protecting the safety of the public and the integrity of the public right-of-way in the permitted area. This shall include but is not limited to installing and

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2 maintaining traffic control measures in accordance with the “Manual on Uniform Traffic Control
3 Devices” (MUTCD), installing and maintaining erosion and sediment control, and any other
4 requirements stated in the permit, Guidelines, and Specifications.

4 **18-0908. Preservation of Monument.**

5 Any monuments set for the purpose of locating or preserving the property lines, survey reference
6 points, or permanent survey benchmarks, shall not be removed or disturbed without permission in
7 writing from the City Engineer. Replacement of monuments shall be permittee’s sole
8 responsibility. Any failure by permittee to replace and verify the location of the monument shall
9 be a permit violation.

8 **18-0909. Compliance with Guidelines and Specifications.**

9 A. All permittees issued a permit in accordance with this Article must comply with the
10 Guidelines and Specifications in effect at the time of issuance of the permit. Failure to abide by
11 the permit conditions, Guidelines, Specifications, or this Article may result in a violation and
12 subject the permittee to penalties imposed by the City Engineer, including permit and license
13 revocation.

13 B. Excavators who are exempt from the licensing and permit requirements under 18-
14 0904 must comply with the Guidelines and Specifications in effect at the time of the excavation.

14 **18-0910. Revocation of Excavator License.**

15 A. The City Engineer may revoke an excavator license issued pursuant to this Article,
16 without a fee refund, if the City Engineer makes any of the following findings:

- 17 1. The licensee obtained the license by means of fraud, deceit, or
18 misrepresentation of a material fact.
- 19 2. The licensee is not in compliance with any applicable statute, ordinance,
20 rule, regulation, or the Guidelines or Specifications.
- 21 3. The licensee is not performing work in compliance with any condition of
22 the license.
- 23

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- 2 4. The licensee has had two (2) or more ordinance violations within a one-year
- 3 period.
- 4 5. The licensee had a permit revoked in accordance with this Article.
- 5 6. The practices of the licensee threaten the health, safety, or welfare of the
- 6 public, interfere with the safety and convenience of ordinary travel over the
- 7 right-of-way, or otherwise negatively impact the right-of-way or its users.

7 B. If the City Engineer determines grounds for revocation of a license exist, the City
8 Engineer shall provide written notice to the licensee stating the grounds for revocation. The
9 licensee shall then have the amount of time provided in the Guidelines or as otherwise afforded by
10 the City Engineer after receipt of the written notice to remedy the grounds for revocation to the
11 satisfaction of the City Engineer. If the licensee fails to remedy the grounds for revocation to the
12 satisfaction of the City Engineer, then the City Engineer may revoke the license without further
13 notice.

14 C. If a license is revoked, the licensee shall reimburse the City for its reasonable costs
15 incurred in connection with such revocation, including restoration costs and reasonable attorney's
16 fees. A licensee who has had a license revoked, or believes any costs and fees imposed are
17 unreasonable, may have the matter reviewed by the City Commission upon written request made
18 to the City Engineer within ten (10) business days of the revocation or notice of fee imposition. A
19 decision by the City Commission affirming such revocation or fee imposition will be in writing
20 and supported by written findings establishing the basis for the decision.

21 **18-0911. Emergency Excavation.**

22 Nothing in this ordinance shall be construed to prevent the making of such excavations as may be
23 necessary for the preservation of life or property or for the location of trouble in conduit or pipe,
24 or for making repairs, provided that the person making such excavation shall apply to the City
25 Engineer for such a permit on the first working day after such work is commenced.

26 **18-0912. Warranty.**

27 The permittee warrants that restoration work will meet the requirements of this Article, the
28 Guidelines, and Specifications for a period of twenty-four (24) months following final acceptance

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FARGO, NORTH DAKOTA

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1 of the work by the City. During this warranty period, the permittee shall, upon notification by the
2 City Engineer, correct all restoration work to the extent necessary using the method required by
3 the City Engineer. Such work shall be completed within five (5) calendar days of the receipt of
4 the notice from the City Engineer, not including days when work is prohibited as unseasonable or
5 unreasonable. If permittee fails to restore the right-of-way in the manner and condition required
6 by the City Engineer, or fails to satisfactorily and timely complete all restoration required, the City
7 Engineer may do such work or contract for such work to be completed. In such event, the permittee
8 shall pay to the City the costs of restoring the right-of-way within thirty (30) days of the billing.

6 **18-0913. Inspections.**

7 When the work under any permit is completed, the permittee must provide written notice of
8 completion to the City of Fargo Engineering Department. The permittee shall make the site
9 available to the City of Fargo Engineering Department and all others required for inspections at
10 all reasonable times during the execution of and completion of the work. If the City Engineer
11 determines that any work of the permittee does not conform to the terms of the permit or other
12 applicable standards, conditions, or codes, or does not comply with the Guidelines and
13 Specifications, the City Engineer will issue written notice under 18-0905(C) and the permittee
14 shall follow the procedure established in 18-0905(C) to remedy the violations. The provisions of
15 this Article do not relieve or change any inspection requirements contained in the Fargo Municipal
16 Code or in any rules and regulations as approved by the Board of City Commissioners including
17 the Guidelines and Specifications. The permittee shall comply with all other inspection
18 requirements and secure all approvals required for the project.

14 **18-0914. Maintenance of Substructure Records.**

15 Every person owning, using, controlling, or having an interest in substructures under the surface
16 of any public place, shall provide maps, drawn to a scale of not less than one inch to 200 feet, to
17 the City Engineer upon request. The maps must show in detail the plan location, size, and kind of
18 installation of all substructures, except service lines designed to serve single properties.

18 **18-0915. Forms.**

19 The City Auditor is hereby authorized and directed to prepare the license forms required by this
20 Article, and to issue the license upon payment of the required fee and compliance with the
21 application, bonding, and insurance requirements contained within this Article, and the Guidelines
22 and Specifications. The City Engineer is hereby authorized and directed to prepare the permit
23 forms and the necessary related forms as required by this Article.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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18-0916. Rules, Regulations, and Penalties.

The City Engineer is hereby authorized and directed to promulgate rules and regulations necessary to effect the purpose and enforcement of this Article, and to issue such permits in accordance herewith. The City Engineer may impose a noncompliance penalty for unreasonable delays in right-of-way excavation, backfilling, and restoration, and noncompliance with the Guidelines and Specifications. In accordance with Fargo Municipal Code 1-0305(A)(1), a violation of this Article is a Class B misdemeanor and penalties may be imposed thereunder.

18-0917. Severability.

If any section, provision, or part of this Article shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Article as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 2. Effective Date.

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

(SEAL)
Attest:

Dr. Timothy J. Mahoney, M.D., Mayor

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

6

ORDINANCE NO. _____

1 AN ORDINANCE REZONING A CERTAIN PARCEL
2 OF LAND LYING IN AMENDED PLAT OF OAK GROVE ADDITION
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

4 WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the
5 City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain
6 parcels of land lying in Amended Plat of Oak Grove Addition to the City of Fargo, Cass County,
7 North Dakota; and,

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning
9 request on March 7, 2023; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on April 3, 2023,

11 NOW, THEREFORE,

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

13 Section 1. The following described property:

14 S 50 Ft. of Lot One (1) and S 50 Ft. of Lot Two (2), Lots Three (3) and Four (4),
15 Less a Tract of LD Desc as Foll: Beg at NW cor of Lot Three (3); then at an assmd
16 brg of N 71 Deg 51 Min 52 Sec E along N Line of Block One (1) a Dist of 77.70 Ft;
17 then S 02 Deg 52 Min 4 Sec E a Dist of 113.75 Ft; then S 74 Deg 33 Min 56 Sec W
18 a Dist of 76.81 ft, more or less, to a pot on W line of Lot Three (3); then N 02 Deg
19 52 Min 32 Sec W a Dist of 110 ft, more or less, to point of beg and S 76 ft of Lot
20 Five (5), Lots Five (5) through Seventeen (17), and Lots Nineteen (19) through
21 Forty-Nine (49), Block One (1) of Amended Plat of Oak Grove Addition to the City
22 of Fargo, Cass County, North Dakota;

23 and,

Lot Five (5), exc that PC Desc as Foll: Comm at a point where the W line of said Lot
Five (5) inter with the S line of said Lot, then E along the S line of said Lot Five (5)
19 ft, then in a northerly direction in a straight line to a point where the N line of Lot

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 Five (5) inter with the W line of Lot Five (5), then a southerly direction along the W
2 line of Lot Five (5) to point of beginning, Pt of Lot Nine (9) Desc as Foll: Beg at a
3 point on E line of Lot Nine (9) where same adj to Lot Eight (8), then N 10 Ft, W
4 24.12 ft to inter line between Lot Eight (8) and Nine (9), then in south easterly
5 direction along said inter line between Lot Eight (8) and Lot Nine (9) a distance of
6 26.11 ft. to beginning, and Lots Six (6) through Eight (8), Block Three (3) of
7 Amended Plat of Oak Grove Addition;

8 and,

9 The portion of Lot Sixteen (16) Beg at SW cor of Lot Sixteen (16), E 192 Ft. NW 30
10 Ft., SW 150 Ft. S 63 Ft. to beginning, Lots Seventeen (17) through Forty-Three (43),
11 Block Four (4) of Amended Plat of Oak Grove Addition;

12 and,

13 Lots One (1) through Fifteen (15), Lots Seventeen (17) through Twenty-five (25),
14 and Lot Sixteen (16), less the portion of adjacent dedicated right-of-way, Block Five
15 (5) of Amended Plat of Oak Grove Addition;

16 and,

17 Lots One (1) through Forty-One (41), Block Six (6) of Amended Plat of Oak Grove
18 Addition;

19 and,

20 Lots One (1) through Thirty-five (35), Block Seven (7) of Amended Plat of Oak
21 Grove Addition;

22 and,

23 All of Blocks E, F, G, and H of Amended Plat of Oak Grove Addition;

and,

All of North Terrace North between Short Street North and Ash Street North,

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

adjacent to Lots Twenty-Five (25) through Thirty-Seven (37), Block Four (4), and
Lots One (1) through Eleven (11), Block Five (5) of Amended Plat of Oak Grove
Addition,

are hereby rezoned from "SR-2", Single-Dwelling Residential, District, "SR-3", Single-Dwelling,
Residential, "MR-2", Multi-Dwelling Residential, and "AG", Agricultural, District to, "P/I", Public
and Institutional, 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.

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

Dr. Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

(7)

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN ADAMS SEVENTH ADDITION
TO THE CITY OF 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 Adams Seventh Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on March 7, 2023; and,

WHEREAS, the rezoning changes were approved by the City Commission on April 3, 2023,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block Two (2) of Adams Seventh Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "GC", General Commercial, District subject to a "CUP", Conditional Use Permit, established as Permit No. 2022-01 (Doc. No. 1663375), to "LI", Limited Industrial, District, removing the "CUP", Conditional Use Permit from said property, and to enact a "C-O", Conditional Overlay, District as follows:

A. The following uses are prohibited:

1. Detention Facility;
2. Adult Establishment;
3. Off-Premise Advertising Signs;
4. Aviation/Surface Transportation; and
5. Portable Signs.

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FARGO, NORTH DAKOTA

ORDINANCE NO. _____

- 1 B. A residential protection buffer per the Residential Protection Standards of Section 20-
2 0704.E of the Land Development Code is required on sides facing residential use.
- 3 C. Off-street parking, loading, vehicular circulation areas, and outdoor storage shall have an
4 all-weather surface. No gravel, crushed concrete, or similar material is permitted.
- 5 D. The property shall not be used in whole or in part for storage of rubbish or debris of any
6 kind whatsoever nor for the storage of any property or items that will cause such lot to
7 appear untidy, unclean or unsightly as determined by the Zoning Administrator; nor shall
8 any substance, item or material be kept on any lot that will emit foul odors, including
9 compost sites and fertilizer.
- 10 E. Loading docks, stacked storage above six (6) feet in height, storage yards, outdoor
11 storage, and dumpsters shall have a setback of fifty (50) feet from the right-of-way and
12 include an eight (8) foot opaque fence.
- 13 F. Dumpsters must contain permanent walls on three (3) sides with the service opening not
14 directly facing any public right-of-way. The fourth side shall incorporate a metal gate to
15 visually screen the dumpster or compactor.
- 16 G. The manufacturing, production, or processing of hazardous chemicals or materials shall
17 not be permitted.

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

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(SEAL)

Attest:

Timothy J. Mahoney, M.D., Mayor

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (2-2023)

(89) pd ca

Applying for (check one)

Local Permit Restricted Event Permit*

Games to be conducted

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group: Brady Prochnow Benefit Dates of Activity (Does not include dates for the sales of tickets): 4-26-23

Organization or Group Contact Person: Andrea Sandbeck E-mail: andysandbeck@hotmail.com Telephone Number: 701-793-2561

Business Address: _____ City: _____ State: _____ ZIP Code: _____

Mailing Address (if different): 1717 13th St E City: West Fargo State: ND ZIP Code: 58078

SITE INFO

Site Name: Specks Bar County: CASS

Site Physical Address: 2611 Main Ave City: Fargo State: ND ZIP Code: 58103

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
<u>Meat Raffle</u> <u>50/50</u>	<u>Meat bundles</u>	<u>30⁰⁰</u>
		Total (limit \$40,000 per year) \$

Intended Uses of Gaming Proceeds

Does the organization presently have a state gaming license? (If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)

Yes No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)

Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)

No Yes - Total Retail Value: 180⁰⁰ (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)

Yes No

Name: Dee Wika Masaga Title: _____ Telephone Number: 701 4366267 E-mail Address: deewika40@gmail.com

Signature of Organization or Group's Top Official: [Signature] Title: Contact for Organization Date: 4-8-2023

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APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 GAMING DIVISION
 SFN 9338 (2-2023)

Applying for (check one)
 Local Permit Restricted Event Permit*

Games to be conducted Raffle by a Political or Legislative District Party

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One Paddlewheels*

*See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.
LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group Eventide		Dates of Activity (Does not include dates for the sales of tickets) June 14, 2023	
Organization or Group Contact Person Nonda Mack	E-mail nonda.mack@eventide.org	Telephone Number 218-291-2287	
Business Address 801 Main Avenue Suite 201	City Moorhead	State MN	ZIP Code 56560
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name Eventide Fargo	County Cass
Site Physical Address 3225 51st St S	City Fargo
	State ND
	ZIP Code 58104

Provide the exact date(s) & frequency of each event & type (Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)
Raffle - drawing held on 6/14/23

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle	50/50 drawing	1,500.00
Raffle	Gift Certificate to Scheels	250.00
Total (limit \$40,000 per year)		\$ 1,750.00

Intended Uses of Gaming Proceeds

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

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)
 Yes No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 (If yes, indicate the total retail value of all prizes previously awarded)
 No Yes - Total Retail Value: **4,433.94** (This amount is part of the total prize limit for \$40,000 per fiscal year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)
 Yes No

Name Nonda Mack	Title Foundation Exec Director	Telephone Number 218-291-2287	E-mail Address nonda.mack@eventide.org
Signature of Organization or Group's Top Official 		Title President/CEO	Date



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 LICENSING SECTION
 SFN 9338 (09-2021)

8c

Applying for (check one)
 Local Permit Restricted Event Permit*

Games to be Conducted Raffle by a Political or Legislative District Party

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit allowed per year.

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS.

Name of Organization or Group of People permit is issued to St. John Paul II Catholic Schools	Dates of Activity 04/29/2023	If raffle, provide drawing date 04/29/2023	
Organization or Group Contact Person Liz Bassett	Title or Position Special Events Coordinator	Telephone Number 701-893-3242	
Business Address 5600 25th Street S	City Fargo	State ND	ZIP Code 58104
Mailing Address (if different)	City	State	ZIP Code
Site Name (where gaming will be conducted) Shanley High School			
Site Address 5600 25th Street S	City Fargo	ZIP Code ND	County 58104

Description and Retail Value of Prizes to be Awarded

Game Type	Description of Prize	Retail Value of Prize
Raffle	Theragun	\$500
Raffle	Diamond Earrings	\$1,350
Raffle	Hornbacher's Gift Card	\$250
Raffle	Scheel's Gift Card	\$250
Raffle	Cash Prizes	\$1,500
See addendum for additional prizes included in this total.		Total (limit \$40,000 per year) \$3,850

Intended Uses of Gaming Proceeds
 Help fund athletic needs at Shanley High School

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

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1-June 30? (If yes, the organization or group does not qualify for a local permit or restricted event permit)
 Yes No

Has the organization or group received a local permit from any city or county for the fiscal year July 1-June 30? (If yes, indicate the total retail value of all prizes previously awarded)
 No Yes - Total Retail Value: \$18,956 (This amount is part of the total prize limit of \$40,000 per year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be used for political purposes.)
 Yes No

Organization or Group Contact Person

Name Liz Bassett	Title Special Events Coordinator	Telephone Number 701-893-3242	E-mail Address liz.bassett@jp2schools.org
Signature of Organization or Group's Top Official 		Title Special Events Coordinator	Date 02/14/2023



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
 LICENSING SECTION
 SFN 9338 (09-2021)

pd
 8d

Applying for (check one)
 Local Permit Restricted Event Permit*

Games to be Conducted Raffle by a Political or Legislative District Party

Bingo Raffle Raffle Board Calendar Raffle Sports Pool Poker* Twenty-One* Paddlewheels*

Poker, Twenty-One, and Paddlewheels may be conducted **Only** with a Restricted Event Permit. Only one permit allowed per year.

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS.

Name of Organization or Group of People permit is issued to Homeward Animal Shelter	Dates of Activity 4/27/2023	If raffle, provide drawing date 4/27/2023	
Organization or Group Contact Person Natalie Perhus	Title or Position Event Coordinator	Telephone Number 701-371-3193	
Business Address 1201 28th Ave N	City Fargo	State ND	ZIP Code 58102
Mailing Address (if different)	City	State	ZIP Code
Site Name (where gaming will be conducted) El Zagal Shrine			
Site Address 1229 3rd St N	City Fargo	ZIP Code 58102	County Cass

Description and Retail Value of Prizes to be Awarded

Game Type	Description of Prize	Retail Value of Prize
raffle	see attached	
Total (limit \$40,000 per year)		\$2,500.50

Intended Uses of Gaming Proceeds
All proceeds will go to the spay / neuter fund of Homeward Animal Shelter.

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

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1-June 30? (If yes, the organization or group does not qualify for a local permit or restricted event permit)
 Yes No

Has the organization or group received a local permit from any city or county for the fiscal year July 1-June 30? (If yes, indicate the total retail value of all prizes previously awarded)
 No Yes - Total Retail Value: _____ (This amount is part of the total prize limit of \$40,000 per year)

Is the organization or group a state political party or legislative district party? (If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be used for political purposes.)
 Yes No

Organization or Group Contact Person

Name Tasha Haug	Title Executive Director	Telephone Number 701-364-9013	E-mail Address thaug@homewardonline.org
Signature of Organization or Group's Top Official <i>Tasha Haug</i>		Title Executive Director	Date 4/12/2023

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

9

Type: Excavation Ordinance Update and Guidelines

Location: Citywide

Date of Hearing: 3/27/2023

<u>Routing</u>	<u>Date</u>
City Commission	<u>4/17/2023</u>
PWPEC File	<u>X</u>
Project File	<u>Kevin Gorder</u>

The Committee reviewed a communication from Division Engineer, Kevin Gorder, regarding an update of the Excavation Ordinance and Guidelines.

Engineering would like to update the Excavation Ordinance found in Section 18-09. At the January 22, 2022 City Commission meeting, they authorized the City Attorney to update this section of our City Ordinances. After reviewing this Ordinance, and the extent of revisions, it was decided to repeal and replace this Code. Engineering, along with the City Attorney, would like to add "Excavation Fees and Guidelines" to the requirements. The Guidelines would be approved by Resolution of the City Commission and would make future updates more efficient as this document references specifications and processes that may change.

Some of the new items or changes are as follows:

- additional requirements for "Protected Streets"
- introduction of "Public Impact Fees"
- increasing the bond requirement
- more detailed notice requirements
- video inspection of any residential sanitary sewer service repairs by Public Works

Staff is seeking approval of the new Excavation Ordinance to include the Guidelines as presented.

On a motion by Ben Dow, seconded by Steve Sprague, the Committee voted to recommend approval of the new Excavation Ordinance to include the Guidelines as presented.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Excavation Fees and Guidelines as presented.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A


Developer meets City policy for payment of delinquent specials	<u>Yes</u>	<u>No</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>
Tim Mahoney, Mayor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nicole Crutchfield, Director of Planning	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Steve Dirksen, Fire Chief	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Michael Redlinger, City Administrator	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bruce Grubb
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"/>	
Brenda Derrig, City Engineer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Terri Gayhart, Finance Director	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson


 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC
From: Kevin Gorder, Division Engineer
Date: March 23, 2023
Re: Excavation Ordinance Update and Guidelines

Background:

Engineering would like to update the Excavation Ordinance found in Section 18-09. At the January 22, 2022 meeting of the City Commission, Engineering asked and the Commission authorized the City Attorney to update this section in our City Ordinances. After reviewing this Ordinance and trying to decide the best approach, it was decided to repeal and replace this Code. Engineering, along with the City Attorney, would like to add "Excavation Fees and Guidelines" to the requirements. The Guidelines would be approved by Resolution of the City Commission and would make it easier to update many of the requirements as the industry changes.

New items include additional requirements for Protected Streets. Protected Streets are defined as any arterial, collector, and any roadway that has a structural improvement 10 years old or newer. The additional requirements include more stringent requirements as they backfill and patch the roadway surface. Items that would be expected include compaction testing by an independent testing firm, mix design approval for the roadway surface, and step-by-step approval by City Staff. The residents and City have invested significant resources in these roadways and by requiring better patches, the goal would be to reduce the probability of potholes and premature pavement failures.

Another addition is the introduction of public impact fees. As contractors excavate in our public right of way, they need to close roadways, lanes, sidewalks, etc. A weekly fee would be charged to encourage excavators get in to do the work, complete it quickly, and return the right of way to the users.

We are also proposing to increase the bond requirements from the current amount of \$25,000 to \$100,000. The bond protects the City from an Excavator starting a project and not completing it. Many of these repairs cost \$15,000 to \$25,000. If an Excavator has three locations they do not finish, the cost to the City could be \$75,000 depending on the size and depth the excavation.

We would also like to add more detailed notice requirements for routine excavations. This notice allows our residents and businesses time to plan for any potential impacts to their businesses. This notice would also allow Engineering time to issue a press release to update others that might be impacted.

Engineering would also like to work with Public Works to complete a video inspection of any sanitary sewer service repairs completed for our residents. This video inspection would verify no damage to the sanitary sewer main and to ensure the connection between the service and main is acceptable.

The new Excavation Ordinance and Guidelines are attached for your review. A short presentation will be shared at the meeting for comments prior to presenting this topic to the Commission. The Ordinance was on the consent agenda on March 20, the second reading would include a presentation on April 3, and the final reading and adoption on April 17. If approved, the new Ordinance would be advertised and become effective around May 1.

Recommended Motion:

Recommend approval of the new Excavation Ordinance to include the Guidelines as presented.

KOG/klb
Attachment



**OFFICE OF THE
CITY ATTORNEY**

SERKLAND LAW FIRM

10 Roberts Street North

P.O. Box 6017

Fargo, ND 58108

Phone: 701.232.8957 | Fax: 701.237.4049

CITY ATTORNEY

Nancy J. Morris

ASSISTANT CITY ATTORNEYS

Ian R. McLean ▪ Alissa R. Farol ▪ William B. Wischer

March 10, 2023

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

RE: Excavation Ordinance, Article 18-09 of Chapter 18

Dear Mayor and Commissioners,

Pursuant to your direction on January 24, 2022, please find for your review and consideration a Repeal and Replacement of the Excavation Ordinance, Article 18-09 of the Fargo Municipal Code. The intent of the revisions is to modernize the Ordinance and establish specific processes and procedures for the issuance and revocation of City-issued excavation licenses and permits. Some of the changes include clarifying the definition and scope of excavation within the public right-of-way, clearly mandating compliance with the Excavation Fees and Guidelines Supplement and Standard Specifications for Construction, authorizing the City Engineer to revoke an excavation permit, and authorizing the City Engineer to revoke an excavation license subject to review by the Commission upon request of the licensee.

An additional change is the establishment of the Excavation Fees and Guidelines Supplement, which will include license fees, bond requirements, permit conditions, and public impact fees by Resolution. Information about the Guidelines and a draft of the Resolution will be presented by Kevin Gorder for adoption at the time of the second reading of the new Ordinance.

Suggested Motion: I move to receive and file the following Ordinance Repealing and Replacing Article 18-09 of Chapter 18 of the Fargo Municipal Code relating to Excavation Ordinance, and to place the Ordinance on for first reading at the next regularly scheduled meeting of the City Commission.

Please feel free to contact me with any questions, comments, or concerns pertaining to the matters referenced herein.

Regards,

Kasey D. McNary
Assistant City Attorney

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND
REPEALING AND REPLACING ARTICLE 18-09
OF CHAPTER 18 OF THE FARGO MUNICIPAL CODE
RELATING EXCAVATION CODE

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

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

6 WHEREAS, Section 40-05.1-05 of the North Dakota Century Code provides that said
7 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,

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

10 NOW, THEREFORE,

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

12 Section 1. Enactment.

13 Article 18-09 of Chapter 18 of the Fargo Municipal Code is hereby amended to
14 read as follows:
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OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

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ARTICLE 18-09

EXCAVATION ORDINANCE

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Section

- 18-0900 Applicability.
- 18-0901 Definitions.
- 18-0902 Excavator’s License.
- 18-0903 Permit to Excavate.
- 18-0904 Exemptions.
- 18-0905 Denial or Revocation of Permit.
- 18-0906 Pre-Excavation Requirements.
- 18-0907 Excavation Protection.
- 18-0908 Preservation of Monument.
- 18-0909 Compliance with Guidelines and Specifications.
- 18-0910 Revocation of Excavator license.
- 18-0911 Emergency Excavation.
- 18-0912 Warranty.
- 18-0913 Inspections.
- 18-0914 Maintenance of Substructure Records.
- 18-0915 Forms.
- 18-0916 Rules, Regulations, and Penalties.
- 18-0917 Severability.

18-0900. Applicability.

This Excavation Code applies to any and all excavation of the City of Fargo’s public right-of-way, publicly-owned property, and all locations that must be permitted, as more specifically defined herein, and as otherwise determined by the City Engineer.

18-0901. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this Article:

1. “Boulevard” means that right-of-way from the back of the curb or edge of the traveled way to the owner’s property line.
2. “City Engineer” means the City Engineer of the City of Fargo or designee.

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- 1 3. "Excavation" means any removal or disturbance of material within the traveled way of any
2 street or alley or the removal or disturbance of any material, sod, or soil areas of any street,
3 alley, public right-of-way, street boulevards (except boulevard gardens as allowed by
4 Article 13-17), and public utility easements, including but not limited to grading, cutting,
5 trenching, digging, ditching, drilling, pot holing, auguring, tunneling, jacking, boring,
6 scraping, plowing and pile driving, and any disturbance of the surface by any means under,
7 in, on, over, or through any locations required to be permitted within the corporate limits
8 of the City of Fargo.
- 9 4. "Excavator" means any person, firm, or entity who performs the act of excavation by any
10 means.
- 11 5. "Guidelines" refers to the Excavation Fees and Guidelines Supplement created by the City
12 Engineer and approved by the Board of City Commissioners by Resolution, effective at the
13 time of permit issuance. A copy of the Guidelines is accessible at: [a link will be provided
14 upon approval of a Resolution adopting the Guidelines].
- 15 6. "Specifications" refers to the Standard Specifications for Construction in effect at the time
16 of permit issuance. A copy of the Specifications is accessible at: [https://fargond.gov/city-
17 government/departments/engineering/design-construction/construction-specifications](https://fargond.gov/city-government/departments/engineering/design-construction/construction-specifications).
- 18 7. "Street" means the length as dedicated for use by the public and the width as defined by
19 the property lines on each side thereof. For purposes of this Article, all references to
20 "Street" includes alleys.
- 21 8. "Traveled way" means the width from curb to curb on curbed streets, from edge to edge
22 on any non-curbed streets, and from shoulder to shoulder on gravel streets.
- 23 9. "Utilities" means, for the purpose of this Article, all underground cables, conduit, and pipe
used for the transportation or distribution of fuel, electricity, communication services,
water, or sewage.

18-0902. Excavator's License.

No person, firm, or entity shall perform excavation, as defined in 18-0901(3), unless licensed as a contractor by the State of North Dakota and licensed as an excavator by the City of Fargo. An excavator's license will be issued by the City Auditor upon submission of a written application on forms obtained from the auditor and upon fulfilling the fee, bonding, and insurance requirements

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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2 as specified in the Guidelines. A license shall be effective upon issuance until March 1 of the
3 following year.

4 **18-0903. Permit to Excavate.**

5 Except as otherwise provided in 18-0904 and 18-0911, no person may perform excavation, as
6 defined in 18-0901(3), without first obtaining a permit from the City of Fargo Engineering
7 Department. A permit to excavate shall be issued only to an excavator licensed by the City of
8 Fargo, and those exempt under 18-0904(B). The issuance of a permit shall not relieve any
9 permittee from compliance with all requirements of this Article nor relieve the permittee of any
10 liability for damage to any existing utility. The City assumes no liability whatsoever by virtue of
11 the issuance of a permit. Except as set forth elsewhere herein, the excavator performing the
12 excavation must obtain the permit to excavate. Excavation must occur during the permitted time
13 period.

14 **18-0904. Exemptions.**

15 A. All utility companies franchised with the City of Fargo and authorized to operate
16 within the corporate limits are exempt from the license requirement of this Article.

17 B. The following shall be exempt from the permit requirements of this Article:

- 18 1. All governmental units of the City of Fargo;
- 19 2. All contractors performing under a written contract with the City of Fargo
20 or a governmental unit of the City of Fargo; and
- 21 3. A property owner planting or maintaining a garden on the boulevard
22 adjacent to their property in accordance with Fargo Municipal Code Article
23 13-17.

18-0905. Denial or Revocation of Permit.

A. Mandatory Denial. Except in the case of an emergency, no permit will be granted:

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FARGO, NORTH DAKOTA

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1. To any person, firm, or entity who has failed within the past three years to comply with, or is presently not in compliance with, the requirements of this Article.
2. To any person, firm, or entity who has outstanding debt owed to the City of Fargo that is due, owing, and unpaid.
3. To any person, firm, or entity as to whom there exist grounds for the revocation of a permit under this Article or other applicable law.

B. Permissive Denial. The City Engineer may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The City Engineer, at the City Engineer's discretion, may consider one or more of the following factors in denying a permit:

1. The degree of compliance of the applicant with this Article and other applicable ordinances and regulations.
2. The degree of disruption to surrounding communities and businesses that will result from the issuance of a permit.
3. The condition and age of the right-of-way, and whether and when it is scheduled for total or partial reconstruction.
4. The balancing of the costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the issuance of a permit.
5. The number of incomplete permits held by the applicant.
6. Any other factors the City Engineer deems just and appropriate under the circumstances.

C. Revocation of Permit. A permittee holds a permit issued hereunder as a privilege and not as a right. The City Engineer is authorized, as provided herein, to revoke a permit, without fee refund, upon finding any of the following:

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1. The permittee violated or failed to comply with any statute, ordinance, rule, regulation, Guidelines, Specifications, or condition of the permit.
2. An evasion or attempt to evade any term of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City of Fargo or its citizens.
3. Any material misrepresentation of fact in the application for a permit.
4. The failure to maintain the required construction security, bond, or insurance.
5. The failure to complete the permitted work in a timely manner.
6. The failure to correct a condition as requested by the City Engineer.

If the City Engineer determines grounds for revocation of a permit exist, the City Engineer will make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit, and the City Engineer may place additional or revised conditions on the permit. The permittee shall then have the amount of time provided in the Guidelines or as otherwise afforded by the City Engineer to contact the City Engineer with a plan, acceptable to the City Engineer, for correction, including a date of anticipated completion. The permittee's failure to timely contact the City Engineer, failure to submit an acceptable plan, or failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. If a permit is revoked, the permittee shall also reimburse the City for its costs incurred in connection with such revocation, including restoration costs and reasonable attorney's fees.

18-0906. Pre-Excavation Requirements.

It shall be the responsibility of each permittee to comply with federal, state, and local laws, including North Dakota One-Call laws, and the terms of the Guidelines and Specifications.

18-0907. Excavation Protection.

The permittee shall be responsible for protecting the safety of the public and the integrity of the public right-of-way in the permitted area. This shall include but is not limited to installing and

OFFICE OF THE CITY ATTORNEY
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2 maintaining traffic control measures in accordance with the "Manual on Uniform Traffic Control
3 Devices" (MUTCD), installing and maintaining erosion and sediment control, and any other
4 requirements stated in the permit, Guidelines, and Specifications.

4 **18-0908. Preservation of Monument.**

5 Any monuments set for the purpose of locating or preserving the property lines, survey reference
6 points, or permanent survey benchmarks, shall not be removed or disturbed without permission in
7 writing from the City Engineer. Replacement of monuments shall be permittee's sole
8 responsibility. Any failure by permittee to replace and verify the location of the monument shall
9 be a permit violation.

8 **18-0909. Compliance with Guidelines and Specifications.**

9 A. All permittees issued a permit in accordance with this Article must comply with the
10 Guidelines and Specifications in effect at the time of issuance of the permit. Failure to abide by
11 the permit conditions, Guidelines, Specifications, or this Article may result in a violation and
12 subject the permittee to penalties imposed by the City Engineer, including permit and license
13 revocation.

13 B. Excavators who are exempt from the licensing and permit requirements under 18-
14 0904 must comply with the Guidelines and Specifications in effect at the time of the excavation.

14 **18-0910. Revocation of Excavator License.**

15 A. The City Engineer may revoke an excavator license issued pursuant to this Article,
16 without a fee refund, if the City Engineer makes any of the following findings:

- 17 1. The licensee obtained the license by means of fraud, deceit, or
18 misrepresentation of a material fact.
- 19 2. The licensee is not in compliance with any applicable statute, ordinance,
20 rule, regulation, or the Guidelines or Specifications.
- 21 3. The licensee is not performing work in compliance with any condition of
22 the license.

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- 2 4. The licensee has had two (2) or more ordinance violations within a one-year
- 3 period.
- 4 5. The licensee had a permit revoked in accordance with this Article.
- 5 6. The practices of the licensee threaten the health, safety, or welfare of the
- 6 public, interfere with the safety and convenience of ordinary travel over the
- 7 right-of-way, or otherwise negatively impact the right-of-way or its users.

7 B. If the City Engineer determines grounds for revocation of a license exist, the City
8 Engineer shall provide written notice to the licensee stating the grounds for revocation. The
9 licensee shall then have the amount of time provided in the Guidelines or as otherwise afforded by
10 the City Engineer after receipt of the written notice to remedy the grounds for revocation to the
11 satisfaction of the City Engineer. If the licensee fails to remedy the grounds for revocation to the
12 satisfaction of the City Engineer, then the City Engineer may revoke the license without further
13 notice.

14 C. If a license is revoked, the licensee shall reimburse the City for its reasonable costs
15 incurred in connection with such revocation, including restoration costs and reasonable attorney's
16 fees. A licensee who has had a license revoked, or believes any costs and fees imposed are
17 unreasonable, may have the matter reviewed by the City Commission upon written request made
18 to the City Engineer within ten (10) business days of the revocation or notice of fee imposition. A
19 decision by the City Commission affirming such revocation or fee imposition will be in writing
20 and supported by written findings establishing the basis for the decision.

21 **18-0911. Emergency Excavation.**

22 Nothing in this ordinance shall be construed to prevent the making of such excavations as may be
23 necessary for the preservation of life or property or for the location of trouble in conduit or pipe,
24 or for making repairs, provided that the person making such excavation shall apply to the City
25 Engineer for such a permit on the first working day after such work is commenced.

26 **18-0912. Warranty.**

27 The permittee warrants that restoration work will meet the requirements of this Article, the
28 Guidelines, and Specifications for a period of twenty-four (24) months following final acceptance

OFFICE OF THE CITY ATTORNEY
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1 of the work by the City. During this warranty period, the permittee shall, upon notification by the
2 City Engineer, correct all restoration work to the extent necessary using the method required by
3 the City Engineer. Such work shall be completed within five (5) calendar days of the receipt of
4 the notice from the City Engineer, not including days when work is prohibited as unseasonable or
5 unreasonable. If permittee fails to restore the right-of-way in the manner and condition required
6 by the City Engineer, or fails to satisfactorily and timely complete all restoration required, the City
7 Engineer may do such work or contract for such work to be completed. In such event, the permittee
8 shall pay to the City the costs of restoring the right-of-way within thirty (30) days of the billing.

6 **18-0913. Inspections.**

7 When the work under any permit is completed, the permittee must provide written notice of
8 completion to the City of Fargo Engineering Department. The permittee shall make the site
9 available to the City of Fargo Engineering Department and all others required for inspections at
10 all reasonable times during the execution of and completion of the work. If the City Engineer
11 determines that any work of the permittee does not conform to the terms of the permit or other
12 applicable standards, conditions, or codes, or does not comply with the Guidelines and
13 Specifications, the City Engineer will issue written notice under 18-0905(C) and the permittee
14 shall follow the procedure established in 18-0905(C) to remedy the violations. The provisions of
15 this Article do not relieve or change any inspection requirements contained in the Fargo Municipal
16 Code or in any rules and regulations as approved by the Board of City Commissioners including
17 the Guidelines and Specifications. The permittee shall comply with all other inspection
18 requirements and secure all approvals required for the project.

14 **18-0914. Maintenance of Substructure Records.**

15 Every person owning, using, controlling, or having an interest in substructures under the surface
16 of any public place, shall provide maps, drawn to a scale of not less than one inch to 200 feet, to
17 the City Engineer upon request. The maps must show in detail the plan location, size, and kind of
18 installation of all substructures, except service lines designed to serve single properties.

18 **18-0915. Forms.**

19 The City Auditor is hereby authorized and directed to prepare the license forms required by this
20 Article, and to issue the license upon payment of the required fee and compliance with the
21 application, bonding, and insurance requirements contained within this Article, and the Guidelines
22 and Specifications. The City Engineer is hereby authorized and directed to prepare the permit
23 forms and the necessary related forms as required by this Article.

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ORDINANCE NO. _____

18-0916. Rules, Regulations, and Penalties.

The City Engineer is hereby authorized and directed to promulgate rules and regulations necessary to effect the purpose and enforcement of this Article, and to issue such permits in accordance herewith. The City Engineer may impose a noncompliance penalty for unreasonable delays in right-of-way excavation, backfilling, and restoration, and noncompliance with the Guidelines and Specifications. In accordance with Fargo Municipal Code 1-0305(A)(1), a violation of this Article is a Class B misdemeanor and penalties may be imposed thereunder.

18-0917. Severability.

If any section, provision, or part of this Article shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Article as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 2. Effective Date.

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

(SEAL)
Attest:

Dr. Timothy J. Mahoney, M.D., Mayor

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

Excavation Fees and Guidelines Supplement

The following fees and guidelines supplement the requirements of Fargo Municipal Code Article 18-09 (Excavation Code). All work must also comply with the Specifications for Construction, except as modified herein.

I. Fee, Insurance, and Bond Requirements

- A. The fee for a City-issued Excavator's License shall be \$250 annually due at the time of application. All City-issued Excavator Licenses expire on March 1.
- B. An applicant must file proof of liability insurance with the City Auditor and must agree in writing, on forms provided by the City Auditor, to hold the City harmless from any and all damages claimed by reason of negligence, carelessness, incompetence, or omission on the part of the applicant in the performance of its work, the same to include, but not be limited to, careless guarding of excavations or failure to restore all public properties to as good a condition as they were before such work was done. The minimum amount of insurance shall be \$1,000,000 per occurrence.
- C. No license shall be granted by the City Auditor unless the applicant shall have given a bond that shall be in effect for two years, with good and sufficient surety, conditioned, among other things, that the applicant will save harmless the City from damages caused by reason of any negligence or faulty work by the applicant or any employee of the applicant, and that the material used and the work done shall be strictly in accordance with the requirements of 18-0909. The minimum amount of the bond shall be \$100,000 with the effective date of March 2.

II. General Permit Conditions

- A. Requirements before starting excavation
 1. Any Excavator that places concrete on City Streets must also submit proof of ACI Concrete Flatwork Certification as required in Section 2100 of the Specifications.
 2. The Permittee shall give all businesses affected by the project a minimum of 7 calendar days written notice of the project and the anticipated impacts to their business. This notice allows the Permittee and the adjacent businesses the time needed to coordinate garbage pickup, deliveries, etc. This written notice shall include the name of the Permittee and contact information for the onsite supervisor.
 3. The Permittee shall give all residents affected by the project a minimum of 2 calendar days written notice of the project and the anticipated impacts to their residence. Impacted residents include all residents affected by a water main shutdown and also residents that are in an area where the roadway is rerouted. This written notice shall include the name of the Permittee and the contact information for the onsite supervisor.
 4. The Permittee shall give the City Engineer a minimum notice of 2 business days prior to beginning a project so a press release can be created and distributed for the general public. This notice shall include a start date, impacts, and duration of the impacts.

5. The Permittee shall develop a traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure. The traffic control plan must include details on how traffic and pedestrians will be managed during the project. The sidewalk on one side of the street must remain open to the public at all times unless an alternate plan is approved by the City Engineer. The traffic control plan must be approved by the City Engineer at least two business days prior to work starting. Any changes to the traffic control plan must be approved by the City Engineer.

Traffic control on arterials and collectors shall meet all requirements for Traffic Control – Type 2 as specified in Section 4100 of the Specifications. Traffic control on all other roadways shall meet Traffic Control – Type 1 in Section 4100 of the Specifications. Permittee is responsible for all costs associated with traffic control.

6. Business Signing – Permittee shall provide business signing as specified by the City Engineer. Businesses that are impacted by a closed roadway shall have signs along the detour route indicating the best option for access to their business.

7. Trees – The Permittee shall use care to protect trees within the work area that are to remain during construction. In order to minimize tree damage the critical root zone (CRZ) must be protected from heavy construction activities at all times. The Permittee will be required to establish and mark out the CRZ areas prior to construction or staging occurring.

In the event the Permittee has work that must be performed within the CRZ, every effort must be made to minimize damage to the trees within the CRZ. Prior to commencing work within the CRZ, the Permittee will be required to present a plan of action to City Engineering that may include using smaller equipment, boring utilities, or other means of non-evasive action that will protect the trees. All branches and any roots over 4” diameter that are to be cut will require an inspection by a Forestry Department representative or other designated individual. Exposed roots shall be cut clean and backfilled as quickly as possible to avoid drying out.

If damage is caused to any existing tree due to the Permittee failure to adhere to the tree protection requirements, the City Forester will assess the damage to determine if the damage can be repaired or if the tree must be removed. Any action plan, as determined by the City Forester, to repair damaged trees shall be done by a certified arborist at the Permittee’s expense. If damage is so severe that tree removal is necessary, then the City will bill the Permittee for the appraised value of the trees, as determined by the City Forester utilizing the most recent edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers. The Permittee shall make payment within 30 days or interest will accrue until paid in full, in accordance with City policy.

8. The excavation work shall be performed and conducted so as not to interfere with access to emergency facilities such as fire hydrants, fire stations, fire escapes and any other emergency facilities designated by the City Engineer. If it becomes necessary to impact any of these facilities, the Permittee must contact the City Engineer and obtain approval prior to conducting any work that interferes with emergency facilities.

9. Permittee will have 30 days from the date of notice to complete all work in the Right of Way. The City will take necessary actions to complete temporary patches at any locations where the sidewalk or street are not finished. Any items in the right of way that are considered a hazard to the public will also be remedied by the City. The definition of hazard will be determined by the City Engineer. The cost to complete this work by the City or by any party contracted with the City will be the responsibility of the Permittee. Payment must be made by the Permittee within 30 days or interest will be charged.

B. Requirements during excavation

1. Permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the excavation work, the Permittee shall take appropriate measures to reduce, to the fullest extent practicable, noise, dust and unsightly debris.
2. Boring or other methods to prevent cutting of pavement may be required by the City Engineer.
3. Permittee must comply with City noise ordinances, except in cases of emergency with written approval of the City.
4. Install and maintain all traffic control and add additional devices as needed or as directed by the City Engineer.
5. The Permittee shall preserve and protect from damage any adjoining property by providing adequate support and taking all necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the work and shall be responsible for all damage to public or private property resulting from its failure to properly protect and carry out said work.
6. No cleated equipment, buckets, or outriggers may be used on pavement unless pavement can be protected from damage to surface or subgrade.
7. The Permittee shall spot the location of all underground facilities within the excavation area by exposing prior to machine digging and protect the same against damage.
8. Permittee shall not inhibit or alter existing drainage patterns during or after the permitted work has been completed and restored.
9. Potholing shall be allowed under permit in City sidewalk or ADA ramps for locating purpose. Potholed sections shall be replaced during restoration. Partial section replacement is not permitted. The entire section of sidewalk and/or ADA ramp shall be removed and replaced to the nearest score line. Refer to Section 2300 of the Specifications. Additional ADA ramp layouts are available at www.fargond.gov Permittee shall contact the City Engineer prior to potholing in the street pavement section.

C. Removals

1. Removals shall follow Section 1050 of the Specifications. The use of heavy duty pavement breakers is not allowed. For removal of concrete pavement, the Permittee shall “double saw” the pavement at the removal lines to eliminate the risk of spalling

the pavement that is to remain. The Permittee shall repair all spalled concrete by removing and replacing the entire spalled panel to the next joint at his sole expense.

2. All excavated material piled adjacent to the trench or in any street must not endanger those working in the trench, pedestrians or users of the streets, and minimize inconvenience to those using the streets and adjoining property. The City Engineer may require the Permittee to remove the excavation material from the worksite. Permittee must secure the necessary permission and make all necessary arrangements (permits, plans, etc.) for all required storage and disposal sites.
3. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work

D. Excavation

1. The Permittee shall verify that field conditions match the records provided during project planning. Any deviations from the approved plan must be approved by the City Engineer.
2. If the existing conditions do not match the approved site plan, the Engineer that designed the project must be contacted to redesign the work in the Right of Way. This revised plan must be resubmitted to the City Engineer for approval prior to work continuing.
3. Unstable pavement shall be removed over cave-outs and over-breaks and the restoration shall be treated as part of the main excavation.
4. Pavement edges shall be free of spalls and a full depth saw cut to leave a vertical face. Concrete pavement shall be removed a minimum of 1' from the edge of trench and shall follow existing joints. Asphalt pavement removals shall be normal or perpendicular to the roadway.
5. All damage to the existing surfaces must be repaired by the Permittee. Damage repair must be approved and accepted by the City Engineer.
6. Protection and Relocation of Utilities – Interference with existing facilities is prohibited without the written consent of the City Engineer and the facility owner.
 - a) City facilities may not be moved without prior written authorization from the City Engineer. When authorization is given, the Permittee shall be solely responsible for the cost of moving the City facilities.
 - b) Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus impacted by the excavation work at the direction of the facility owner.
 - c) Permittee may not move private facilities without the express written consent and the direction of the facility owner. The City is not responsible for any costs associated with the relocation or restoration.
 - d) Permittee must comply with North Dakota One Call requirements and locate and expose all vertical and horizontal underground facilities before starting excavation.
7. Damage to City facilities – Permittee is responsible for repair and replacement of any damaged City facilities. Any Permittee repairing or replacing damaged City facilities must be approved by the City Engineer prior to starting repair or replacement. City shall inspect the repair to ensure it adheres to the latest Plumbing or applicable Code, and City Specifications. Failure to repair the damage within 48 hours will result in City undertaking and completing the work, at Permittee's sole expense.

8. Whenever a substructure is abandoned, except the abandonment of service lines three inches or less in diameter designed to serve single properties, the entity owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the City Engineer a statement in writing giving, in detail, the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation by the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or interfering portions thereof, or pay the cost of its removal during the course of excavation for construction of the facility by the City or the public body.

E. Backfilling

All backfilling must be completed within 48 hours of the commencement of the excavation unless prior authorization has been granted by the City Engineer for a longer duration. Backfilling of the excavation shall meet the requirements as detailed in the Specifications.

1. Compaction testing will be performed by the City Engineer except for protected streets defined in Section II.G. The City Engineer reserves the right to waive compaction testing. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material at its sole expense for testing purposes.
2. Backfill material shall meet Specifications for the area that is backfilled. If aggregate material is contaminated during removal, new material meeting Specifications shall be used by the Permittee.
3. Under all pavement conditions, the aggregate base depth shall match the surrounding aggregate base and the base material must meet Specifications.

F. Restoration

1. Concrete, dowel requirements, and curb and gutter shall meet Section 2100 of the Specifications.
2. Asphalt shall meet Section 2400 of the Specifications. Corrective measures for any items not meeting Specifications will be at the discretion of the City Engineer up to and including removal and replacement.
3. All patches must be inspected after they are prepared and prior to placing any final road surfacing material.
4. All site restoration, including pavement replacement, sidewalk, curb and gutter, ADA ramp replacement, top soil depth requirements, fine grading, seeding, and mulching shall meet Specifications. Any surface disturbed by excavation shall be restored to as good a condition as it was prior to excavation. Restoration shall be made within 72 hours of the completion of backfilling unless a written time extension is granted by the City Engineer.
5. All cleanup operations at the location of such excavation shall be accomplished at the expense of the Permittee.
6. Immediately after completion of said work the Permittee shall clean up and remove all refuse and unused materials of any kind resulting from said work. Upon failure to

do so, within 24 hours after having been notified, said work may be done by the City and the cost charged to the Permittee.

7. Whenever it may be necessary for the Permittee to excavate through any landscaped area the area shall be re-established in a manner that is as good or better than before the work started.
8. All construction and maintenance work shall be done in a manner designed to leave the area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.
9. Permittee is responsible for all restoration.
10. Striping – Restoration of epoxy striping and plastic markings will be completed by the City Engineer. The Permittee will be responsible for payment of these items based on the prices in Appendix D.

G. Protected Streets

Protected Streets fall into two categories. The first is arterials or collectors that carry larger volumes of traffic and impact more users. The second category is streets that have a structural pavement surface that is 10 years old or less. Both categories have additional requirements that are listed in this section including traffic impact fees and possible re-inspection fees as shown in Appendix A.

1. The City Engineer will provide a map with a list of Protected Streets.
2. Fees for Protected Streets can be found in Appendix A. Fees for Protected Streets do not apply to private service connections on owner occupied single family residences.
3. An Inspection Checklist can be found in Appendix B that must be followed for work performed on all Protected Streets. The Permittee shall contact the City Engineer after each item is complete for inspection. If any of the checklist items are covered prior to inspection, the Permittee will be required to uncover so it can be inspected by and at the Permittee's expense. Inspection fees for inspection of covered work will be the responsibility of the Permittee.
4. Compaction tests must be performed on Protected Streets. The Permittee shall hire a testing firm approved by the City to perform all backfill test requirements. Backfill shall be placed in 12" lifts with a compaction test every 2' or as directed by the City Engineer. All costs associated with the required testing and any additional work needed to meet backfilling requirements to meet Specifications shall be the sole responsibility of the Permittee. The Permittee must provide proof the backfilling meets or exceeds compaction requirements prior to paving the excavated area. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material by and at their expense for testing purposes.
5. If work is suspended for more than 48 hours, the Permittee shall remove lane closures and reopen any portion of the roadway that can be safely reopened.
6. Roadway Surface
 - a) Concrete placed shall meet Specifications and a mix design shall be submitted one week before placement for approval by the City Engineer. Curing compound shall

be on site prior to concrete placement. Joints shall be sawed and sealed prior to roadway opening.

- b) Asphalt placed shall meet Specifications and a mix design shall be submitted one week prior to placement for approval by the City Engineer. Asphalt shall be Class 43 and asphalt oil shall meet PG58H-34 at a minimum.
- c) Roadway smoothness of all patches shall meet Specifications and any corrective measures needed to meet the specifications shall be arranged by the Permittee. All costs for corrective measures shall be the responsibility of the Permittee.

IV. Permit to Excavate

A. An application for a permit allowing excavation or obstruction of the right-of-way shall be made to the City Engineer. Incomplete applications will not be considered and will be returned to the Permittee. An application is complete only upon compliance with the requirements of the following provisions:

- 1. The applicant is a current "Licensed Excavator" with the City of Fargo unless exempted by Article 18-0904(A).
- 2. Applicant has reviewed and agrees to meet all General Permit Conditions.
- 3. Submission of details that include the proposed work, traffic control, and other information needed to complete the work..
- 4. A drawing or detailed explanation of the proposed work and the distance between the proposed installation and City utilities. Any proposed work over one (1) block long must have a drawing to scale showing the proposed installation and the distance from City utilities. A block is defined as 350'.
- 5. A traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure.
- 6. A schedule of major activities in the right of way including durations.
- 7. List of subcontractors working in the right of way.
- 8. List of other agencies permitting the proposed project and the status of those permit applications.
- 9. Any impacts to boulevard trees must be noted in the application. Tree impacts include impacts to the Critical Root Zone (CRZ) and compliance with City Ordinance. The CRZ is an area defined by the diameter of the tree as measured at a point 4.5 feet above the ground line. For every 1 inch of tree diameter, a 1 foot clear zone must be established to protect the CRZ. For a 24 inch diameter tree, the CRZ would be a 24 foot radius from the base of the tree.

B. Issuance of Permit – The City Engineer may impose reasonable conditions upon the issuance of the permit to protect the structural integrity of the right-of-way and to protect safe passage of the public through the permitted area. The City Engineer may require a design locate and an onsite meeting with representatives of the Permittee, Contractor,

Crew Chief, Utility Engineer, and Utility Inspector prior to issuing a permit. A 4 hour notice must be provided prior to scheduling an onsite meeting.

- C. Fees – The City will bill the Permittee and the Permittee shall make payment within 30 days or interest will accrue in accordance with City policy until paid in full. The City may require permit fees be paid prior to the issuance of the permit.
1. Administrative Fees – Administrative fees include permit fees and fees associated with failing to comply with these Guidelines, such as working without a permit and working without a license. Administrative fees are listed in Appendix A.
 2. Public Impact Fees – Public Impact Fees are fees based on impacts to the public during work when sidewalks, roadways, or parking is restricted or limited. Public Impact fees are listed in Appendix A.
 3. Inspection Fees – Inspection fees apply to any rework caused by installation of items without previous items getting inspected and approved by the City Engineer. Inspection Fees are listed in Appendix A.

V. Final Acceptance

For sanitary sewer service connections completed prior to November 1, the City will video the sewer main by March 1 of the following year. Any defects detected on the video must be repaired by the Permittee no later than June 1.

After restoration is completed, Permittee shall contact the City Engineer for Final acceptance. City will inspect the work and notify the contractor of any defects. If defects are discovered, the City will notify the Permittee and the Permittee will have 30 calendar days to complete repairs. If repairs are not complete within 30 calendar days, no further permits will be issued to the Permittee and the City Engineer will make arrangements for repair. All costs incurred to complete repairs will be billed to the Permittee. Permits will not be issued until full payment is received by the City Engineer. All permits are considered open until a written Final Acceptance is issued by the City Engineer.

Permittee shall guarantee all work for 2 years from the date of Final Acceptance on all work completed. Permittee will continue to be responsible for any damage incurred that is not clearly visible at the time of final acceptance. Any damage discovered after Final Acceptance remains the responsibility of the Permittee. The Permittee will make the necessary arrangements to repair this damage within 30 calendar days of notification.

VI. Winter construction

Winter construction shall generally be from December 1st to May 1st, but may be modified by the City Engineer based on current and forecasted weather conditions. The City Engineer will notify active excavators of the winter construction dates a minimum of 2 weeks prior to the

start of winter construction. Non-emergency excavations will not be allowed during winter construction dates. Exceptions to the winter construction may be granted at the discretion of the City Engineer.

Emergency excavations during the winter shutdown will require all trenches under the traveled way be backfilled with gravel that is not frozen and tamped in six inch lifts or layers to at least one foot back of curb line. The upper 1.0 feet of the trench shall be composed of concrete slurry to be kept at grade at all times during winter construction dates and then restored to permanent resurfacing within 30 days of winter construction date removal in the spring. The permit will remain open and the Permittee is responsible for all maintenance of the patched area until permanent restoration of the pavement and sidewalk is completed.

VII. Violations

Failure to follow applicable Local Ordinances, State or Federal Laws, or Standards published by the City of Fargo will result in verbal or written notices and/or additional fees. Penalties may include fees, cancellation of permit, and/or revocation of their Fargo Excavator License. Details are located in Appendix C.

Appendix A

Administrative Fees

Permit Fee	\$100
Excavating without a permit	\$500
Street Excavation	\$50
Sidewalk Excavation	\$50
Inspection Fees	\$20/day for any rework required due to covering work that has not been inspected.

Public Impact Fees – Applicable to each route impacted during excavation

Private Service repairs for owner occupied single family residence

Sidewalk Closure	\$100/week after 2 weeks until completion
Lane	\$100/week after 2 weeks until completion An additional week will be allowed for a concrete street

Public Impact Fees – Not applicable to owner occupied residence private service work

Sidewalk Closure	\$100/week
Parking Spot Closure	\$100/week less than 5 spots
Parking Spot Closure	\$250/week 5 or more spots

Protected Streets

Arterial Streets

Lane Closure	\$300/week
Full Closure	\$500/week

Collector Streets

Lane Closure	\$150/week
Full Closure	\$300/week

Residential Streets

Lane Closure	\$100/week
Parking Lane Closure	\$40/day

All other Streets

Lane Closure	\$100/week
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Appendix B – Inspection Checklist

1. Traffic control – The applicant is responsible for providing a traffic control plan that meets MUTCD and Specifications. The traffic control plan must be approved by the City prior to work starting. Traffic control installation must be approved prior to the applicant starting the removal process.
2. Removal Limits – Prior to starting work a meeting shall be held with from the City Engineer to determine removal limits and traffic control requirements.
3. Removal Items – Special attention shall be given to colored concrete, brick, ADA ramps, structural soil, reinforcing fabric, sidewalk, and roadway surface.
4. Backfilling of the excavation shall be in 12” lifts with compaction tests performed by an approved testing firm after completing 2 12” lifts. All coordination and costs will be the responsibility of the Permittee.
5. Reinforcing Fabric – When reinforcing fabric exists, the removal limits shall be extended to allow for a 12” overlap of the reinforcing fabric during backfilling operations.
6. Base material – Refer to Section 2070 of the Specifications for requirements. The City must inspect the base prior to completion of the restoration. If the restored area is paved prior to City inspection, the Permittee shall remove any material requested by the City to verify material depth by and at the Permittee’s expense unless the Permittee provides proof of depth and compaction results to the City.
7. Asphalt Patch – Refer to Section 2400 of the Specifications. Asphalt patch material must be FA 43 with PG 58H-34 oil. The applicant shall submit a mix design prior to starting the excavation. All mix designs must be approved by the City before asphalt can be placed in the patch area. Placement of the asphalt material must meet the latest version of the Specifications.
8. P.C. Concrete w/Asphalt Overlay - Asphalt shall be trimmed with asphalt spade or concrete saw. P.C. concrete shall be placed to a depth matching the surrounding concrete thickness and shall be reinforced in accordance with the Specifications. After a curing time, as approved by the City Engineer, the patch shall be painted with asphaltic cement and filled with compacted hot mix asphalt in accordance with Section 2400 of the Specification.
9. P.C. Concrete – Refer to Section 2100 of the Specifications. Dowel bars and reinforcing shall meet the same section of the Specifications. All concrete material properties must be tested by an approved testing firm during placement of the concrete. All coordination and costs will be the responsibility of the Permittee.
10. Graveled Surfaces – Refer to Section 2800 of the Specifications. Gravel surfaces shall be bladed, shaped and resurfaced with a minimum of six inches of gravel.
11. ADA Ramps and Sidewalks – Refer to Section of 2300 of the Specifications. Partial removals of ADA ramps are not permitted. Complete replacement of the ADA ramp or sidewalk ramp shall be replaced to conform to the latest edition of the Specifications. If the existing sidewalk isn’t ramped, it shall be replaced with an ADA ramp only if the curb is also removed. Additional sidewalk details can be found at www.fargond.gov
12. Curb & Gutter – Refer to Section 2100 of the Specifications.

13. Colored concrete – Every effort must be made to match the existing color of the concrete in place on the roadway.
14. Bricks – Care must be taken by the applicant to salvage all bricks in the removal area. Any damaged bricks must be replaced by the applicant. Every effort must be made to match the existing color of the brick in place on the roadway.
15. Berms are to be restored as nearly as possible to their original condition. Seeding and fine grading shall conform to Section 3100 of the Specifications.

Appendix C
Violation Schedule

Failure to use approved traffic control	\$500/day
Failure to maintain traffic control	\$100/day
Failure to follow approved plan	\$250
Failure to give notice to residents and/or Engineering	\$100

All violations can also include permit revocation and/or license revocation

Appendix D – Striping Fees

4" Epoxy \$3.00/LF
4" Plastic \$8.00/LF includes 4" contrast marking tape
Wider tape is prorated by width. Example: 24" is 6x the 4" price

Epoxy Message \$13/SF
Thermoplastic \$50/SF
Plastic Message \$25/SF

Fee Examples

Current Sewer Service Repair – 2 street panels, 2 sidewalk panels

\$20 – Permit Fee
\$200 – Street cut, \$100 per panel
\$40 – Sidewalk cut, \$20 panel
\$260 total

Proposed and completed in 2 weeks or less

\$100 – Permit Fee
\$50 – Street Cut
\$50 – Boulevard Cut
\$50 – Sidewalk Cut
\$250 total

Current Permit Fees Utility Maintenance – Arterial for 9 days with a lane closure

\$20 – Permit Fee
\$400 – Street cut, \$100 per panel
\$420 total

Proposed Utility Maintenance

\$100 – Permit Fee
\$50 – Street Cut
\$600 – Impact Fee, 2 weeks at \$300/week
\$750 total

Current Utility Installation – Corner of two arterials, 4 weeks in duration, 4 bore excavations

\$20 – Permit Fee
\$40 – Bore pits, \$10/each
\$60 total

Proposed Utility Installation

\$100 – Permit Fee
\$200 – Boulevard Excavation, \$50 per location
\$1,200 – Arterial #1, 4 weeks at \$300/week
\$1,200 – Arterial #2, 4 weeks at \$300/week
\$2,700 total

COMMISSIONER _____ introduced the following resolution and moved its adoption:

RESOLUTION

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

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

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

WHEREAS, Article 3(G) of the Home Rule Charter of the City of Fargo, North Dakota grants the City of Fargo power to provide for the adoption, amendment, and repeal of ordinances and resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof; and

WHEREAS, The City of Fargo has adopted a repeal and reenactment of Article 18-09 of Chapter 18 of the City of Fargo Municipal Code relating to Excavation Ordinance; and

WHEREAS, Section 18-0901 of the Excavation Ordinance provides excavation fees and guidelines shall be set by resolution by the Board of City Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO that the Excavation Fees and Guidelines, attached hereto, shall be set as follows, with an effective date beginning May 1, 2023.

Dated this _____ day of April, 2023.

Dr. Timothy J. Mahoney, Mayor

Attest:

Steven Sprague, City Auditor

The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER _____, and upon roll call vote, the following voted in favor thereof: COMMISSIONERS _____.
The following were absent and not voting: _____, and the following voted against the same: _____, whereupon the resolution was declared duly passed and adopted.

Excavation Fees and Guidelines

The following fees and guidelines supplement the requirements of Fargo Municipal Code Article 18-09 (Excavation Code). All work must also comply with the Specifications for Construction, except as modified herein.

I. Fee, Insurance, and Bond Requirements

- A. The fee for a City-issued Excavator's License shall be \$250 annually due at the time of application. All City-issued Excavator Licenses expire on March 1.
- B. An applicant must file proof of liability insurance with the City Auditor and must agree in writing, on forms provided by the City Auditor, to hold the City harmless from any and all damages claimed by reason of negligence, carelessness, incompetence, or omission on the part of the applicant in the performance of its work, the same to include, but not be limited to, careless guarding of excavations or failure to restore all public properties to as good a condition as they were before such work was done. The minimum amount of insurance shall be \$1,000,000 per occurrence.
- C. No license shall be granted by the City Auditor unless the applicant shall have given a bond that shall be in effect for two years, with good and sufficient surety, conditioned, among other things, that the applicant will save harmless the City from damages caused by reason of any negligence or faulty work by the applicant or any employee of the applicant, and that the material used and the work done shall be strictly in accordance with the requirements of 18-0909. The minimum amount of the bond shall be \$100,000 with the effective date of March 2.

II. General Permit Conditions

- A. Requirements before starting excavation
 1. Any Excavator that places concrete on City Streets must also submit proof of ACI Concrete Flatwork Certification as required in Section 2100 of the Specifications.
 2. The Permittee shall give all businesses affected by the project a minimum of 7 calendar days written notice of the project and the anticipated impacts to their business. This notice allows the Permittee and the adjacent businesses the time needed to coordinate garbage pickup, deliveries, etc. This written notice shall include the name of the Permittee and contact information for the onsite supervisor.
 3. The Permittee shall give all residents affected by the project a minimum of 2 calendar days written notice of the project and the anticipated impacts to their residence. Impacted residents include all residents affected by a water main shutdown and also residents that are in an area where the roadway is rerouted. This written notice shall include the name of the Permittee and the contact information for the onsite supervisor.
 4. The Permittee shall give the City Engineer a minimum notice of 2 business days prior to beginning a project so a press release can be created and distributed for the general public. This notice shall include a start date, impacts, and duration of the impacts.

5. The Permittee shall develop a traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure. The traffic control plan must include details on how traffic and pedestrians will be managed during the project. The sidewalk on one side of the street must remain open to the public at all times unless an alternate plan is approved by the City Engineer. The traffic control plan must be approved by the City Engineer at least two business days prior to work starting. Any changes to the traffic control plan must be approved by the City Engineer.

Traffic control on arterials and collectors shall meet all requirements for Traffic Control – Type 2 as specified in Section 4100 of the Specifications. Traffic control on all other roadways shall meet Traffic Control – Type 1 in Section 4100 of the Specifications. Permittee is responsible for all costs associated with traffic control.

6. Business Signing – Permittee shall provide business signing as specified by the City Engineer. Businesses that are impacted by a closed roadway shall have signs along the detour route indicating the best option for access to their business.

7. Trees – The Permittee shall use care to protect trees within the work area that are to remain during construction. In order to minimize tree damage the critical root zone (CRZ) must be protected from heavy construction activities at all times. The Permittee will be required to establish and mark out the CRZ areas prior to construction or staging occurring.

In the event the Permittee has work that must be performed within the CRZ, every effort must be made to minimize damage to the trees within the CRZ. Prior to commencing work within the CRZ, the Permittee will be required to present a plan of action to City Engineering that may include using smaller equipment, boring utilities, or other means of non-evasive action that will protect the trees. All branches and any roots over 4” diameter that are to be cut will require an inspection by a Forestry Department representative or other designated individual. Exposed roots shall be cut clean and backfilled as quickly as possible to avoid drying out.

If damage is caused to any existing tree due to the Permittee failure to adhere to the tree protection requirements, the City Forester will assess the damage to determine if the damage can be repaired or if the tree must be removed. Any action plan, as determined by the City Forester, to repair damaged trees shall be done by a certified arborist at the Permittee’s expense. If damage is so severe that tree removal is necessary, then the City will bill the Permittee for the appraised value of the trees, as determined by the City Forester utilizing the most recent edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers. The Permittee shall make payment within 30 days or interest will accrue until paid in full, in accordance with City policy.

8. The excavation work shall be performed and conducted so as not to interfere with access to emergency facilities such as fire hydrants, fire stations, fire escapes and any other emergency facilities designated by the City Engineer. If it becomes necessary to impact any of these facilities, the Permittee must contact the City Engineer and obtain approval prior to conducting any work that interferes with emergency facilities.

9. Permittee will have 30 days from the date of notice to complete all work in the Right of Way. The City will take necessary actions to complete temporary patches at any locations where the sidewalk or street are not finished. Any items in the right of way that are considered a hazard to the public will also be remedied by the City. The definition of hazard will be determined by the City Engineer. The cost to complete this work by the City or by any party contracted with the City will be the responsibility of the Permittee. Payment must be made by the Permittee within 30 days or interest will be charged.

B. Requirements during excavation

1. Permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the excavation work, the Permittee shall take appropriate measures to reduce, to the fullest extent practicable, noise, dust and unsightly debris.
2. Boring or other methods to prevent cutting of pavement may be required by the City Engineer.
3. Permittee must comply with City noise ordinances, except in cases of emergency with written approval of the City.
4. Permittee shall install and maintain all traffic control and add additional devices as needed or as directed by the City Engineer.
5. The Permittee shall preserve and protect from damage any adjoining property by providing adequate support and taking all necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the work and shall be responsible for all damage to public or private property resulting from its failure to properly protect and carry out said work.
6. No cleated equipment, buckets, or outriggers may be used on pavement unless pavement can be protected from damage to surface or subgrade.
7. The Permittee shall spot the location of all underground facilities within the excavation area by exposing prior to machine digging and protect the same against damage.
8. Permittee shall not inhibit or alter existing drainage patterns during or after the permitted work has been completed and restored.
9. Potholing shall be allowed under permit in City sidewalk or ADA ramps for locating purpose. Potholed sections shall be replaced during restoration. Partial section replacement is not permitted. The entire section of sidewalk and/or ADA ramp shall be removed and replaced to the nearest score line. Refer to Section 2300 of the Specifications. Additional ADA ramp layouts are available at <https://fargond.gov/city-government/departments/engineering/engineering-services/right-of-way-management/excavation-guidelines-policies>. Permittee shall contact the City Engineer prior to potholing in the street pavement section.

C. Removals

1. Removals shall follow Section 1050 of the Specifications. The use of heavy duty pavement breakers is not allowed. For removal of concrete pavement, the Permittee shall “double saw” the pavement at the removal lines to eliminate the risk of spalling the pavement that is to remain. The Permittee shall repair all spalled concrete by removing and replacing the entire spalled panel to the next joint at his sole expense.
2. All excavated material piled adjacent to the trench or in any street must not endanger those working in the trench, pedestrians or users of the streets, and minimize inconvenience to those using the streets and adjoining property. The City Engineer may require the Permittee to remove the excavation material from the worksite. Permittee must secure the necessary permission and make all necessary arrangements (permits, plans, etc.) for all required storage and disposal sites.
3. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work.

D. Excavation

1. The Permittee shall verify that field conditions match the records provided during project planning. Any deviations from the approved plan must be approved by the City Engineer.
2. If the existing conditions do not match the approved site plan, the Engineer that designed the project must be contacted to redesign the work in the Right of Way. This revised plan must be resubmitted to the City Engineer for approval prior to work continuing.
3. Unstable pavement shall be removed over cave-outs and over-breaks and the restoration shall be treated as part of the main excavation.
4. Pavement edges shall be free of spalls and a full depth saw cut to leave a vertical face. Concrete pavement shall be removed a minimum of 1’ from the edge of trench and shall follow existing joints. Asphalt pavement removals shall be normal or perpendicular to the roadway.
5. All damage to the existing surfaces must be repaired by the Permittee. Damage repair must be approved and accepted by the City Engineer.
6. Protection and Relocation of Utilities – Interference with existing facilities is prohibited without the written consent of the City Engineer and the facility owner.
 - a) City facilities may not be moved without prior written authorization from the City Engineer. When authorization is given, the Permittee shall be solely responsible for the cost of moving the City facilities.
 - b) Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus impacted by the excavation work at the direction of the facility owner.
 - c) Permittee may not move private facilities without the express written consent and the direction of the facility owner. The City is not responsible for any costs associated with the relocation or restoration.
 - d) Permittee must comply with North Dakota One Call requirements and locate and expose all vertical and horizontal underground facilities before starting excavation.
7. Damage to City facilities – Permittee is responsible for repair and replacement of any damaged City facilities. Any Permittee repairing or replacing damaged City facilities

must be approved by the City Engineer prior to starting repair or replacement. City shall inspect the repair to ensure it adheres to the latest Plumbing or applicable Code, and City Specifications. Failure to repair the damage within 48 hours will result in City undertaking and completing the work, at Permittee's sole expense.

8. Whenever a substructure is abandoned, except the abandonment of service lines three inches or less in diameter designed to serve single properties, the entity owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the City Engineer a statement in writing giving, in detail, the location of the substructure so abandoned. If such abandoned substructure is in the way or subsequently becomes in the way of an installation by the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned substructure or interfering portions thereof, or pay the cost of its removal during the course of excavation for construction of the facility by the City or the public body.

E. Backfilling

All backfilling must be completed within 48 hours of the commencement of the excavation unless prior authorization has been granted by the City Engineer for a longer duration. Backfilling of the excavation shall meet the requirements as detailed in the Specifications.

1. Compaction testing will be performed by the City Engineer except for protected streets defined in Section II.G. The City Engineer reserves the right to waive compaction testing. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material at its sole expense for testing purposes.
2. Backfill material shall meet Specifications for the area that is backfilled. If aggregate material is contaminated during removal, new material meeting Specifications shall be used by the Permittee.
3. Under all pavement conditions, the aggregate base depth shall match the surrounding aggregate base and the base material must meet Specifications.

F. Restoration

1. Concrete, dowel requirements, and curb and gutter shall meet Section 2100 of the Specifications.
2. Asphalt shall meet Section 2400 of the Specifications. Corrective measures for any items not meeting Specifications will be at the discretion of the City Engineer up to and including removal and replacement.
3. All patches must be inspected after they are prepared and prior to placing any final road surfacing material.
4. All site restoration, including pavement replacement, sidewalk, curb and gutter, ADA ramp replacement, top soil depth requirements, fine grading, seeding, and mulching shall meet Specifications. Any surface disturbed by excavation shall be restored to as good a condition as it was prior to excavation. Restoration shall be made within 72 hours of the completion of backfilling unless a written time extension is granted by the City Engineer.

5. All cleanup operations at the location of such excavation shall be accomplished at the expense of the Permittee.
6. Immediately after completion of said work the Permittee shall clean up and remove all refuse and unused materials of any kind resulting from said work. Upon failure to do so, within 24 hours after having been notified, said work may be done by the City and the cost charged to the Permittee.
7. Whenever it may be necessary for the Permittee to excavate through any landscaped area the area shall be re-established in a manner that is as good as or better than before the work started.
8. All construction and maintenance work shall be done in a manner designed to leave the area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.
9. Permittee is responsible for all restoration.
10. Striping – Restoration of epoxy striping and plastic markings will be completed by the City Engineer. The Permittee will be responsible for payment of these items based on the prices in Appendix D.

G. Protected Streets

Protected Streets fall into two categories. The first is arterials or collectors that carry larger volumes of traffic and impact more users. The second category is streets that have a structural pavement surface that is 10 years old or less. Both categories have additional requirements that are listed in this section including traffic impact fees and possible re-inspection fees as shown in Appendix A.

1. The City Engineer will provide a map with a list of Protected Streets.
2. Fees for Protected Streets can be found in Appendix A. Fees for Protected Streets do not apply to private service connections on owner occupied single family residences.
3. An Inspection Checklist can be found in Appendix B that must be followed for work performed on all Protected Streets. The Permittee shall contact the City Engineer after each item is complete for inspection. If any of the checklist items are covered prior to inspection, the Permittee will be required to uncover so it can be inspected by and at the Permittee's expense. Inspection fees for inspection of covered work will be the responsibility of the Permittee.
4. Compaction tests must be performed on Protected Streets. The Permittee shall hire a testing firm approved by the City to perform all backfill test requirements. Backfill shall be placed in 12" lifts with a compaction test every 2' or as directed by the City Engineer. All costs associated with the required testing and any additional work needed to meet backfilling requirements to meet Specifications shall be the sole responsibility of the Permittee. The Permittee must provide proof the backfilling meets or exceeds compaction requirements prior to paving the excavated area. If the area is paved prior to compaction tests being performed, the Permittee shall remove the patch material by and at their expense for testing purposes.
5. If work is suspended for more than 48 hours, the Permittee shall remove lane closures and reopen any portion of the roadway that can be safely reopened.

6. Roadway Surface
 - a) Concrete placed shall meet Specifications and a mix design shall be submitted one week before placement for approval by the City Engineer. Curing compound shall be on site prior to concrete placement. Joints shall be sawed and sealed prior to roadway opening.
 - b) Asphalt placed shall meet Specifications and a mix design shall be submitted one week prior to placement for approval by the City Engineer. Asphalt shall be Class 43 and asphalt oil shall meet PG58H-34 at a minimum.
 - c) Roadway smoothness of all patches shall meet Specifications and any corrective measures needed to meet the specifications shall be arranged by the Permittee. All costs for corrective measures shall be the responsibility of the Permittee.

IV. Permit to Excavate

- A. An application for a permit allowing excavation or obstruction of the right-of-way shall be made to the City Engineer. Incomplete applications will not be considered and will be returned to the Permittee. An application is complete only upon compliance with the requirements of the following provisions:
 1. The applicant is a current "Licensed Excavator" with the City of Fargo unless exempted by Article 18-0904(A).
 2. Applicant has reviewed and agrees to meet all General Permit Conditions.
 3. Submission of details that include the proposed work, traffic control, and other information needed to complete the work.
 4. A drawing or detailed explanation of the proposed work and the distance between the proposed installation and City utilities. Any proposed work over one (1) block long must have a drawing to scale showing the proposed installation and the distance from City utilities. A block is defined as 350'.
 5. A traffic control plan if the work requires a sidewalk, parking lane, traffic lane, or road closure.
 6. A schedule of major activities in the right of way including durations.
 7. List of subcontractors working in the right of way.
 8. List of other agencies permitting the proposed project and the status of those permit applications.
 9. Any impacts to boulevard trees must be noted in the application. Tree impacts include impacts to the Critical Root Zone (CRZ) and compliance with City Ordinance. The CRZ is an area defined by the diameter of the tree as measured at a point 4.5 feet above the ground line. For every 1 inch of tree diameter, a 1 foot clear zone must be established to protect the CRZ. For a 24 inch diameter tree, the CRZ would be a 24 foot radius from the base of the tree.

- B. Issuance of Permit – The City Engineer may impose reasonable conditions upon the issuance of the permit to protect the structural integrity of the right-of-way and to protect safe passage of the public through the permitted area. The City Engineer may require a design locate and an onsite meeting with representatives of the Permittee, Contractor, Crew Chief, Utility Engineer, and Utility Inspector prior to issuing a permit. A 4 hour notice must be provided prior to scheduling an onsite meeting.
- C. Fees – The City will bill the Permittee and the Permittee shall make payment within 30 days or interest will accrue in accordance with City policy until paid in full. The City may require permit fees be paid prior to the issuance of the permit.
1. Administrative Fees – Administrative fees include permit fees and fees associated with failing to comply with these Guidelines, such as working without a permit and working without a license. Administrative fees are listed in Appendix A.
 2. Public Impact Fees – Public Impact Fees are fees based on impacts to the public during work when sidewalks, roadways, or parking is restricted or limited. Public Impact fees are listed in Appendix A.
 3. Inspection Fees – Inspection fees apply to any rework caused by installation of items without previous items getting inspected and approved by the City Engineer. Inspection fees are listed in Appendix A.

V. Final Acceptance

For sanitary sewer service connections completed prior to November 1, the City will video the sewer main by March 1 of the following year. Any defects detected on the video must be repaired by the Permittee no later than June 1.

After restoration is completed, Permittee shall contact the City Engineer for Final acceptance. City will inspect the work and notify the contractor of any defects. If defects are discovered, the City will notify the Permittee and the Permittee will have 30 calendar days to complete repairs. If repairs are not complete within 30 calendar days, no further permits will be issued to the Permittee and the City Engineer will make arrangements for repair. All costs incurred to complete repairs will be billed to the Permittee. Permits will not be issued until full payment is received by the City Engineer. All permits are considered open until a written Final Acceptance is issued by the City Engineer.

Permittee shall guarantee all work for 2 years from the date of Final Acceptance on all work completed. Permittee will continue to be responsible for any damage incurred that is not clearly visible at the time of final acceptance. Any damage discovered after Final Acceptance remains the responsibility of the Permittee. The Permittee will make the necessary arrangements to repair this damage within 30 calendar days of notification.

VI. Winter construction

Winter construction shall generally be from December 1 to May 1, but may be modified by the City Engineer based on current and forecasted weather conditions. The City Engineer will notify active excavators of the winter construction dates a minimum of 2 weeks prior to the start of winter construction. Non-emergency excavations will not be allowed during winter construction dates. Exceptions to the winter construction may be granted at the discretion of the City Engineer.

Emergency excavations during the winter shutdown will require all trenches under the traveled way be backfilled with gravel that is not frozen and tamped in six inch lifts or layers to at least one foot back of curb line. The upper 1.0 feet of the trench shall be composed of concrete slurry to be kept at grade at all times during winter construction dates and then restored to permanent resurfacing within 30 days of winter construction date removal in the spring. The permit will remain open and the Permittee is responsible for all maintenance of the patched area until permanent restoration of the pavement and sidewalk is completed and accepted.

VII. Violations

Failure to follow applicable Local Ordinances, State or Federal Laws, or Standards published by the City of Fargo will result in verbal or written notices and/or additional fees. Penalties may include fees, cancellation of permit, and/or revocation of their Fargo Excavator License. Details are located in Appendix C.

Appendix A

Administrative Fees

Permit Fee	\$100
Excavating without a permit	\$500
Street Excavation	\$50
Sidewalk Excavation	\$50
Boulevard Excavation	\$50
Inspection Fees	\$20/day for any rework required due to covering work that has not been inspected.

Public Impact Fees – Applicable to each route impacted during excavation

Private Service repairs for owner occupied single family residence

Sidewalk Closure	\$100/week after 2 weeks until completion
Lane	\$100/week after 2 weeks until completion An additional week will be allowed for a concrete street

Public Impact Fees – Not applicable to owner occupied residence private service work

Sidewalk Closure	\$100/week
Parking Spot Closure	\$100/week less than 5 spots
Parking Spot Closure	\$250/week 5 or more spots

Protected Streets

Arterial Streets

Lane Closure	\$300/week
Full Closure	\$500/week

Collector Streets

Lane Closure	\$150/week
Full Closure	\$300/week

Residential Streets

Lane Closure	\$100/week
Parking Lane Closure	\$40/day

All other Streets

Lane Closure	\$100/week
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Appendix B – Inspection Checklist

1. Traffic control – The applicant is responsible for providing a traffic control plan that meets MUTCD and Specifications. The traffic control plan must be approved by the City prior to work starting. Traffic control installation must be approved prior to the applicant starting the removal process.
2. Removal Limits – Prior to starting work a meeting shall be held with the City Engineer to determine removal limits and traffic control requirements.
3. Removal Items – Special attention shall be given to colored concrete, brick, ADA ramps, structural soil, reinforcing fabric, sidewalk, and roadway surface.
4. Backfilling of the excavation shall be in 12” lifts with compaction tests performed by an approved testing firm after completing 2 12” lifts. All coordination and costs will be the responsibility of the Permittee.
5. Reinforcing Fabric – When reinforcing fabric exists, the removal limits shall be extended to allow for a 12” overlap of the reinforcing fabric during backfilling operations.
6. Base material – Refer to Section 2070 of the Specifications for requirements. The City must inspect the base prior to completion of the restoration. If the restored area is paved prior to City inspection, the Permittee shall remove any material requested by the City to verify material depth by and at the Permittee’s expense unless the Permittee provides proof of depth and compaction results to the City.
7. Asphalt Patch – Refer to Section 2400 of the Specifications. Asphalt patch material must be FA 43 with PG 58H-34 oil. The applicant shall submit a mix design prior to starting the excavation. All mix designs must be approved by the City before asphalt can be placed in the patch area. Placement of the asphalt material must meet the latest version of the Specifications.
8. P.C. Concrete w/Asphalt Overlay - Asphalt shall be trimmed with asphalt spade or concrete saw. P.C. concrete shall be placed to a depth matching the surrounding concrete thickness and shall be reinforced in accordance with the Specifications. After a curing time, as approved by the City Engineer, the patch shall be painted with asphaltic cement and filled with compacted hot mix asphalt in accordance with Section 2400 of the Specification.
9. P.C. Concrete – Refer to Section 2100 of the Specifications. Dowel bars and reinforcing shall meet the same section of the Specifications. All concrete material properties must be tested by an approved testing firm during placement of the concrete. All coordination and costs will be the responsibility of the Permittee.
10. Graveled Surfaces – Refer to Section 2800 of the Specifications. Gravel surfaces shall be bladed, shaped and resurfaced with a minimum of six inches of gravel.
11. ADA Ramps and Sidewalks – Refer to Section of 2300 of the Specifications. Partial removals of ADA ramps are not permitted. Complete replacement of the ADA ramp or sidewalk ramp shall be replaced to conform to the latest edition of the Specifications. If the existing sidewalk isn’t ramped, it shall be replaced with an ADA ramp only if the curb is also removed. Additional sidewalk details can be found at <https://fargond.gov/city-government/departments/engineering/engineering-services/right-of-way-management/excavation-guidelines-policies>

12. Curb & Gutter – Refer to Section 2100 of the Specifications.
13. Colored concrete – Every effort must be made to match the existing color of the concrete in place on the roadway.
14. Bricks – Care must be taken by the applicant to salvage all bricks in the removal area. Any damaged bricks must be replaced by the applicant. Every effort must be made to match the existing color of the brick in place on the roadway.
15. Berms are to be restored as nearly as possible to their original condition. Seeding and fine grading shall conform to Section 3100 of the Specifications.

Appendix C
Violation Schedule

Failure to use approved traffic control	\$500/day
Failure to maintain traffic control	\$100/day
Failure to follow approved plan	\$250
Failure to give notice to residents and/or Engineering	\$100

All violations can also include permit revocation and/or license revocation

Appendix D – Striping Fees

4" Epoxy \$3.00/LF
4" Plastic \$8.00/LF includes 4" contrast marking tape
Wider tape is prorated by width. Example: 24" is 6x the 4" price

Epoxy Message \$13/SF
Thermoplastic \$50/SF
Plastic Message \$25/SF

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

10

Project No. SL-23-B1

Type: 2023 CIP Revision

Location: Citywide

Date of Hearing: 4/10/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/17/2023
PWPEC File	X
Project File	Jeremy Gorden

The Committee reviewed a communication from Division Engineer, Jeremy Gorden, regarding a recommendation to add Project SL-23-B1 to the 2023 CIP and solicit through the Master Services Agreement (MSA) an Engineering Firm to complete necessary NEPA paperwork, lighting analysis, and plan preparation.

The current Federal Highway Bill contains a funding category for projects that aim to reduce carbon emissions from on-road highway sources. The North Dakota side of the metro area will be allocated \$1,120,000 annually throughout the life of the current Highway Bill. The 2023 funds were originally allocated for the 2nd Street Pedestrian Bridge. Since that project is not moving forward we needed to identify a project that could be quickly designed so that the funds are allocated in 2023. We have identified a street lighting fixture replacement project that would replace approximately 1,024 high-pressure sodium fixtures with LED fixtures on arterial and collector roadways.

The projected amount for construction will be \$1,018,750, with \$815k Federal Aid and \$203,750 Local Funds. Local Funding will be from Street Lighting and Traffic Control Device Utility Funds.

Staff is recommending inclusion of SL-23-B1 in the 2023 CIP and authorization for staff to solicit quotes through the Engineering MSA.

On a motion by Steve Sprague, seconded by Michael Redlinger, the Committee voted to recommend inclusion of SL-23-B1 in the 2023 CIP and authorization for staff to solicit quotes for approved engineering firms through the MSA.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and add Project No. SL-23-B1 to the 2023 Capital Improvement Plan.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Federal Aid & Street Lighting and Traffic Control Device 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

- Tim Mahoney, Mayor
- Nicole Crutchfield, Director of Planning
- Steve Dirksen, Fire Chief
- Michael Redlinger, City Administrator
- Ben Dow, Director of Operations
- Steve Sprague, City Auditor
- Brenda Derrig, City Engineer
- Terri Gayhart, Finance Director

<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:


 Brenda E. Derrig, P.E.
 City Engineer

Memorandum

To: Members of PWPEC

From: Jeremy M. Gorden, PE, PTOE
Division Engineer - Transportation

Date: April 4, 2023

Re: City of Fargo Project No. SL-23-B1 – Street Lighting Fixture Replacement Project
Federal Aid Highway Project using Carbon Reduction Funds for Fiscal Year 2023

Background:

The current Federal Highway Bill contains a funding category for projects that aim to reduce carbon emissions from on-road highway sources. The North Dakota side of the metro area will be allocated \$1,120,000 annually throughout the life of the current Highway bill. That funding begins in 2023.

We have identified a street lighting fixture replacement project that would replace approximately 1024 high-pressure sodium fixtures with LED fixtures. The eligible lights are located on either collector streets or arterial streets; this funding cannot be used on local roads. This project will take place on streets located Citywide, on poles that are typically 30' or 40' in height.

In order to bid out a project in November through the NDDOT, we need to move swiftly on the project design and development. Our schedule would entail procuring an Engineering Consulting Firm in April, and have them complete the necessary NEPA paperwork, lighting analysis, and plan preparation by August 1. It is a condensed project timeline, but this project is very straightforward in nature and we believe it can be accomplished within this timeframe.

Metro COG will be amending their current TIP to include this project in April, and the projected dollar amount for construction will be \$1,018,750, with \$815k Federal Aid and \$203,750 being Local Funds. The projected local funding bucket will be the Street Lighting and Traffic Control Device Utility Fund.

I am requesting this project be added to the CIP with the funding sources listed above, and authorization to use our Master Services Agreement to procure a Consulting Firm, and the selection of the Firm to be on the April 17, 2023, City Commission agenda for approval.

I have attached the Metro COG funding solicitation packet for your information.

Recommended Motion

Approve including Project No. SL-23-B1 in the 2023 CIP and authorize staff to solicit quotes from approved Engineering Firms as part of our Master Services Agreement program, and have preferred Engineering Firm recommendation placed on April 17th City Commission.



Carbon Reduction Program Funding

The Carbon Reduction Program (CRP) is a new program created by the Infrastructure Investment and Jobs Act (IIJA)¹. The purpose of the program is to reduce carbon dioxide (CO₂) emissions from on-road highway sources.

Funding for the program is suballocated into two main categories:

- Areas based on population (65%)
 - Urbanized areas with an urbanized population greater than 200,000 (obligated in MPA) – Starting in FY2024, this category applies to Metro COG
 - Urbanized areas with an urbanized area population between 50,000 and 199,999 (obligated in MPA)
 - Urban areas with population between 5,000 and 49,999
 - Areas with populations of less than 5,000
- Statewide (35%)

The approximate amount of CRP funding Metro COG would like to program per fiscal year in each state is shown in the table below. The actual amount of the Congressional apportionment and the ultimate amount obligated as a direct sub-allocation may vary.

State	Fiscal Year 2024	Fiscal Year 2025
North Dakota	\$1,120,000	\$1,140,000
Minnesota	\$122,000	

Key aspects of the FY2024 and FY2025 Carbon Reduction Program solicitation include:

- Consultation, cooperation & coordination
- Eligible projects
- Applications
- Evaluation & prioritization
- Obligation of funds
- Project suggestions
- Future solicitations
- Questions

Note that this solicitation process is for FY2024 in Minnesota, and for both FY2024 and FY2025 in North Dakota. MnDOT is completing their Carbon Reduction Strategy in 2023, and may determine CRP funding priorities that will help guide future solicitations starting with FY2025.

¹ Pub. L. 117-58 (Nov. 15, 2021)

Consultation, cooperation & coordination

Establishing the definitions of consultation, cooperation, coordination and designated recipient help set the stage for how and why there are various solicitation processes for the CRP funds.

- Consultation occurs when one or more parties confer with other identified parties in accordance with an established process and, prior to taking action, considers the views of the other parties and periodically informs them about action taken.
- Cooperation occurs when the parties involved work together to achieve a common goal or objective
- Coordination occurs when parties involved work together to develop and adjust plans, programs, and schedules to achieve general consistency as appropriate.
- Designated recipient is an entity selected to receive and allocate an amount of funds that are attributable to urbanized areas of 200,000 or more in population, or a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

Urbanized areas that are TMAs (>200,000)

Starting October 1, 2023, Metro COG's urbanized area will be designated a Transportation Management Area (TMA). Per 23 CFR 450.332(c), in areas designated as TMAs, the MPO shall select all 23 U.S.C. and 49 U.S.C. Chapter 53 funded projects in **consultation** with the State and public transportation operator(s). In order for funds to be obligated to a project, the project must be included in the approved TIP and in accordance with the priorities in the approved TIP. The State shall select projects on the NHS in **cooperation** with the MPO, from the approved TIP. TMAs are considered **designated recipients** of some forms of federal funds, which include CRP funds.

Eligible projects

Projects that support the reduction of transportation emissions, including, but not limited to:

- a project described in 23 U.S.C. 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems
- a public transportation project eligible under 23 U.S.C. 142
- a transportation alternative (as defined under the Moving Ahead for Progress under the 21st Century Act [23 U.S.C. 101(a)(29), as in effect on July 5, 2012]), including, but not limited to, the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation
- a project described in 23 U.S.C. 503(c)(4)(E) for advanced transportation and congestion management technologies, these include:
 - advanced traveler information systems;
 - advanced transportation management technologies;

- advanced transportation technologies to improve emergency evacuation and response by Federal, State, and local authorities;
 - infrastructure maintenance, monitoring, and condition assessment;
 - advanced public transportation systems;
 - transportation system performance data collection, analysis, and dissemination systems;
 - advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies, including systems using cellular technology;
 - integration of intelligent transportation systems with the Smart Grid and other energy distribution and charging systems;
 - integrated corridor management systems;
 - advanced parking reservation or variable pricing systems;
 - electronic pricing, toll collection, and payment systems;
 - technology that enhances high occupancy vehicle toll lanes, cordon pricing, or congestion pricing;
 - integration of transportation service payment systems;
 - advanced mobility, access, and on-demand transportation service technologies, such as dynamic ridesharing and other shared-use mobility applications and information systems to support human services for elderly and disabled individuals;
 - retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C-V2X) technology, subject to the condition that the retrofitted technology operates only within the existing spectrum allocations for connected vehicle systems; or
 - advanced transportation technologies, in accordance with the research areas described in section 6503 of title 49.
- deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment;
 - a project to replace street lighting and traffic control devices with energy-efficient alternatives
 - development of a carbon reduction strategy developed by a State per requirements in 23 U.S.C. 175(d);
 - a project or strategy designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing vehicle occupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs
 - efforts to reduce the environmental and community impacts of freight movement
 - a project that supports deployment of alternative fuel vehicles, including–
 - acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and
 - purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities
 - a project described in 23 U.S.C. 149(b)(8) for a diesel engine retrofit
 - certain types of projects to improve traffic flow that are eligible under the CMAQ program, and that do not involve construction of new capacity [§ 11403; 23 U.S.C. 149(b)(5); and 175(c)(1)(L)]

- a project that reduces transportation emissions at port facilities, including through the advancement of port electrification
- any other STBG-eligible project, if the Secretary certifies that the State has demonstrated a reduction in transportation emissions, as estimated on a per capita and per unit of economic output basis. [§ 11403; 23 U.S.C. 133(b) and 175(c)(2)]
 - Note: FHWA will issue guidance on how the Secretary will make such certifications.
 - Per 23 U.S.C. 175(c)(2) Flexibility, in addition to the eligible projects under paragraph (1), a State may use funds apportioned under section 104(b)(7) for a project eligible under section 133(b) if the Secretary certifies that the State has demonstrated a reduction in transportation emissions- (A) as estimated on a per capita basis; and (B) as estimated on a per unit of economic output basis.

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Applications

To apply for funding, please submit a project application to Paul Bervik at Metro COG at bervik@fmmetrocog.org no later than Friday, April 28, 2023. A project application form has been developed and includes the following:

1. A description of the proposed project in detail including project location and information about what will be constructed or planned (maps and other project documentation are helpful). See [CRP Eligible Projects](#) for what's eligible.
2. Approximate carbon reduction the project will have. Use [CMAQ Emissions Calculator Tools](#) to calculate the estimated carbon reduction for the project. For some proposed projects, you may find that the use of this calculator is not feasible or practical.
3. Total project cost
4. Total amount of CRP funds requested (maximum of 80% of the project total)
5. Total amount and source of local funds committed to the project (minimum of 20% of project total)
6. Total amount and source of additional federal funds obligated to the project already, if applicable.
7. Identify the jurisdiction responsible for completing the project and receiving the CRP funds as partial reimbursement.
8. Identify the timeline for the project to be let and anticipated completion date.
9. Identify if and to what degree the project impacts disadvantage communities per Justice40 using the [Climate and Economic Justice Screening Tool](#). Please request assistance from Metro COG if needed to use this tool.
10. Identify how the project meets the regional priorities related to carbon reduction
 - o [2045 Fargo-Moorhead Metropolitan Transportation Plan \(Metro Grow\)](#)
11. For project applications in Minnesota, identify how the project meets Minnesota carbon reduction priorities
 - o [2022 Statewide Multimodal Transportation Plan \(SMTP\)](#)
 - o [Minnesota Climate Action Framework](#)
 - o [Pathways to Decarbonizing Transportation report](#)

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Evaluation & prioritization

Metro COG staff will conduct a preliminary evaluation to rank all applications for FY 2024 and FY2025 solicitation using the following criteria:

1. Project eligibility to receive CRP funds
2. If feasible, using the [CMAQ Emissions Calculator Tools](#), a comparison of the amount of funds requested with the amount of carbon reductions expected.
3. Project consistency with the goals and objectives of the Metropolitan Transportation Plan
4. For projects in Minnesota, project consistency with Minnesota carbon reduction priorities (see Applications point 11 above)
5. How the project impacts Justice40 defined disadvantaged communities using the [Climate and Economic Justice Screening Tool](#).
6. Project initiation and completion timeline

Proposed projects will be ranked in priority order. Starting with the #1 ranked project, the requested CRP funds will be deducted from the available funding pool, then funds from the #2 ranked project will be deducted, etc., until all the funds have been accounted for.

Metro COG staff will then submit their preliminary project ranking to the Transportation Technical Committee (TTC) for its review, consideration and recommendation. TTC will provide their recommended project ranking to the Policy Board, which selects projects to receive funding.

Obligation of funds

The selected project(s) will be amended into the Metro COG Transportation Improvement Program (TIP) and subsequently into the Minnesota or North Dakota Statewide Transportation Improvement Program (STIP) for obligation of funding. FY 2024 funds must be obligated in the Metro COG TIP and STIP no later than June 7, 2024.

Project suggestions

The purpose of these funds is not to remove existing federal funds and replace with CRP funds on projects already programmed in the TIP and STIP, so that the existing federal funds are used on another project. Instead, the purpose is to add or create new opportunities to further reduce carbon dioxide (CO₂) emissions from on-road highway sources. Specific questions can be directed to Metro COG (see contact information in the questions section below).

Example 1: Project A is a FY2023 federally funded STBGP pavement project. This project originally included a shared-use path within the right-of-way to increase connectivity within a community and promote alternative travel modes. Due to inflation or other cost increases, the shared-use path component was removed from the project, but the STBGP funded portion of pavement project is still

included in FY2023 of the TIP and STIP. Project A could apply for CRP funds to supplement this gap in funding to fund the shared-use path component of the project.

Example 2: Project B is a FY2023 federally funded STBGP pavement project. This project includes a shared-use path within the right-of-way to increase connectivity within a community and promote alternative travel modes. The shared-use path component is currently funded 100% with local funds and the pavement portion of the project is currently funded 80% with STBGP funds in FY2023 of the TIP and STIP. Project B could apply for CRP funds to supplement the local funded portion of the project for the shared-use path component to reduce the total local match of the project.

Future Solicitations

In calendar year 2023, MnDOT will work with a consultant team to develop a Carbon Reduction Strategy (CRS). The CRS will document the programming priorities and processes for CRP funds in Minnesota. It will also develop a review and update cycle for the CRS. The CRS is due to USDOT by November 15, 2023.

Engagement with transportation partners and stakeholders in Minnesota, including Metro COG, will occur throughout 2023 on the priorities and processes for programming CRP funds. The CRS will guide the CRP solicitation process for FY 2025 and beyond.

It is assumed that North Dakota will also develop the required CRS by November, 2023. Metro COG does not know at this time if NDDOT intends to use their CRS to help define or prioritize CRP projects within the state.

Questions

If you have any questions about the CRP and/or the solicitation, or specific local questions about prospective projects, please contact Paul Bervik at Metro COG at (701)232-3242 or bervik@fmmetrocog.org. Metro COG will consult with MnDOT or NDDOT for questions we are unable to answer regarding eligibility.



April 12, 2023

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. UN-23-B1

Dear Commissioners:

Bids were opened at 11:45 AM on Wednesday, April 12, 2023, for New Utility Construction, Project No. UN-23-B1, located at Sanitary Sewer Lift Station 53 Force Main, near 44th Avenue South and 45th Avenue South between Drain 27 and 45th Street South.

Engineer's Estimate \$787,055.00

The special assessment escrow is not required.

No bids were received. This project will be rebid at a future date.

Sincerely,

Tom Knakmuhs
Assistant City Engineer

TAK/klb



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Engineering Department
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1545 | Fax: 701.241.8101
Email: feng@FargoND.gov
www.FargoND.gov

April 12, 2023

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. SR-23-B1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, April 12th 2023, for Sidewalk & Shared Use Path Rehab/Reconstruction, Project No. SR-23-B1, located in various areas city wide.

The bids were as follows:

Master Construction Co Inc	\$831,015.00
Engineers Estimate	\$665,415.00

Private financial security is not needed.

No protests have been recieved.

This office recommends award of the contract to Master Construction Co Inc. in the amount of \$831,015.00 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE
Assistant City Engineer



Engineer's Statement Of Cost
Project # SR-23-B1
Sidewalk & Shared Use Path Rehab/Reconstruction

Various areas city wide.

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

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

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

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

Sidewalk & Shared Use Path Rehab/Reconstruction Project # SR-23-B1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
Assessed					
1	Rem & Repl Sidewalk 4" Thick Reinf Conc	SY	90.00	150.00	13,500.00
2	Rem & Repl Sidewalk 6" Thick Reinf Conc	SY	20.00	180.00	3,600.00
3	Rem & Repl Driveway 6" Thick Reinf Conc	SY	40.00	180.00	7,200.00
4	Rem & Repl Driveway 7" Thick Reinf Conc	SY	93.00	190.00	17,670.00
5	Rem & Repl Curb & Gutter	LF	126.00	90.00	11,340.00
6	F&I Sidewalk 4" Thick Reinf Conc	SY	4,900.00	110.00	539,000.00
7	F&I Sidewalk 6" Thick Reinf Conc	SY	40.00	130.00	5,200.00
8	F&I Driveway 7" Thick Reinf Conc	SY	68.00	150.00	10,200.00
9	Remove Sidewalk All Thicknesses All Types	SY	20.00	100.00	2,000.00
10	Remove Driveway All Thicknesses All Types	SY	965.00	25.00	24,125.00
11	Sodding	SY	20.00	50.00	1,000.00
12	Rem & Repl Pavement 6" Thick Reinf Conc	SY	20.00	200.00	4,000.00
13	Topsoil - Import	CY	180.00	60.00	10,800.00
14	Remove Fence	LF	14.00	150.00	2,100.00
Assessed Total					651,735.00
City Cost					
15	Rem & Repl Curb & Gutter	LF	210.00	90.00	18,900.00
16	Rem & Repl Sidewalk 4" Thick Reinf Conc	SY	50.00	150.00	7,500.00
17	Rem & Repl Sidewalk 6" Thick Reinf Conc	SY	40.00	180.00	7,200.00
18	F&I Sidewalk 4" Thick Reinf Conc	SY	200.00	115.00	23,000.00
19	F&I Sidewalk 6" Thick Reinf Conc	SY	70.00	130.00	9,100.00

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
20	F&I Det Warn Panels Cast Iron	SF	168.00	60.00	10,080.00
21	Casting to Grade - w/Conc	EA	3.00	1,100.00	3,300.00
22	Curb Stop Box to Grade	EA	4.00	50.00	200.00
23	Seeding Type B	SY	4,500.00	6.00	27,000.00
24	Mulching Type 1 Hydro	SY	4,500.00	6.00	27,000.00
25	Remove Driveway All Thicknesses All Types	SY	20.00	100.00	2,000.00
26	Remove Sidewalk All Thicknesses All Types	SY	20.00	100.00	2,000.00
27	Rem & Repl Pavement 9" Thick Reinf Conc	SY	20.00	250.00	5,000.00
28	Topsoil - Import Special	CY	100.00	70.00	7,000.00
29	Traffic Control - Type 1	LS	1.00	30,000.00	30,000.00
City Cost Total					179,280.00
Total Construction in \$					831,015.00

Engineering	10.00%	83,101.50
Admin	4.00%	33,240.60
Legal	3.00%	24,930.45
Interest	4.00%	33,240.60
Contingency	5.00%	41,550.75
Total Estimated Costs		1,047,078.90
Sales Tax Funds - Infrastructure - 420		225,892.80
Sidewalk Assessments		821,186.10
Unfunded Costs		0.00

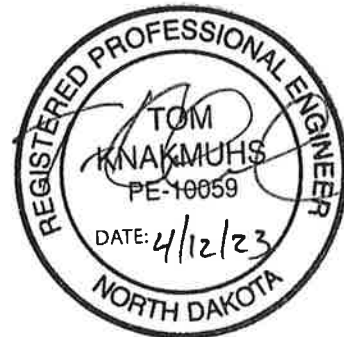
IN WITNESS THEREOF, I have hereunto set my hand and seal

Date: 04/12/2023



Thomas Knakmuhs

Assistant City Engineer





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Engineering Department
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1545 | Fax: 701.241.8101
Email: feng@FargoND.gov
www.FargoND.gov

April 12, 2023

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Project No. PR-23-F1

Dear Commissioners:

Bids were opened at 11:45 am on Wednesday, April 12th 2023, for Asphalt Mill & Overlay, Project No. PR-23-F1, located at 19th Ave N between 18th St. N to Dakota Dr. N.

The bids were as follows:

Border States Paving Inc	\$464,518.05
Northern Improvement Co	\$540,754.85
FM Asphalt LLC	\$557,813.05
Engineers Estimate	\$568,127.00

Private financial security is not needed.

No protests have been recieved.

This office recommends award of the contract to Border States Paving Inc. in the amount of \$464,518.05 as the lowest and best bid.

Sincerely,

Thomas Knakmuhs, PE
Assistant City Engineer



Engineer's Statement Of Cost
Project # PR-23-F1
Asphalt Mill & Overlay

19th Ave N between 18th St. N to Dakota Dr. N.

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

NOW THEREFORE Thomas Knakmuhs, do hereby certify as follows:

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

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

Asphalt Mill & Overlay Project # PR-23-F1 of the City of Fargo, North Dakota.

Line	Description	Unit	Quantity	Unit Price (\$)	Amount (\$)
19th Ave N					
1	F&I Asphalt Pavement FAA 43 w/ PG58H-34	Ton	4,500.00	78.00	351,000.00
2	Rem & Repl Casting - Self Leveling	EA	1.00	2,500.00	2,500.00
3	Casting to Grade - no Conc	EA	14.00	800.00	11,200.00
4	Mill / Grind Asphalt Pvmt 1" to 2" Thick	SY	2,870.00	8.00	22,960.00
5	Paint Epoxy Line 4" Wide	LF	11,291.00	3.75	42,341.25
6	Paint Epoxy Line 8" Wide	LF	1,072.00	7.40	7,932.80
7	Paint Epoxy Line 16" Wide	LF	184.00	21.00	3,864.00
8	Paint Epoxy Message	SF	160.00	29.50	4,720.00
9	Traffic Control - Type 1	LS	1.00	18,000.00	18,000.00
19th Ave N Total					464,518.05
Total Construction in \$					464,518.05

Engineering	10.00%	46,451.81
Admin	4.00%	18,580.72
Legal	3.00%	13,935.54
Interest	4.00%	18,580.72
Contingency	5.00%	23,225.90
Total Estimated Costs		585,292.74
State Funds - Other ND		585,292.74
Unfunded Costs		0.00

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

Date: 04/12/2023



Thomas Knakmuhs
Assistant City Engineer



COVER SHEET
CITY OF FARGO PROJECTS

14

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

Exact, full name of project as it will appear in the contract:

Pavement Markings

Project No. TM-23-A

Call For Bids	<u>April 17</u>	, <u>2023</u>
Advertise Dates	<u>April 26, May 3 & 10</u>	, <u>2023</u>
Bid Opening Date	<u>May 24</u>	, <u>2023</u>
Substantial Completion Date	<u>October 6</u>	, <u>2023</u>
Final Completion Date	<u>November 6</u>	, <u>2023</u>

- N/A PWPEC Report (Attach Copy)
- 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 Jeremy Gorden

Phone No. (701) 241-1545

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

- N/A Create District (Attach Copy of Legal Description)
- X Order Plans & Specifications
- X 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
PAVEMENT MARKINGS
PROJECT NO. TM-23-A
VARIOUS LOCATIONS CITYWIDE**

Nature & Scope

This project calls for new pavement markings at various locations citywide where the existing pavement markings have faded or portions are missing.

Purpose

The purpose of the project is to provide new pavement markings for a safer road condition for both motorists and pedestrians alike.

Feasibility

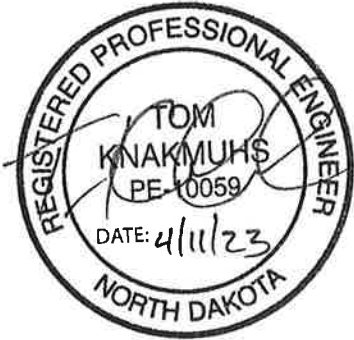
The estimated cost of construction is \$798,952.00. The cost breakdown is as follows:


Base			
Construction Cost			\$798,952.00
Fees			
Admin	4%		\$31,958.08
Contingency	5%		\$39,947.60
Engineering	10%		\$79,895.20
Interest	4%		\$31,958.08
Legal	3%		\$23,968.56
Total Estimated Cost			\$1,006,679.52
Funding			
Sales Tax Funds - Infrastructure - 420	100.00%		\$1,006,679.52

Project Funding Summary			
Sales Tax Funds - Infrastructure - 420	100.00%		\$1,006,679.52
Total Estimated Project Cost			\$1,006,679.52

This project does not have any alternate or optional containers.

We believe this project to be cost effective.




Thomas Knakmuhs, PE
Assistant City Engineer

COVER SHEET
CITY OF FARGO PROJECTS

15

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

Exact, full name of improvement district as it will appear in the contract:

Paving and Utility Rehab/Reconstruction

Improvement

District No.	<u>BR-23-J</u>		
Call For Bids	<u>April 17</u>	,	<u>2023</u>
Advertise Dates	<u>April 26 & May 3</u>	,	<u>2023</u>
Bid Opening Date	<u>May 24</u>	,	<u>2023</u>
Substantial Completion Date	<u>July 15</u>	,	<u>2024</u>
Final Completion Date	<u>August 14</u>	,	<u>2024</u>

- N/A PWPEC Report (Part of 2023 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)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Jason Leonard
Phone No. (701) 241-1545

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

- X Create District (Attach Copy of Legal Description)
- X Order Plans & Specifications
- X Approve Plans & Specifications
- N/A Adopt Resolution of Necessity
- N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)
- X Assessment Map (Attach Copy for Auditor's Office Only)



ENGINEER'S REPORT
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-J
1ST AVE S BETWEEN 4TH AND 7TH ST, BROADWAY 1/2
BLOCK NORTH OF 1ST AVE S

Nature & Scope

This project is for the replacement of the water main and services, sanitary sewer main and services, storm sewer main and inlet leads, concrete curb & gutter, sidewalk, driveways, and street scape.

Purpose

The street reconstruction is necessary because the existing street section has deteriorated significantly and has exceeded its life expectancy. Reconstruction will include water main, storm sewer, sanitary sewer, concrete pavement, gravel base, driveway approaches, curb and gutter, and sidewalk replacement.

Feasibility

The estimated cost of construction is \$3,309,953.00. The cost breakdown is as follows:

Sanitary Sewer		
Construction Cost		\$368,140.00
Fees		
Admin	4%	\$14,725.60
Contingency	5%	\$18,407.00
Engineering	10%	\$36,814.00
Interest	4%	\$14,725.60
Legal	3%	\$11,044.20
Total Estimated Cost		\$463,856.40
Funding		
State Funds - Other ND	68.50%	\$317,722.93
Special Assessments	31.50%	\$146,133.47

Water Main		
Construction Cost		\$351,495.00
Fees		
Admin	4%	\$14,059.80
Contingency	5%	\$17,574.75
Engineering	10%	\$35,149.50
Interest	4%	\$14,059.80
Legal	3%	\$10,544.85
Total Estimated Cost		\$442,883.70
Funding		
State Funds - Other ND	67.00%	\$296,750.23
Special Assessments	33.00%	\$146,133.47

Storm Sewer		
Construction Cost		\$162,840.00
Fees		
Admin	4%	\$6,513.60
Contingency	5%	\$8,142.00
Engineering	10%	\$16,284.00
Interest	4%	\$6,513.60
Legal	3%	\$4,885.20
Total Estimated Cost		\$205,178.40
Funding		
State Funds - Other ND	50.00%	\$102,589.20
Special Assessments	50.00%	\$102,589.20

Paving		
Construction Cost		\$2,271,478.00
Fees		
Admin	4%	\$90,859.12
Contingency	5%	\$113,573.90
Engineering	10%	\$227,147.80
Interest	4%	\$90,859.12
Legal	3%	\$68,144.34
Total Estimated Cost		\$2,862,062.28
Funding		
State Funds - Other ND	70.21%	\$2,009,590.24
Special Assessments	29.79%	\$852,472.04


Street Amenities		
Construction Cost		\$156,000.00
Fees		
Admin	4%	\$6,240.00
Contingency	5%	\$7,800.00
Engineering	10%	\$15,600.00
Interest	4%	\$6,240.00
Legal	3%	\$4,680.00
Total Estimated Cost		\$196,560.00
Funding		
Special Assessments	100.00%	\$196,560.00

Project Funding Summary		
State Funds - Other ND	65.38%	\$2,726,652.60
Special Assessments	34.62%	\$1,443,888.18
Total Estimated Project Cost		\$4,170,540.78

This project does not have any alternate or optional containers.

We believe this project to be cost effective.





Thomas Knakmuhs, PE
Assistant City Engineer



**LOCATION AND COMPRISING
PAVING AND UTILITY REHAB/RECONSTRUCTION
IMPROVEMENT DISTRICT NO. BR-23-J
1ST AVE S BETWEEN 4TH AND 7TH ST, BROADWAY S
FROM 1ST AVE S TO 1/2 BLOCK NORTH OF 1ST AVE S**

LOCATION:

On 1st Avenue South between 4th Street Street and 7th Street South.

On Broadway South between 1st Avenue South and 1/2 block north of 1st Avenue South.

COMPRISING:

Lots 1 through 2, Block 5, Inclusive.

All in the North Dakota Urban Renewal 2nd Addition.

Lots 13 through 18, Block 6, inclusive.

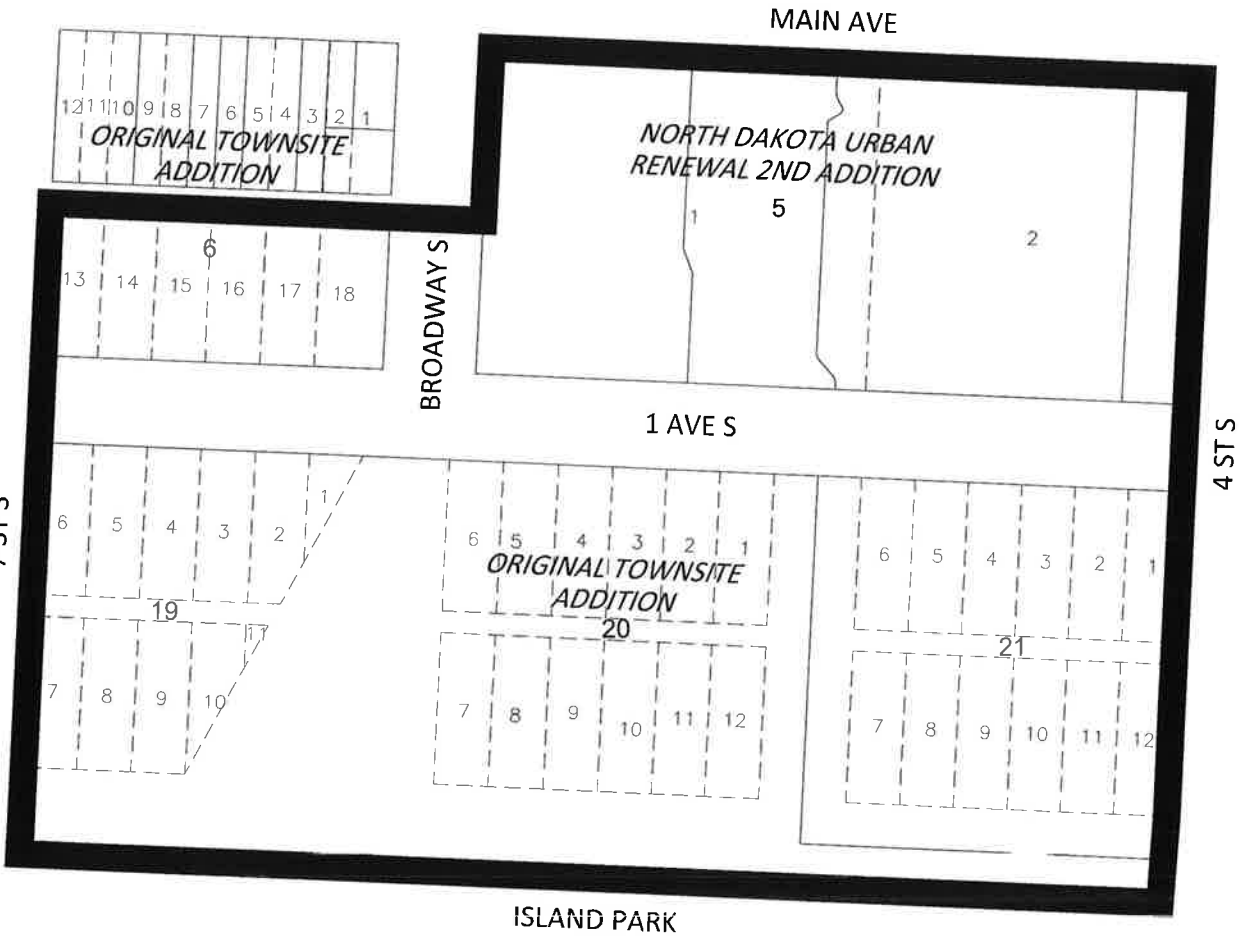
Lots 1 through 11, Block 19, inclusive.

Lots 1 through 12, Block 20, inclusive.

Lots 1 through 12, Block 21, inclusive.

All in the Original Townsite Addition.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota.



CITY OF FARGO ENGINEERING
DEPARTMENT

LOCATION & ASSESSMENT AREA

PAVING AND UTILITY REHAB/RECONSTRUCTION

IMPROVEMENT DISTRICT NO. BR-23-J

COVER SHEET
CITY OF FARGO PROJECTS

16

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

Exact, full name of improvement district as it will appear in the contract:

New Utility Construction

Improvement

District No.

UN-23-A

Call For Bids	<u>April 17</u>	, <u>2023</u>
Advertise Dates	<u>April 26, May 3 & 10</u>	, <u>2023</u>
Bid Opening Date	<u>May 24</u>	, <u>2023</u>
Substantial Completion Date	<u>June 30</u>	, <u>2024</u>
Final Completion Date	<u>July 30</u>	, <u>2024</u>

- N/A PWPEC Report (Part of 2023 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)
- X Notice to Property Owners (Dan Eberhardt)
- N/A Supplemental Funding Language Included

Project Engineer Jason Satterlund

Phone No. (701) 241-1545

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

- X Create District (Attach Copy of Legal Description)
- X Order Plans & Specifications
- X Approve Plans & Specifications
- X Adopt Resolution of Necessity
- N/A Approve Escrow Agreement (Attach Copy for Commission Office Only)
- X Assessment Map (Attach Copy for Auditor's Office Only)



**ENGINEER'S REPORT
NEW UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. UN-23-A
NORTHERN EDGE OF CITY OF FARGO LIMITS BETWEEN
45TH STREET NORTH AND 25TH STREET NORTH**

Nature & Scope

This project will provide improvements to our existing water distribution system by constructing an additional crossing of I-29, expand the water distribution system in the industrial portion of north Fargo, and expand the water distribution system in the industrial portion of north Fargo by constructing an additional crossing of I-29.

Purpose

The project will expand the water distribution system in the industrial portions of north Fargo by creating an additional water main crossing of I-29 resulting in increased water flows, capacity, and redundancy.

Feasibility

The estimated cost of construction is \$4,228,635.00. The cost breakdown is as follows:

Water Main - West		
Construction Cost		\$1,844,435.00
Fees		
Admin	4%	\$73,777.40
Contingency	10%	\$184,443.50
Engineering	6%	\$110,666.10
Interest	4%	\$73,777.40
Legal	3%	\$55,333.05
Total Estimated Cost		\$2,342,432.45
Funding		
State Funds - NDSWC	100.00%	\$2,342,432.45

Water Main - East

Construction Cost		\$2,384,200.00
Fees		

Admin	4%	\$95,368.00
Contingency	10%	\$238,420.00
Engineering	6%	\$143,052.00
Interest	4%	\$95,368.00
Legal	3%	\$71,526.00

Total Estimated Cost		\$3,027,934.00
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Funding

Special Assessments	41.54%	\$1,257,826.88
Utility Funds - Water - 501	22.78%	\$689,800.00
State Funds - NDSWC	35.68%	\$1,080,307.12

Miscellaneous Costs

Permanent ROW and Easements	\$26,006.00
BNSF Railroad	\$10,000.00

Total Miscellaneous Costs	\$36,006.00
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Funding

State Funds - NDSWC	100.00%	\$36,006.00
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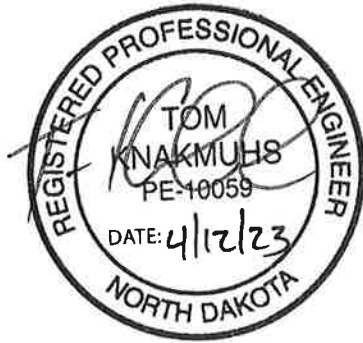
Project Funding Summary

Special Assessments	23.27%	\$1,257,826.88
Utility Funds - Water - 501	12.76%	\$689,800.00
State Funds - NDSWC	63.98%	\$3,458,745.57

Total Estimated Project Cost		\$5,406,372.45
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This project does not have any alternate or optional containers.

We believe this project to be cost effective.




Thomas Knakmuhs, PE
Assistant City Engineer



**LOCATION AND COMPRISING
NEW UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. UN-23-A
NORTHERN EDGE OF CITY OF FARGO LIMITS BETWEEN
45TH STREET NORTH AND 25TH STREET NORTH**

LOCATION:

On 52nd Avenue North between 25th Street North and 41st Street North.
On 41st Street North between 52nd Avenue North and 51st Avenue North.
On 51st Avenue North between 41st Street North and 43rd Street North.
On 43rd Street North between 51st Avenue North and 40th Avenue North.
On 40th Avenue North from 43rd Street North to 200' east of 45th Street North.
200' east of 45th Street North from 40th Avenue North to 32nd Avenue North.

COMPRISING:

The east 16 acres of Northwest Quarter Section of Section 14, T140N, R49W.
The easterly 97.63 acres less the easterly 16 acres of the Northwest Quarter Section of Section 14, T140N, R49W.
All platted within 2004 North Side Annexation.

The unplatted land in the Eastern Half of the Northwest Quarter Section of Section 22, T140N, R49W, Less Cass County Hwy 20 Right of Way and I-29 Right of Way.
The unplatted land in the Eastern Half of the Southwest Quarter Section of Section 22 T240N, R49W. The unplatted land in the Eastern Half of the Southeast Quarter Section of Section 22, T140N, R49W laying west of I-29 Right of Way.
The unplatted land in the Eastern Half of the Northeast Quarter Section of Section 22, T140N, R49W laying west of I-29 Right of Way.
All platted within Unplatted Northside Annexation.

All of the foregoing located in City of Fargo, Cass County, North Dakota.

Land in the Northern Half Section of Section 14, T140N, R49W bounded by the northerly section line, westerly section line, southerly said half section line, the westerly boundary of Cass County Drain 10 and the easterly section line located in the ET area of City of Fargo, Cass County, North Dakota.

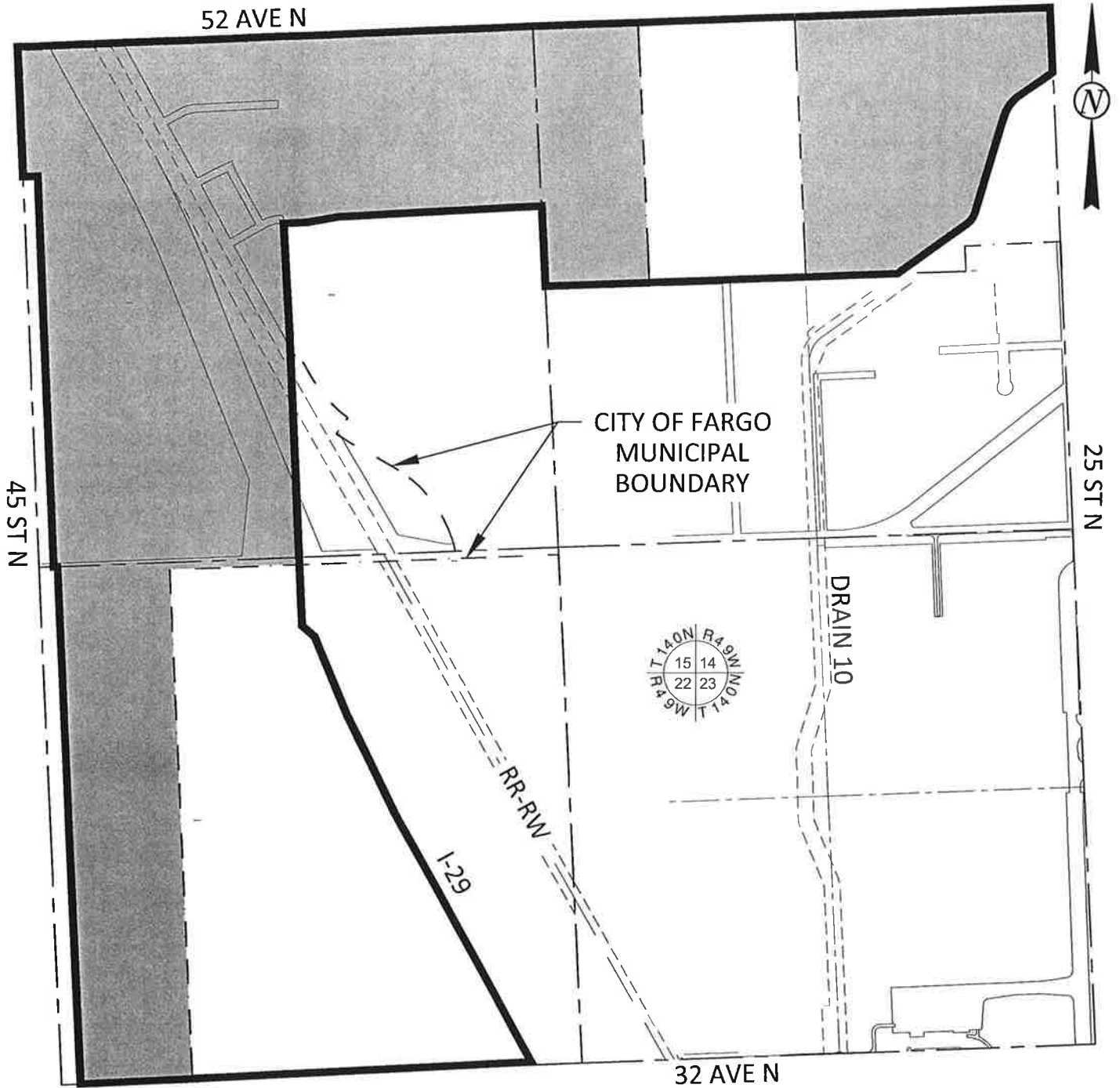
Unplatted land in the Northeast Quarter Section of Section 15, T140N, R49W bounded by the westerly said half section line, the northerly bounds of North Fargo Industrial Addition, the easterly section line and and northerly section line.

Land in the Western Half Section of Section 15, T140N, R49W, less Cass County Drain 40.

All of the foregoing is located in the ET area of the City of Fargo, Cass County, North Dakota.

Unplatted land in the Western Half Section of Section 22, T140N, R49W, less Cass County Drain 40.

All of the foregoing is located in the Annexed or ET are of the City of Reile's Acres, Cass County, North Dakota.



FUTURE BENEFITING AREA OUTSIDE CITY LIMITS

CITY OF FARGO ENGINEERING
DEPARTMENT

LOCATION & ASSESSMENT AREA

NEW UTILITY CONSTRUCTION

IMPROVEMENT DISTRICT NO. UN-23-A



21

FINANCE OFFICE
225 4th Street North
P.O. Box 2083
Fargo, North Dakota 58107-2083
Phone: 701-241-1333
Fax: 701-476-4188

TO: BOARD OF CITY COMMISSIONERS
FROM: Tanner Smedshammer, Purchasing Manager
DATE: April 13, 2023
SUBJECT: City Ordinance Amendment – Article 3-01

Commissioners,

I seek your permission to work with the City Attorney to draft amendments to City of Fargo ordinance, section 3-0102, relating to “Regulations for purchases under \$1,000.” along with an addition of a cooperative purchasing ordinance regarding the purchasing procedures.


The Finance Department has been tasked with preparing an updated Purchasing Policy and Procedures Manual that will establish purchasing authority, set clear guidelines, and define acceptable practices. This Purchasing Policy and Procedures Manual will be brought to the Board of City Commissioners for Adoption by Resolution at future City Commission meetings, in conjunction with the amended Ordinances mentioned.

Suggested Motion: I move to direct the City Attorney to prepare amendments to the Fargo Municipal Code, section 3-0102 of Article 3-01 of Chapter 3, relating to Purchasing Procedure.



MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: APRIL 11, 2023

**RE: NOTICE OF GRANT AWARD FOR ND DEPARTMENT OF
HEALTH AND HUMAN SERVICES FOR HIV CARE FORMULA
GRANTS FOR THE RYAN WHITE PART B PROGRAM
NO: G21.1273 CFDA: 93.917
FUNDS: \$300,000
EXPIRES: 03/31/2024**

The attached notice of grant award from North Dakota Department of Health and Human Services is for funding the Ryan White Part B Program. This is for \$300,000 and will expire 03/31/2024.

BUDGET ADJUSTMENTS:

REVENUE		
Ryan White Program	101-0000-331-12-09	\$75,000
EXPENSE		
Ryan White Program	101-6040-451-33-58	\$75,000

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the grant award for the Ryan White Part B Program.

DF/lis
Attachment

**NOTICE OF GRANT AWARD**NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
SFN 53771 (09-2022)

Grant Number G21.1273	CFDA Name HIV Care Formula Grants	CFDA Number 93.917
FAIN Number X07HA00043	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 4/1/2023
Federal Award Date 3/7/2023	Grant End Date 3/31/2024	
Federal Awarding Agency Health Resources Services Administration (HRSA)		

This award is not effective and expenditures related to this award should not be incurred until all parties have signed this document.

Title of Project/Program Ryan White Part B Program	North Dakota Department of Health and Human Services (NDDHHS) Project Code 2201 HLH 5434-03: \$60,000 2201 HLH 5434-09: \$240,000
Grantee Name Fargo Cass Public Health	Project Director Lindsey VanderBusch
Address 1240 25 th Street South	Address 600 East Boulevard Avenue, Dept. 325
City/State/ZIP Code Fargo, ND 58103	City/State/ZIP Code Bismarck, ND 58505-0250
Contact Name Desi Fleming	Contact Name Lindsey VanderBusch
Telephone Number 701-241-1380	Telephone Number 701-328-4555
Email Address: DFleming@FargoND.gov	Email Address: lvanderbusch@nd.gov

	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$300,000	\$0	\$300,000
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$300,000	\$0	\$300,000
Indirect Rate (Check One)	<input type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimis rate of 10%	<input checked="" type="checkbox"/> Negotiated/Approved rate of 10%

Scope of Service
Health Resources and Services Administration's (HRSA) Ryan White HIV/AIDS Treatment Extension Act of 2009 and the North Dakota Department of Health and Human Services Ryan White Part B (RW) program have three performance goals: (1) strengthen and expand the healthcare safety net for people living with HIV; (2) expand availability of healthcare resources to underserved, vulnerable, and special needs populations; and (3) increase the appropriate provision of effective and culturally competent healthcare services by healthcare providers. Grantee will assist HRSA and the Ryan White program by providing essential core and supportive services to meet the needs of eligible clients living with HIV in North Dakota. See Attachment A for details regarding reimbursable services and expectations. Grantee agrees to carry out the goals and services as noted above for all enrolled clients.

Reporting Requirements
Grantee must submit expenditure reports monthly via the NDDHHS Program Reporting System (PRS). Expenditure reports must be received by the 15th of the following month and must be accompanied by the "2023 RW Request for Reimbursement" form found at <https://www.hhs.nd.gov/health/diseases-conditions-and-immunization/HIV/Contractors/RW>. Expenditure report for the period ending June 30, 2023 must be received by July 15, 2023. Expenditure report for the period ending March 31, 2023 must be received by April 31, 2023. Reimbursement will be processed upon Department approval of expenditure report and receipt of "2023 RW Request for Reimbursement" form.

Special Conditions
None.

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2021 to June 30, 2023 [Finance Use Only: Requirements Received; Questionnaire received] and (2) applicable State and Federal regulations.

Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 04/11/2023	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Director of Public Health		Typed Name/Title of Authorized Representative Lindsey VanderBusch, MPH, Unit Director Sexually Transmitted and Blood Borne Diseases	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Dirk D. Wilke, J.D., M.B.A., Executive Director of Public Health	

If attachments are referenced, they must be returned with the signed award.
If you did not receive attachments as indicated, contact the Program Director identified above.

**G21.1273 Fargo Cass Public Health
Ryan White Part B Program
Attachment A**

Scope of Work:

The purpose of this award is to assist Health Resources Services Administration (HRSA) and the North Dakota Ryan White Part B (RW) program to meet program goals. Grantee agrees to provide case management services¹ including: (1) initial and periodic assessment of client needs, (2) development of individual care plans that consider the full continuum of social services needed for persons with HIV infection, their families, and significant others; and (3) the provision or coordination of access to essential support services, or other needs identified during client assessment.

Successful implementation of the program will be indicated by thorough documentation of client needs and care plan development, maintenance of appropriate documentation for client eligibility, number of successful referrals completed by the client, and collection of client level utilization data (supportive services reimbursement documentation).

Fiscal Assurances:

Payments to Grantee will be made according to reimbursable expenditures allowed by Part B of the Ryan White HIV/AIDS Treatment Extension Act of 2009. Prior to requesting reimbursement, the grantee will assure that all other payment streams have been exhausted or determined unavailable, and that the RW program is the payer of last resort. Any and all funds that are utilized to cover expenses related to this program that are subsequently billed to another agency and/or are recovered from other payors must be returned to the program and utilized only for expenses related to the original scope of the award. These recovered payments are considered program income that must be tracked by the Grantee, which must document how that program income supports allowable costs under the award.

Grantee will be reimbursed according to expenditures itemized on the "Ryan White Monthly Billing Form". Case management reimbursement is calculated at a **maximum** of \$60 per hour for face-to-face or other case management encounters; mileage for case management home visits is calculated at \$0.655 per mile; voucher reimbursement for client transportation to medical or supportive services is reimbursed on a dollar-for-dollar basis. Reimbursement for short-term emergency assistance is permitted on a dollar-for-dollar basis, in compliance with current RW Program Policies. Grantee also agrees to limit fees (if fees are charged) for clients receiving services to the total allowable annual charges as defined in Public Law 101-381 Section 2617(c); Grantee may assess a ten (10) percent fee for administrative processing of reimbursement requests.

Program Assurances:

Grantee agrees to maintain and secure client records as required by North Dakota Century Code section 23-07-02.2, comply with the North Dakota HIV.STD.TB.Viral Hepatitis Confidentiality Policy, and follow all applicable regulations set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HITECH Act of 2009 as it currently applies. A breach in confidentiality can lead to immediate termination of this agreement and criminal charges for individuals involved (class C felony). Grantee agrees to conduct all contract activities in accordance with HRSA and ND RW program policies as described in the ND RW Part B Program Manual. Grantee agrees to collect and maintain supporting documentation for client eligibility, and assures that **all** clients will be treated fairly, equitably, and with respect.

Corrective Action:

Corrective action may be prompted by indicators such as overspending, improper invoicing, missing or incomplete patient records, or failure to appropriately serve an eligible client. Initiation of an informal graduated process of corrective action with the Grantee, including technical assistance in the area of concern, will be utilized.

Appeals Process:

Grantee may appeal decisions regarding suspension, reallocation, or termination of funding. The initial phases of the appeals process will be handled at the NDDHHS level. Further appeals will ascend to the HRSA office.


¹ Case management: a mechanism for coordinating existing resources to insure the most comprehensive program for meeting a client's need for care. It is primarily a process that links the client to available services.



23

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: APRIL 4, 2023

**RE: AGREEMENT FOR \$2,970 WITH INDEPENDENT
CONTRACTOR, CREATING COMMUNITY CONSULTING FOR
GRANT WRITING SERVICES.
FUNDS: \$2,970
EXPIRES: 04/15/2024**

The attached agreement for services with Creating Community Consulting is for \$2,970 for assistance in writing a grant application for the Robert Wood Johnson Foundation and for other grant applications for funding FM Wellness Coalition. During the course of this agreement for the year, Creating Community Consulting costs will not exceed \$10,000.

No budget adjustment is required for this grant.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement with Creating Community Consulting.

DF/lls
Attachment

THIS AGREEMENT, effective the 15th day of April 2023, by and between FM Wellness Coalition/Fargo Cass Public Health ("FCPH"); and Creating Community Consulting. (Contractor)

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of April 15, 2023, through April 15, 2024.
- B. Services to be provided by independent contractor:** Provide grant writing services for the grant application to Robert Wood Johnson Foundation and other grant applications that will provide funding for the FM Wellness Coalition work plans; including:
 - FM Wellness Coalition strategies in the identified neighborhoods in Fargo, ND.
 - Collect all support materials and documentation.
 - Convene diverse partners to support and inform community strategies and activities to be in grant work plan.
 - Partner with local universities to support research design.
 - Draft narrative
 - Grant submission
- C. Reimbursement:** The contracting consultant shall be reimbursed at the rate of \$55.00 per hour for 54 hours for a total of \$2,970. The contracting consultant will submit an invoice for reimbursement, they total of this agreement will not exceed \$10,000.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm, or corporation without consent unless that disclosure is authorized under North Dakota law.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee shall not be deemed to be an employee of Fargo Cass Public Health for any other purpose.
- B.** This service agreement shall be governed by the laws of the State of North Dakota. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by Fargo Cass Public Health and the City of Fargo to receive payment for services will be completed as needed.

In Witness thereof, this purchase of service agreement has been executed between the Consultant and Fargo Cass Public Health on the date-executed below.

FARGO CASS PUBLIC HEALTH

CONSULTANT

By Desi Fleming
Desi Fleming, Director of Public Health

By Karen Pifher
Karen Pifher, Creating Community Consulting, Contractor

Date 03/30/2023

Date 4/4/2023

By _____
Timothy J. Mahoney, Mayor, City of Fargo

Date _____






Creating Community Consulting Agreement 2023

Final Audit Report

2023-04-05

Created:	2023-03-30
By:	Lori Sall (lsall@FargoND.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0TcxOpad3zp4gaC4lDyL6w2lf4OsENRd

"Creating Community Consulting Agreement 2023" History

-  Document created by Lori Sall (lsall@FargoND.gov)
2023-03-30 - 6:01:36 PM GMT
-  Document emailed to Karen Crabtree (creatingcommunityconsulting@gmail.com) for signature
2023-03-30 - 6:04:40 PM GMT
-  Email viewed by Karen Crabtree (creatingcommunityconsulting@gmail.com)
2023-04-05 - 3:32:08 AM GMT
-  Document e-signed by Karen Crabtree (creatingcommunityconsulting@gmail.com)
Signature Date: 2023-04-05 - 3:33:31 AM GMT - Time Source: server
-  Agreement completed.
2023-04-05 - 3:33:31 AM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.



24

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING *DF*
DIRECTOR OF PUBLIC HEALTH

DATE: JANUARY 20, 2023

**RE: NOTICE OF GRANT AWARD FROM ND DEPARTMENT OF
HEALTH AND HUMAN SERVICES WITH CENTERS FOR
DISEASE CONTROL AND PREVENTION FOR INCREASING TB
INFECTION IDENTIFICATION AND TREATMENT
NO. G21.1193 CFDA NO. 93.116 FOR \$17,820
FUNDS: \$27,820
EXPIRES: 12/31/2023**

The attached grant from North Dakota Department of Health is for the targeted testing for TB infection identification and treatment.

No budget adjustment is required for this grant.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the TB Infection Identification and Treatment grant.

DF/ls
Attachment



NOTICE OF GRANT AWARD
 NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES
 SFN 53771 (09-2022)

Grant Number G21.1193	CFDA Name TB: Project Grants and Cooperative Agreements for Tuberculosis Control Programs. DC: N/A	CFDA Number TB: 93.116 for \$17,820 DC: N/A for \$10,000
FAIN Number TB: NU62PS924540. DC: N/A	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 2/1/2023
Federal Award Date TB: 12/29/22/ DC: N/A	Grant End Date 12/31/2023	Federal Awarding Agency TB: Centers for Disease Control and Prevention. DC: N/A

This award is not effective and expenditures related to this award should not be incurred until all parties have signed this document.

Title of Project/Program Increasing TB Infection Identification and Treatment	North Dakota Department of Health and Human Services (NDDHHS) Project Code TB: 2201 HLH5393-01: \$17,820. DC: 2201 HL1243-04: \$10,000
Grantee Name: Fargo Cass Public Health	Project Director: Lindsey VanderBusch
Address: 1240 25 th Street South	Address: 600 East Boulevard Avenue, Dept. 325
City/State/ZIP Code: Fargo, ND 58103	City/State/ZIP Code: Bismarck, ND 58505-0250
Contact Name: Desi Fleming	Contact Name: Lindsey VanderBusch
Telephone Number: 701-241-1380	Telephone Number: 701-328-4555
Email Address: dfleming@fargond.gov	Email Address: lvanderbusch@nd.gov

	NDDHHS Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$27,820	\$0	\$27,820
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$27,820	\$0	\$27,820
Indirect Rate (Check One)	<input type="checkbox"/> Subrecipient waived indirect costs	<input checked="" type="checkbox"/> De minimis rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %

Scope of Service
 Grantee agrees to: 1) direct tuberculosis (TB) screening activities ONLY to populations determined as high-risk* for TB within their jurisdiction; 2) provide appropriate referral and follow-up for persons identified with latent TB infection; 3) assure that at least 90% of persons identified with TB infection at the agency initiate and complete treatment; 4) conduct all activities in accordance with the Centers for Disease Control and Prevention (CDC) and the NDDHHS's recommendations and guidelines; 5) conduct all activities with the involvement of health care professionals trained and/or with experience with TB screening procedures, and 6) submit request for reimbursement on a quarterly basis no later than 15 days after the end of each quarter and other documentation as requested by the TB program via the Program Reporting System (PRS).
 *High-risk populations: refugees, migrants, or recent arrivals from high incidence countries high-risk racial/ethnic populations within the jurisdiction the homeless; injection drug users; recent contacts of an active TB case. Residents of high-risk congregate settings (i.e., jail/prison populations, nursing homes (not employees) and other long-term care facilities for the elderly hospitals (not employees) and other health-care facilities (not employees), residential facilities and homeless shelters) and persons with clinical conditions that place them at high-risk (i.e., people living with HIV/AIDS, other immunosuppressive conditions, or persons with abnormal chest x-rays, etc.).

Reporting Requirements
 Contractor must provide at least quarterly expenditure and activity reports via the Program Reporting System (PRS). Expenditure report for the period ending June 30, 2023 must be received by July 14, 2023. Final invoice and post analysis report for the period ending December 31, 2023 must be received by February 15, 2024. Reimbursement will be processed upon Department approval of expenditures and activity reports.

Special Conditions
 Expenditures incurred related to the Scope of Service of this agreement will be covered as early as 1/1/2023.

This Notice of Grant Award is subject to the terms and conditions incorporated either directly or by reference in the following: (1) Requirements Addendum and Grantee Assurances for Notice of Grant Awards issued by the NDDHHS as signed by Grantee for the period of July 1, 2021 to June 30, 2023 [Finance Use Only: Requirements Received; Questionnaire received] and (2) applicable State and Federal regulations.


Evidence of Grantee's Acceptance		Evidence of NDDHHS Acceptance	
Date 01/20/2023	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Director of Public Health		Typed Name/Title of Authorized Representative Lindsey VanderBusch, MPH, Unit Director Sexually Transmitted and Blood Borne Diseases	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Dirk D. Wilke, J.D., M.B.A., Executive Director of Public Health	

If attachments are referenced, they must be returned with the signed award.
 If you did not receive attachments as indicated, contact the Program Director identified above.

(25)

M E M O R A N D U M

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: JANUARY 26, 2023

**RE: AGREEMENT FOR \$9,900 WITH INDEPENDENT
CONTRACTOR, MEGAN NIES FOR UPDATING FARGO CASS
PUBLIC HEALTH'S EMERGENCY OPERATIONS PLAN
FUNDS: \$9,900
EXPIRES: 06/30/2023**

The attached agreement for services with Megan Nies for updating the FCPH Emergency Operations Plan as part of the City Readiness Initiative ensuring it follows the FEMA Comprehensive Planning Guide is for a maximum total of \$9,900 at a rate of \$75.00 per hour.

No budget adjustment is required for this grant.

If you have any questions, please contact me at 241.1380.

Suggested Motion:

Move to approve the agreement with Megan Nies.

DF/ls
Attachment



AGREEMENT FOR SERVICES



**Fargo Cass
Public Health**
Prevent. Promote. Protect.

THIS AGREEMENT, effective the 1st day of January, by and between Fargo Cass Public Health ("FCPH"); and Megan Nies.

NOW, THEREFORE, it is hereby agreed by and between the parties here to as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of January 1, 2023, through June 30, 2023.
- B. Services to be provided by independent contractor:** Independent contractor will update FCPH's Emergency Operations Plan, as part of the City Readiness Initiative (CRI), ensuring it follows FEMA's CPG (Comprehensive Planning Guide) formatting and requirements. Contractor will work with Emergency Preparedness staff and FCPH management on internal response plans that interconnect with NDDHHS plans as well as meet Public Health Accreditation Board standards.
- C. Reimbursement:** Megan Nies shall be reimbursed at a rate of \$75 per hour for the above services rendered not to exceed \$9,900 for total project detailed.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly, or indirectly, disclose, make known, divulge, publish, or communicate any individually identifiable health information or other confidential information to any person, firm or corporation without consent unless that disclosure is authorized under North Dakota law.

Special Considerations:

- A.** It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of Fargo Cass Public Health for any other purpose.
- B.** The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.
- C.** It is understood any forms or paperwork required by Fargo Cass Public Health and the City of Fargo to receive payment for services will be completed as needed.

In Witness thereof, this purchase of service agreement has been executed between the Consultant and Fargo Cass Public Health on the date-executed below.

FARGO CASS PUBLIC HEALTH

INDEPENDENT CONTRACTOR



 Desi Fleming
 Director of Public Health



 Megan Nies
 Independent Contractor

Date 1/26/2023

Date 1/26/2023

 Timothy J. Mahoney
 Mayor, City of Fargo

Date _____



24

INFORMATION SERVICES
225 4th St N
FARGO, ND 58102
PHONE: 701-476-6700
FAX: 701-241-8253

April 12, 2023

Honorable Board of
City Commissioners
City of Fargo
200 N 3rd St. S
Fargo, ND 58102

Dear Commissioners;

As part of the Infrastructure Investment and Jobs Act (IIJA) of 2022, the State of North Dakota was allocated several million dollars in grant funds to allocate. Over the course of several months, the State put together a committee and processed the applications for the grant funds.

As a result of that process, the City of Fargo has been allocated \$265,655.04 in grant funds. The grant recipient is responsible for a 10% match of the funding. So, Fargo's share would be \$26,565. The matching funds would be covered using IS Operating Funds. Though, there is currently legislation that would cover the funding at the State level. If that legislation passes, we would not have any matching funds required.

This funding level represents the majority of our grant submissions. There will be some recipients who do not accept the grant funds allocated. These grant funds, not accepted, will be reallocated by the review committee. So, there is a small possibility that additional 2023 grant funds will be allocated for our other requests. Which could grow the allocated amount slightly. And, therefore, the matching fund requirements could also grow.

The funds are being distributed under the FY 2022 Homeland Security Grant Program (HSGP).

Recommended motion to approve the acceptance of the grant funds.

Thank you,

A handwritten signature in cursive script that reads "Ron Gronneberg".

Ron Gronneberg
CIO, City of Fargo

27

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS
FROM: TIA BRASETH, COMMUNITY DEVELOPMENT PLANNING COORDINATOR
NICOLE CRUTCHFIELD, PLANNING DIRECTOR *NC*
DATE: APRIL 13, 2023
RE: APPROVE THE PROPOSED AMENDMENT TO THE 2022 ACTION PLAN

Following the required 30-day public comment period and Public Hearing held during the March 20, 2023 City Commission meeting, staff is seeking approval of the proposed amendment to the 2022 Action Plan for Community Development Block Grant (CDBG) and HOME programs. The proposed amendment is in compliance with federal regulations for the Department of Housing and Urban Development (HUD) CDBG and HOME programs and is detailed in the attached public notice, which was published in *The Forum* on March 15, 2023. No comments were received during the public comment period.

Recommended Action: Approve the amendment to the 2022 Action Plan for Community Development Block Grant (CDBG) / HOME Investment Partnership Grant programming.

City of Fargo
Notice of Public Hearing & Public Comment Period
Community Development Block Grant (CDBG) & HOME Programs

The City of Fargo is opening a 30-day public comment period starting March 16, 2023, including a public hearing on March 20, 2023 at the regular Fargo City Commission meeting. Final consideration will be at the April 17, 2023 City Commission meeting. The purpose for the public comment period is to consider a proposed amendment to the City's 2022 HUD Action Plan, which is summarized in this notice.

Summary of Proposed Amendment to 2022 HUD Action Plan

2022 Annual Action Plan – Project Site and Scope Identified for “Affordable Single-Family Housing for Ownership” Project: Lake Agassiz Habitat for Humanity

Proposed location identified at 2790 10 Avenue North (formerly 921 28 Street North). The activity would include new construction of a single-family home. The proposed budget for this unit is \$200,000.

COMMENTS, ACCESSIBILITY, & SCHEDULE

Comments and suggestions from the public are encouraged through a public comment period and/or at the public hearing. Contact information and schedule are provided below:

30-DAY PUBLIC COMMENT PERIOD: March 16 – April 14, 2023

PUBLIC HEARING: Monday, March 20, 2023 - 5:15 pm
Fargo City Commission Chambers
225 4th Street North, Fargo, ND 58102

CITY COMMISSION VOTE: Monday, April 17, 2023 – 5:15 pm

CONTACT INFORMATION: City of Fargo
Planning and Development Department
Attn: Community Development Planning Coordinator
225 4th Street North, Fargo ND 58102
701.476.4144
Planning@FargoND.gov

DRAFT PLAN AVAILABLE AT: www.fargond.gov/planninganddevelopment/plansandstudies
OR request through Planning & Development Department

Accessibility – Fargo City Hall is serviced by public transit, accessible and can accommodate persons who are disabled. Alternative formats of this information (e.g., Braille, American Sign Language, etc.) or reasonable accommodations for persons with hearing/vision impairments and/or other disabilities will be made upon request. The contact information to arrange for services (a 48 hour notice may be needed) is City of Fargo's Section 504/ADA Coordinator Bekki Majerus – 701.298.6966. To access TTY/ND Relay service – 800.366.6888 or 711.

Limited English – Reasonable steps will be taken to provide persons with limited English proficiency (LEP) meaningful access, including the availability of interpretation and translation services. If services are needed, the contact information is provided above.

Non-Discrimination Notice – In accordance with Federal regulations and City of Fargo policies, services are provided without regard to race, color, religion, sex, disability, familial status, national origin, age, marital status, veteran status, sexual orientation, gender identity, public assistance, domestic violence, lawful activity, or condition protected by applicable federal and state laws. The City is an equal employment/equal housing opportunity agency.

**RESOLUTION APPROVING AMENDMENT TO THE 2022 HUD ACTION PLAN
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)**

**BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY
OF FARGO:**

WHEREAS, the City of Fargo receives Community Development Block Grant (CDBG) and HOME Investment Partnerships Program funds from United States Department of Housing and Urban Development (HUD); and

WHEREAS, in compliance with federal regulations, the City of Fargo has amended its 2022 Action Plan to make available housing and community development resources that primarily address the needs of low to moderate income persons in Fargo; and

WHEREAS, the City of Fargo has conducted a required citizen participation process including a draft publication of the amendments, a public hearing, and a 30-day public comment period.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Fargo, North Dakota that the Mayor is herein authorized and directed to submit the amended plan to HUD and enter into and execute contracts and other documents as necessary to effectuate activities identified in the revised plan.

(28)

City of Fargo Staff Report			
Title:	Global Development Addition	Date:	2/1/2023
		Update:	4/11/2023
Location:	602, 610, 636, and 650 Northern Pacific Avenue North	Staff Contact:	Maegin Elshaug, planning coordinator
Legal Description:	an unplatted portion of the Northwest Quarter of Section 7, Township 139 North, Range 48 West		
Owner(s)/Applicant:	City of Fargo/Global Development	Engineer:	Houston Engineering
Entitlements Requested:	Minor Subdivision (plat of an unplatted portion of the Northwest Quarter of Section 7, Township 139 North, Range 48 West of the Fifth Principal Meridian, to the City of Fargo, Cass County, North Dakota.		
Status:	City Commission Public Hearing: April 11, 2023		

Existing	Proposed
Land Use: surface parking	Land Use: mixed-use
Zoning: DMU-Downtown Mixed Use	Zoning: unchanged
Uses Allowed: DMU – Downtown Mixed Use. Allows detached houses, attached houses, duplexes, multi-dwelling structures, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, commercial parking, retail sales and service, vehicle repair, limited vehicle service, and major entertainment events.	Uses Allowed: unchanged
Maximum Density Allowed: none	Maximum Density Allowed: unchanged
Maximum Lot Coverage Allowed: 100%	Maximum Lot Coverage Allowed: unchanged

Proposal:

The applicant, the City of Fargo, is seeking approval of a minor subdivision located at 602, 610, 636, and 650 Northern Pacific Avenue North. The request is to plat the subject property into two lots and one block entitled Global Development Addition. Staff is coordinating with the developer on the amenities plan to outline expectations to improvements in the adjacent right-of-way, including a mid-block crossing for pedestrians.

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: DMU, Downtown Mixed-Use, with a mix of commercial and residential uses and Fargo Fire Station #1;
- East: DMU, Downtown Mixed-Use, with a mix of commercial and residential uses;
- South: Burlington Northern Santa Fe Railroad;
- West: DMU, Downtown Mixed-Use, with NDSU's Renaissance Hall.

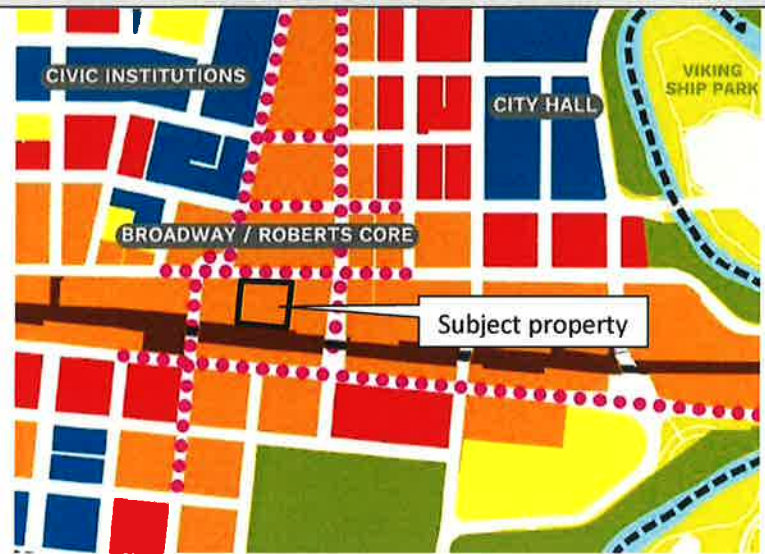
Continued on next page

Area Plans:

The subject property is located within the Downtown InFocus Plan, which identifies the subject property is mixed-use. The DMU, Downtown Mixed-Use zoning is consistent with this land use designation.

Future Land Use
Source: interface studio

- RETAIL FOCUS
- INDUSTRIAL PRESERVATION
- RESIDENTIAL
- COMMERCIAL
- MIXED-USE
- INDUSTRIAL
- PARKS & RECREATION
- PUBLIC & INSTITUTIONAL
- UTILITY & OTHER
- RAIL
- OPEN SPACE
- DOWNTOWN FOCUS AREA



Context:

Neighborhood: The subject property is located within the Downtown neighborhood.

Schools: The subject property is located within the bounds of the Fargo School District, specifically the Roosevelt elementary, Ben Franklin middle and North High schools.

Parks: Ole Tangen Park (10 Roberts Street North) is located just north of the subject property.

Pedestrian / Bicycle: Currently, there are no separate bicycle facilities located adjacent to the subject property, but upon reconstruction, a separate bicycle facility will be located on Northern Pacific Avenue North, similar to what has been constructed further to the west.

Transit: Multiple MATBus lines run along Northern Pacific Avenue North, including 13, 13U, 14, 15, and 18, with a stop just west of NDSU's Renaissance Hall.

Staff Analysis:

Minor Subdivision

The LDC stipulates that the following criteria is met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The subdivision is intended to plat the subject property, which has not been platted before, into two lots and one block. The property is zoned DMU, Downtown Mixed-Use, and no change is being proposed. In accordance with Section 0901.F of the Land Development Code, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. Staff also notified the Downtown Neighborhood Association and the Neighborhood Coalition. To date, staff has received and responded to two inquiries about the application with no noted concern. Staff has reviewed this request and finds that this

application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code. **(Criteria Satisfied)**

- 2. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed plat, **Global Development Addition**, as outlined within the staff report, as the proposal complies with the adopted Area Plan, standards of Article 20-06, standards of Section 20-0907.B & C, and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation: February 7.th, 2023

At the February 7th, 2023 Planning Commission hearing, the Commission, by a vote of 7-0 with two Commissioners absent and two Commission seats vacant, moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed plat of **Global Development Addition** as outlined within the staff report, as the proposal complies with the adopted Area Plan, standards of Article 20-06, standards of Section 20-0907.B & C, and all other applicable requirements of the Land Development Code.

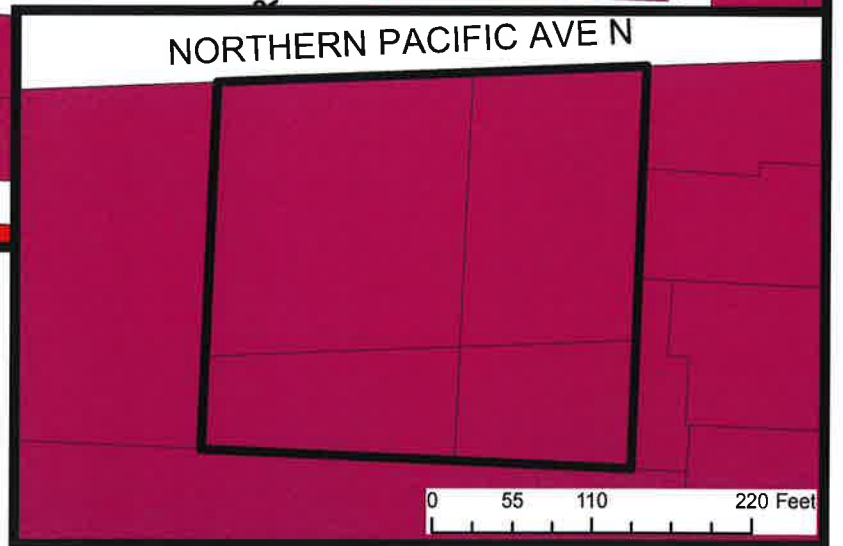
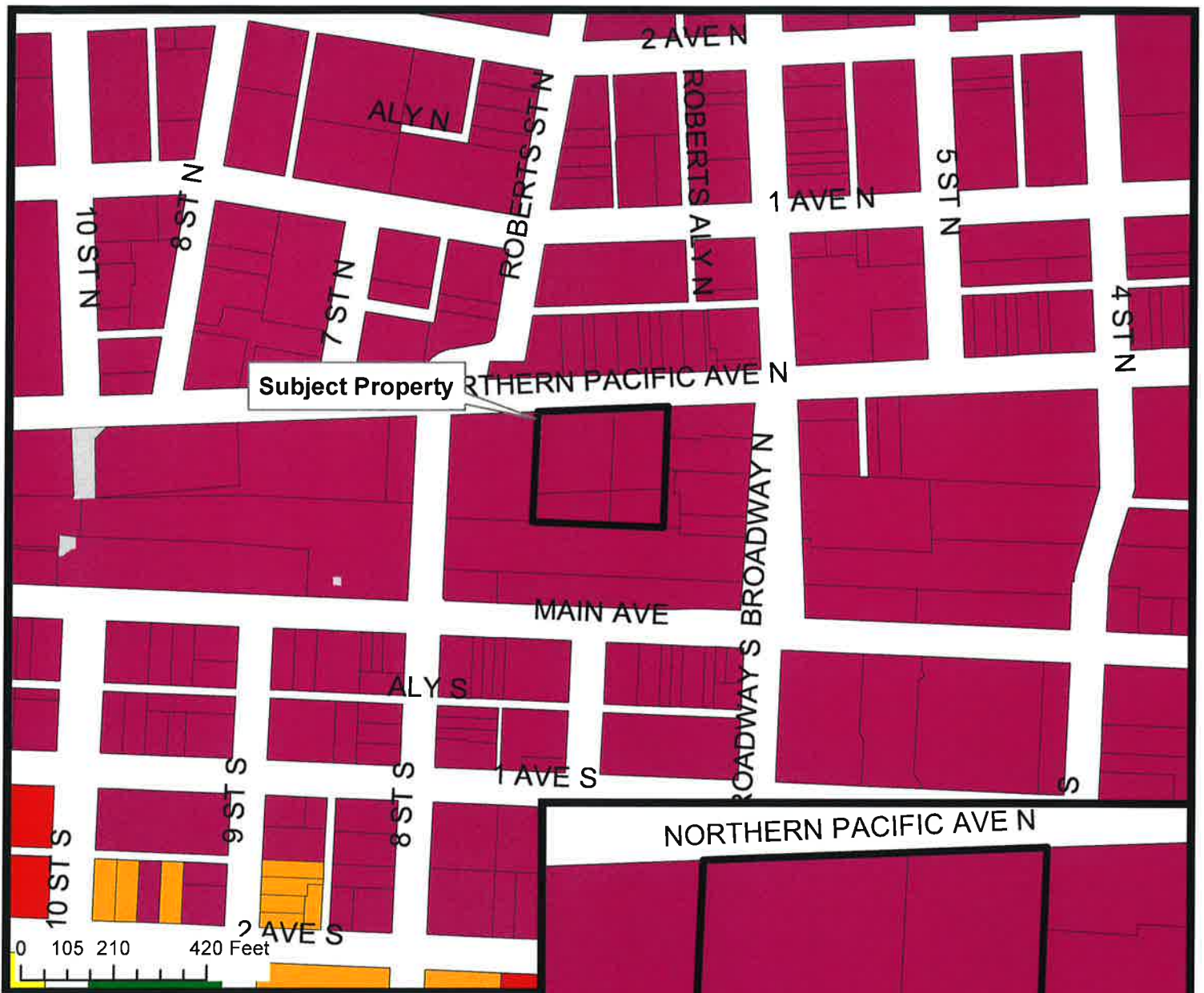
Attachments:

1. Location Map
2. Zoning Map
3. Preliminary Plat
4. Draft Amenities Plan

Minor Subdivision

Global Development Addition

636, 602, 610 & 650 Northern Pacific Avenue North



Legend

AGU	LC	MHP	SR
DMU	MR-1	NCO	SR-2
GC	MR-2	P/	SR-3
GO	MR-3	UMU	SR-4
			SR-5
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			SR-8
			SR-9
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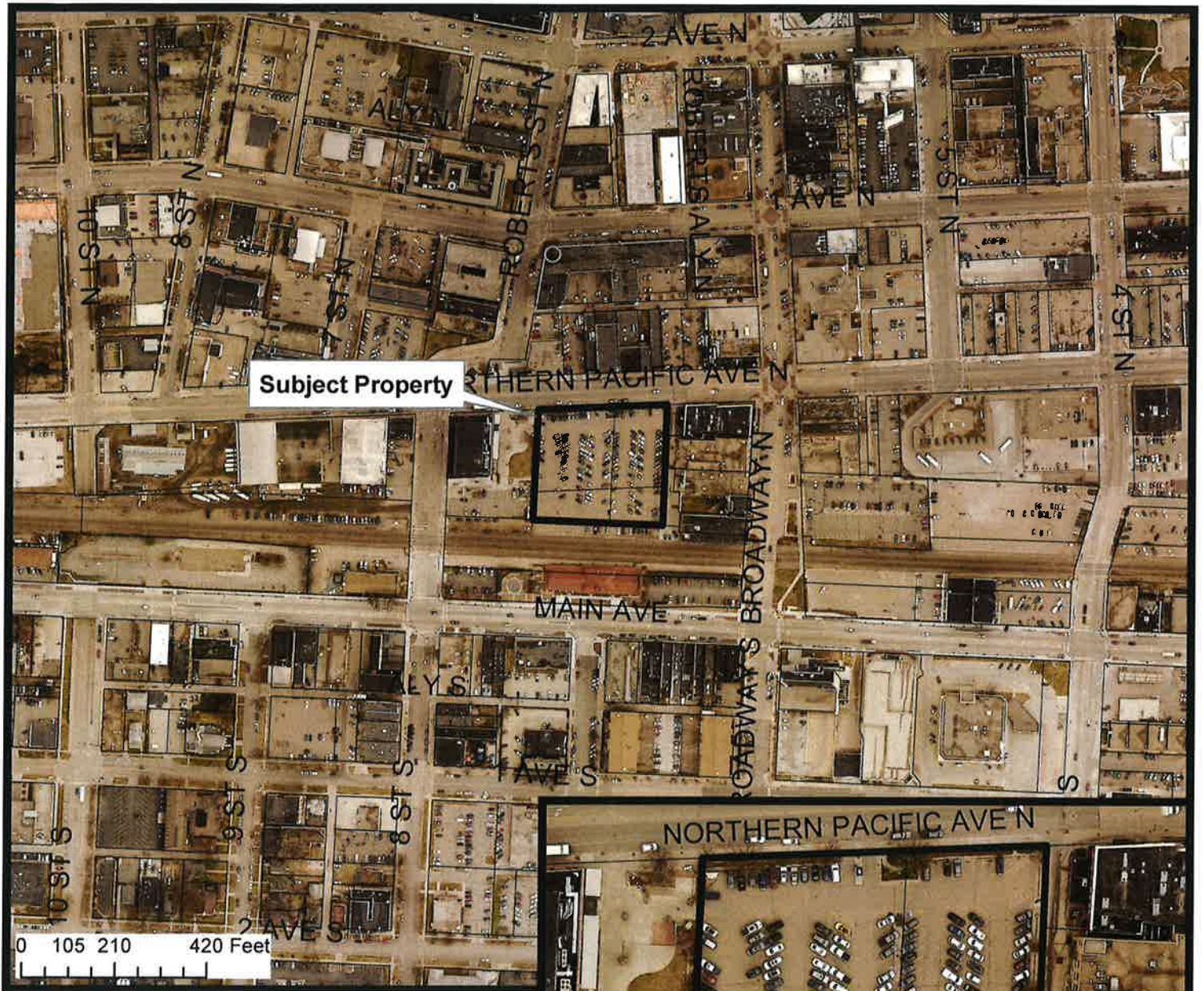


Fargo Planning Commission
February 7, 2023

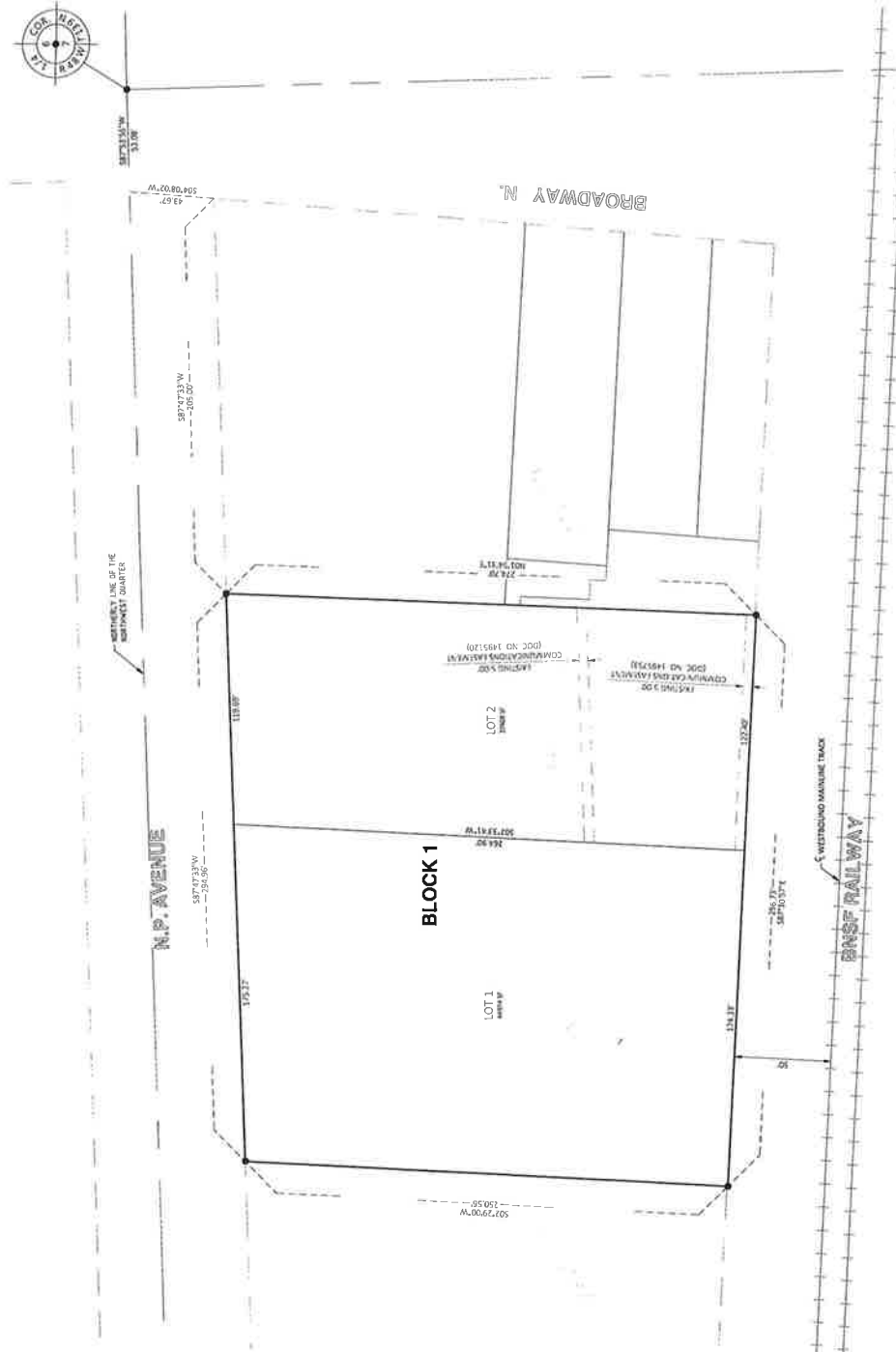
Minor Subdivision

Global Development Addition

636, 602, 610 & 650 Northern Pacific Avenue North

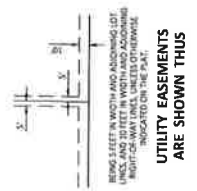


GLOBAL DEVELOPMENT ADDITION
 A MINOR SUBDIVISION
 BEING A PLAT OF PART OF THE NORTHWEST QUARTER OF SECTION 7,
 T. 139 N., R. 48 W., 5th P.M.,
 TO THE CITY OF FARGO,
 CASS COUNTY, NORTH DAKOTA



LEGEND

- IRON MONUMENT FOUND
- 1/2" I.D. PIPE SET
- MEASURED BEARING
- PLAT BEARING
- MEASURED DISTANCE
- PLAT DISTANCE
- PLAT BOUNDARY
- UTILITY EASEMENT
- EXISTING LOT LINE
- EXISTING UTILITY EASEMENT



HOUSTON ENGINEERING, INC.
 Sheet 1 of 2
 Project No. 6055-0204

Draft

Site Amenities Plan

Global Development Addition

April 11, 2023

Location

The property is located in the southeast quarter of Section 7, Township 139N, Range 49W. The land is bordered by Northern Pacific Avenue on the north side and the BNSF railroad on the south side. The property encompasses an area of approximately 1.78 acres.

Project

This project is development of a surface level parking lot into a mixed-use structure with parking ramp.

Right of Way (ROW)

The proposed plat does not include dedication for public roadways, however, below anticipates the roadway considerations at the time of redevelopment. The roadways noted are the portions directly adjacent to the subject property.

Northern Pacific Avenue North: This section is an arterial roadway pursuant to §20.0702.

- Separated bike lane will installed on the north and south side of the roadway as part of a redevelopment project.
- Parking will be evaluated at the time of roadway design for a redevelopment project.
- Reconstruction or maintenance of roadway, and timeline thereof, will be determined by the Engineering Department's policies and procedures.
- Amenities such as street trees, paving materials, furnishings, and planters or landscaping will follow Downtown streetscape standards as applicable.
- Pedestrian crossing will be located approximately mid-block and will be at grade.

Utilities

Sanitary sewer, storm sewer, and potable water mains are in need of replacement. An infrastructure project to support redevelopment of the site with the aging infrastructure is anticipated to be constructed over two years; 2023-2024, dependent on favorable construction bids. The project will be assessed per the City of Fargo infrastructure funding policy.

Storm water Management

Storm water allowable discharge rates and water quality requirements shall follow the latest adopted version of the "Policy on Storm Water Discharge and Treatment Requirements".

Flood Protection

The proposed platted area is not located in the FEMA Special Flood Hazard Area (SFHA), nor located within the 41-foot Water Surface Elevation Inundation Area (WSEIA).

Funding of Improvements

An infrastructure project to support redevelopment of the site with the aging infrastructure is anticipated to be constructed over two years; 2023-2024, dependent on favorable construction bids. The project will be assessed per the City of Fargo infrastructure funding policy.

Site Amenities Plan Draft
Global Development Addition
Page 3 of 3

The amenity plan is hereby approved:

OWNER:
Global Development, LLC

Randy Thorson, President

Date

CITY OF FARGO:

Brenda Derrig, PE, City Engineer

Date



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FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

OFFICE OF THE CHIEF

MEMORANDUM

To: Kember Anderson

From: Chief David B. Zibolski *DZ*

Date: April 13, 2023

RE: Items for consent agenda

Kember,

I would like to add the following to the consent agenda for the April 17, 2023 City Commission Meeting:

- hate crime investigations for the first quarter of 2023.

Please contact my office if you have questions or need any additional information.

Thank you.



FARGO POLICE DEPARTMENT

A SAFE AND UNIFIED COMMUNITY BUILT ON TRUST, ACCOUNTABILITY AND INCLUSION

CRIMINAL INVESTIGATIONS DIVISION

MEMORANDUM

RECEIVED
FARGO POLICE DEPARTMENT

To: Chief David Zibolski

APR 06 2023

From: Lt Jared Crane *JC*

WILLIAM S AHLFELDT
CAPTAIN

Date: 04.06.2023

REF: *A.C. STEFONOWICZ*
- INFORMATIONAL

RE: Update on Hate Crime Investigations for the first quarter of 2023

The following is a summary of bias and hate crime investigations that have taken place for the first quarter of 2023:

During the first quarter of 2023, there were two incidents reported in which a bias motivation was a factor (both in February). One case seems to have a bias motivation towards a transgender person, however, this is a disorderly conduct case which does not apply to the City of Fargo hate crime ordinances. The other case seems to have a bias motivation towards a black person; however, this is also a disorderly conduct report which does not apply to our hate crime ordinances.

First quarter reports which have a motivational bias but *do not* apply to City of Fargo ordinances:

- **23-8912; disorderly conduct; 801 17 Ave N** - Two juvenile North High School students were using the men’s restroom at the same time. One of the students identifies as transgender (biological female identifying as male). While the students were washing their hands, comments were made a girl being in the men's restroom. A photo was taken while washing hands as well. The suspect stated later he was uncomfortable with having a biological female in the men’s restroom while he was using a urinal. The suspect admitted to taking a picture of the victim at the sink for the purpose of sharing it with his friends on Snapchat. This case was referred to juvenile court for the disorderly conduct charge.
- **23-11162; disorderly conduct; Broadway N/4 Ave N** – The victim and his friend were walking south on Broadway when they noticed two males in a pickup staring at them. At one point the male passenger yelled a threat at the victim using the word “nigger.” After yelling the threat, the two males drove off. The responding officer confirmed this met the elements of a disorderly conduct charge and not terrorizing. The suspect in this case has been identified as a juvenile.

In summary, at this point in 2023, there have been two reports generated showing a motivation bias; however, they do not apply to the city hate crime ordinances.

*cc: P. Swift for
Commissioner's
AGENDA 4/17/23*

RECEIVED
FARGO POLICE DEPARTMENT
APR 10 2023
DAVID ZIBOLSKI
CHIEF OF POLICE
REF: *FILE*

RECEIVED
FARGO POLICE DEPARTMENT
APR 10 2023
TRAVIS STEFONOWICZ
ASSISTANT CHIEF OF POLICE
REF: *Chief Zibolski - FYI*

30



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

April 11th 28, 2023

The Honorable Board of City Commissioners
City of Fargo
225 North Fourth Street
Fargo, ND 58102

RE: High Compaction Front Load Refuse Truck (RFP23064)

Commissioners:

On April 10th, 2023, two (2) proposals were received and read for one (1) High Compaction Front Load Refuse Truck. Proposals were submitted by the following vendors.

The results are as follows:

<u>Refuse Truck</u>	<u>Price w/Trade</u>
Sanitation Products (Labrie)	\$336,185.00
Northland Truck (New Way)	\$345,400.00

The review committee consisting of Scott Olson, Dave Rheault, and Tom Ganje determined that all vendors met the required specifications and the prices were within expected parameters. Based on the low bid proposal, our recommendation is to award Sanitation Products for the High Compaction Front Load Refuse Truck. Funding for this project is to be included in the 2023 Solid Waste budget.

SUGGESTED MOTION:

Approve the recommendation to purchase one (1) High Compaction Front Load Refuse Truck from Sanitation Products for the purchase price of \$336,185.00.

Respectfully Submitted,

Tanner Smedshammer
Fleet Purchasing Manager

Snow Removal
Street Maintenance
Right of Way Maintenance

Sanitary & Storm
Sewer Maintenance
Street Name Sign Maintenance

Fleet Management
Meters Readings,
Installations & Maintenance

Urban Forestry
Water Service/Hydrants
& Watermain Maintenance



Request for Proposals
2023 High Compaction Front load Reuse Truck
4/10/2023
Solid Waste Dept
Proposal Evaluation Summary

	Sanitation Products	Northland Truck
Body Manf.	Labrie	New Way
Body Model	Starlight	Mammoth
Chassis Make	Peterbilt	Peterbilt
Chassis Model	520	520
Price	\$344,185.00	\$349,900.00
Trade in Unit 208	\$8,000.00	\$4,500.00
TOTAL WITH TRADE	\$336,185.00	\$345,400.00
Estimated Delivery Date	Jul-24	May-24



(31)

Division of Solid Waste

2301 8th Avenue North
 Fargo, North Dakota 58102
 Phone: 701-241-1449
 Fax: 701-241-8109

To: Utility Committee
From: Scott Olson, Solid Waste Utility Director *SO*
Date: March 30, 2023
Subject: Stantec Task Order for Cell 21 Design and Construction Observation

Included within the 2023 Solid Waste budget are funds for the next phase of the proposed 25-year reclamation and reuse project at the East Landfill campus. **Project SW 23-01** is for the excavation of waste and construction of Cell 21. The budgetary estimate for the project is \$5,370,310 and is estimated to take approximately twenty-eight (28) weeks over two construction seasons to complete. Funding is expected to be appointed through the North Dakota Clean Water State Revolving Fund (CWSRF).

Attached for your reference is a propose Task Order from Stantec for professional engineering services related to Project SW 23-01. The Services of the Engineer has been divided into five phases with associated task costs as shown below:

	Description of Services	Amount
1.	Basic Services	
a.	Preliminary and Final Design Phase	\$ 37,422.40
b.	Bidding and Negotiating Phase	\$ 6,606.60
c.	Construction Phase	\$ 159,125.10
d.	Resident Project Representative Services	\$ 121,579.50
e.	Post-Construction Phase	\$ 8,801.10
	TOTAL COMPENSATION (lines 1 a-e)	\$ 333,534.70

As provided within the proposal, the major cost component is within **Phase 1.c and 1.d** and is the project management and on-site personnel requirement. Stantec is proposing project management for approximately 50 hours per week during the construction period, which is estimated at 14 weeks in 2023 and 14 weeks in 2024. Onsite personnel will include field technicians and Certified Asbestos Inspector when necessary. The North Dakota Department of Environmental Quality rules require that a Certified Asbestos Inspector be onsite if any existing waste is encountered and must be removed.

Industry standards for similar landfill project design, management and construction oversight are typically 8 to 10% of construction costs; Stantec's proposed cost is 6.2% of the anticipated. Please note that the hourly projections are estimates and that Stantec will only charge for actual documented project hours.

Given that the proposal falls within industry standards for similar projects and that the overall project costs are within the parameters of Solid Waste Division CWSRF loan amount, staff recommends moving forward with the attached proposed task

order for professional engineering services associated with Project SW 23-01 Cell 21 Design and Construction Observation.

Your attention in this matter is certainly appreciated.

Recommendation

Approve the attached task order with Stantec to provide Civil Engineering Services for Project SW 23-01.

**TASK ORDER
SW23-01**

This is Task Order No. SW23-01
consisting of 9 pages.

Task Order Cell 21 Design & Construction Observation

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated **January 1, 2021** ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: February 23, 2023
- b. Owner: City of Fargo – Division of Solid Waste
- c. Engineer: Stantec
- d. Specific Project (title): Cell 21 Design & Construction Observation
- e. Specific Project (description): Stantec will complete the design, bid package, bidding assistance, project management/coordination, construction observation and construction documentation for construction of Cell 21 at the Fargo Landfill. The project will consist of design work associated with waste excavation and cell construction, bidding assistance, construction management and construction quality assurance, and construction documentation in accordance with NDDEQ permit 260 requirements and approved documents. Completion of this project will create additional waste disposal airspace for the facility.

2. Services of Engineer

Scope as follows:

Phase 01 – Preliminary and Final Design

Stantec will complete design and technical specifications for the project to comply with federal, and State regulations, and current solid waste permit requirements while offering the necessary flexibility of operations for City staff. Specific activities that will be performed during the design phase are as follows:

- 1. Attend two (2) design meetings with the City of Fargo staff (in-person meetings assumed)
- 2. Determine the depth, quantities and types of soil and waste to be excavated based on existing test pit and boring information, along with proposed borings within the Cell 21 area (to be completed under separate project).
- 3. Develop a perimeter grading plan including stormwater ponds to control surface water.
- 4. Develop a base grading plan per the permit approved design for Cell 21 and include necessary adjacent surface water control items.
- 5. Design the access road and develop associated grading plan(s).

Task Order Form

EJCDC® E-505, Agreement Between Owner and Engineer for Professional Services – Task Order Edition.
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6. Complete and submit a work plan to North Dakota Department of Environmental Quality (NDDEQ) for review and approval. The Work Plan will detail the following:
 - o Excavation procedures including: leachate removal, waste removal, odor control and surface water control.
 - o Site Health and Safety Plan including: training requirements, environmental monitoring, site safety and emergency procedures.
7. Communicate with NDDEQ on any necessary changes from the permitted design.
8. Prepare construction plans and associated technical specifications (including Clean Water State Revolving Funds requirements).
9. Prepare estimate of probable construction cost.
10. Compile bid package for distribution for bid (front end documents, technical specifications, and construction drawings).

We anticipate the following drawings to be included in the design:

1. Title Sheet
2. Site Map
3. Existing Conditions & Erosion Control Plan
4. Waste Excavation Plan
5. Cell 21 and perimeter grading plan
6. Leachate collection piping plan
7. 2 Cross-Section Sheets
8. 2 Detail Sheets

Phase 02 –Bidding Assistance

Stantec will provide bidding assistance to the City during the bidding period for the project. Specific activities that will be performed during the bidding phase are as follows:

1. Assist with bidder questions as they arise and compile a log of the questions and responses.
2. Issue addenda as needed
3. Attend bid opening, compile, and verify bid results.
4. Complete executed contract with the successful bidder.

Phase 03 – Construction - Project Management

Stantec will provide project management services for the project. Skilled staff familiar with local, state, and federal rules and requirements will ensure the project requirements are met. The project manager will also be responsible for managing the project budget and weekly updates along with the following items:

1. Conduct a pre-construction meeting
2. Coordinate all project activities with the contractor and the City of Fargo
3. Oversee construction observation personnel during construction activities
4. Perform weekly progress meetings with on-site personnel and City staff
5. Review and reply on submittals per the contract documents
6. Assist with preparation of necessary change orders
7. Be available by telephone should any questions come up during construction and make site visit as necessary
8. Ensure project is completed per federal, state, and current solid waste permit requirements
9. Verify quantities to be used in determining contractor payments

10. Ensure all materials are properly handled when encountered; cover soils placed properly, excavation, sideslopes maintained, minimum and maximum grades, etc.
11. Ensure compliance with CWSRF requirements throughout construction (verification of compliance with Davis-Bacon wage rate determinations, complete payroll interviews, assist with NDDEQ site inspections)
12. Provide final certification to NDDEQ to include CWSRF project closeout requirements.

Phase 04 – Resident Project Representative

Construction observation/CQA will be completed by the Resident Project Representative to ensure the project is constructed to federal, state, and current solid waste permit regulations. Stantec will provide a field technician who will observe the performance of the contractor and organize and maintain the necessary information required to document the construction. The field technician will also work closely with the contractor's surveyor to establish survey control for the contractor and to document grades and complete necessary environmental monitoring per the Site Health and Safety Plan requirements. In accordance with the site's permit, an asbestos supervisor is required to be on-site during the waste excavation to monitor waste materials and complete the required environmental monitoring. Past projects have been completed using an asbestos inspector which received approval from NDDEQ, and we anticipate this being the case for this excavation project as well and will fill those requirements with our proposed Junior Engineer (Sam Mauch).

Specific activities that will be performed during construction are as follows:

General

1. Observation of contractor progress and equipment on site
2. Communicate and coordinate project activities with the project manager, contractor and the City of Fargo
3. Complete environmental monitoring per Site Health and Safety Plan
4. Daily records detailing work completed
5. Keep a construction photograph log
6. Collect necessary soil samples, coordinate with testing laboratory
7. Work with surveyor to establish survey control and document as-built locations and grade
8. Document quantities
9. Document OSHA required safety meetings
10. Verify use of materials/equipment meeting CWSRF requirements

General Excavation, Embankment, Stockpiling

1. Ensure materials are properly handled when encountered; soils and wastes excavated and placed properly, excavation sideslopes maintained, minimum and maximum grades are constructed, field moisture density testing, etc.
2. Coordinate/complete field nuclear density tests to assure proper compaction.
3. Monitor construction to ensure proper grades are being met.
4. Coordinate survey documentation requirements with contractor's surveyor.
5. Coordinate with soils laboratory.
6. Ensure any leachate encountered is handled properly
7. Ensure surface water/stormwater inspections and monitoring are completed as required

Cell 21 Clay Barrier Placement

1. Complete field density and moisture content testing by nuclear methods to determine moisture content and densities of the clay liner.
2. Collect thin-wall Shelby tube samples for laboratory determination of permeability (testing to be completed by third party laboratory and paid directly by the City).
3. Collect bag samples of the clay liner for laboratory determination of Standard Proctor, Atterberg limits, grain size distribution, and USCS classification (testing to be completed by third party laboratory and paid directly by the City).
4. Coordinate the survey documentation requirements with contractor's surveyor.
5. Document the thickness of the clay layer.
6. Coordinate with soils laboratory.

60-mil HDPE Geomembrane Installation

1. Inventory and review of roll certifications.
2. Observe panel placement.
3. Monitor trial welds (startup weld).
4. Observe panel seaming.
5. Observe seam testing.
6. Observe geomembrane repairs.
7. Sample collection for destructive testing (testing to be completed by third party laboratory and paid by the City).
8. Compile test results of laboratory and field testing.

Granular Drainage Layer Installation

1. Provide observation of the installation of the granular drainage layer, to ensure there is no un-repaired damage to the HDPE liner.
2. Collect samples for laboratory determination of permeability, grain size distribution, and USCS classification (testing to be completed by third party laboratory and paid by the City).
3. Coordinate with soils laboratory.
4. Document the thickness of the granular drainage layer.
5. Coordinate survey documentation requirements with the contractors' surveyor.

Leachate Collection System Installation

1. Collect samples of the aggregate for grain size analysis (testing to be completed by third party laboratory and paid by the City).
2. Observe placement and document thickness of the aggregate.
3. Monitor and document HDPE pipe fusion and installation.
4. Monitor and document pumps and controls installation.
5. Monitor and document the electrical installation.
6. Monitor and document forcemain installation and connection to sanitary sewer.
7. Riser vault installation and associated piping.
8. Monitor, document installation of sanitary sewer system.

Stantec has planned for construction to span over two construction seasons and have assumed 14 weeks of construction in 2023 and 14 weeks in 2024 (28 weeks total construction). A field technician will be available for 50 hours per week during the construction periods. The asbestos inspector will be onsite/available during performance of waste excavation activities; a field technician may be used during completion of other project components.

It should be noted that current State rules require a certified asbestos supervisor be onsite during waste excavation projects but that the State has allowed use of a certified asbestos inspector for past projects at the Fargo Landfill and we are anticipating the same for this project.

PHASE 05 – Post Construction

Stantec will prepare a construction documentation report for this project, which includes key personnel, soil testing data, survey documentation, construction record drawings, photographs, and information collected during the construction. A narrative describing the construction sequence that summarizes the daily field notes will be included rather than the actual field notes. As-built drawings will consist of revised design drawings that have been marked with construction record details/modifications and not entirely redrafted. Stantec will be working with the contractor's surveyor for grade documentation and will rely on them to provide the necessary grade documentation that will be incorporated into the post construction documentation.

The documentation of the construction will be completed as the project progresses. This will allow a prompt submittal of the documentation report to NDDEQ, as well as the City. The documentation report will consist of:

1. Summary of construction noting any special circumstances or deviation from contract plans and specifications.
2. Summary of quality assurance testing and procedures.
3. Summary of environmental monitoring procedures and results.
4. Survey documentation.
5. Construction photos; and
6. Record drawings.
7. CWSRF project closeout requirements.
8. Final certification to NDDEQ

The report will contain a summary statement certifying the construction was performed per the approved plans, specifications, and permit. A professional engineer registered in North Dakota will sign the summary statement. Stantec will provide copies of the documentation report, for review and approval by NDDEQ regulators. Stantec assumes that four copies of the report will be sufficient.

A. Resident Project Representative (RPR) Services

The scope of services established in Paragraph 2 above includes RPR services, Exhibit D of the Agreement is expressly incorporated in this Task Order by reference.

B. Designing to a Construction Cost Limit

“Does not apply”

C. Other Services

Engineer shall also provide the following services:

None

D. All of the services included above comprise Basic Services for purposes of Engineer’s compensation under this Task Order.

3. Additional Services

A. Additional Services that may be authorized or necessary under this Task Order are:

None

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement and in Exhibit B, subject to the following:

5. Task Order Schedule

In addition to any schedule provisions provided elsewhere, the parties shall meet the following schedule:

Party	Action	Schedule
Engineer	Schedule design kick-off meeting	Within [5] days of notice to proceed
Engineer	Furnish [2] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	Within [20] days of Owner’s authorization to proceed
Owner	Submit comments regarding Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	Within [4] days of the receipt of Preliminary Design Phase documents, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables from Engineer.
Engineer	Furnish [2] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within [25] days of Owner’s receipt of comments on preliminary design submittal.
Owner	Submit comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Engineer.	Within [3] days of the receipt of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables from Engineer.

Engineer	Furnish [4] copies of the revised final Drawings and Specifications, assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, to Owner.	Within [5] days of the receipt of Owner's comments and instructions regarding the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables
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Note: "days" listed above are workdays

6. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Description of Service	Amount	Basis of Compensation
1. Basic Services		
a. Preliminary and Final Design Phase	\$ 37,422.40	Hourly
b. Bidding Assistance Phase	\$ 6,606.60	Hourly
c. Construction – Project Management Phase *	\$ 159,125.10	Hourly
d. Resident Project Representative Phase*	\$ 121,579.50	Hourly
e. Post-Construction Phase	\$8,801.10	Hourly
TOTAL COMPENSATION (lines 1.a-e)	\$ 333,534.70	

*Based on a 28-week construction period (14 weeks in 2023 and 14 weeks in 2024).

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C.

7. Consultants retained as of the Effective Date of the Task Order:

8. Other Modifications to Agreement and Exhibits:

None

9. Attachments:

Table 1 - Detailed hour and cost breakdown

10. Other Documents Incorporated by Reference:

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is February 23, 2023.

OWNER:

By:



Print Name: Scott Olson

Title: Solid Waste Utility Director

ENGINEER:

By:



Print Name: Randy L. Hanson

Title: Principal

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Scott Olson

Title: Solid Waste Utility Director

Address: 2301 8th Avenue N, Fargo ND 58102

E-Mail solson@fargond.gov

Address: _____

Phone: 701-241-1552

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Randy L. Hanson

Title: Principal

Address: 3303 Fiechtner Drive, Fargo ND 58103

E-Mail Randy.hanson@stantec.com

Address: _____

Phone: 701-297-9600

Table 1
Estimated Fees
Cell 21 Design CQA SW23-01
Design, Bidding Assistance, Construction Management and CQA Services
City of Fargo Landfill
Permit 260

Phase Task	Senior QC/QA	Project Manager	Project Engineer	Jr. Engineer	Field Technician (Intern)	Field Technician	CADD	Clerical	Labor Total	Expenses	Technology Fee 5%	Total
1 Design, Specifications, Bidding Assistance	Preliminary and Final Design		10	10	30		112	8				
	Technical Specifications (Including CWSRF items)	2	6	12	16		30	2	\$12,128	\$340.60	\$606.40	\$13,075.00
	Update Site Health and Safety Plan	1	2	4	6		2	4	\$6,074		\$303.70	\$6,377.70
	Construction Drawings	1	2	6	12		2	2	\$2,540		\$127.00	\$2,667.00
							80		\$14,574		\$728.70	\$15,302.70
											Subtotal	\$37,422.40
2 Bidding Assistance	1	4	12	18			5	2	\$6,292		\$314.60	\$6,606.60
3 Construction - Project Management	20	195	235	510					\$149,040	\$2,633.10	\$7,452.00	\$159,125.10
4 Resident Project Representative					800	600		20	\$114,480	\$1,375.50	\$5,724.00	\$121,579.50
5 Documentation Report	2	2	5	20	3	8	20	2	\$8,382		\$419.10	\$8,801.10
	Totals:	27	221	284	612	803	137	32	\$313,510	\$4,349.20	\$15,675.50	\$333,534.70
											TOTAL:	\$333,534.70

Note:
 Laboratory fees to be paid directly by the City
 Assumed 14 Week Construction Period in 2023 and 14 weeks in 2024
 - Field Technician 50 hrs/week for two 14 week periods (28 weeks total)
 - Intern utilized for 16 weeks and field technician utilized for 12 weeks
 Rounding used on labor & technology fees

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REPORT OF ACTION

UTILITY COMMITTEE

Project No. WA2158

Type: Regional Water Supply Lift Station
And Pipeline - Design

Location: 52nd Avenue South & Sheyenne River

Date of Hearing: 4/13/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/17/2023
Project File	

Dan Portlock, Water Utility Engineer, presented the attached memo regarding a proposed amendment to AE2S Task Order No. 12. The amendment is for additional engineering services to design Project WA2158, Fargo Emergency Water Supply Pump Station & Pipeline. If approved, the amendment will increase the task order by \$36,000 from \$448,720 to \$484,720. This project is located in a heavily congested area for underground utilities and needs significant coordination with 52nd Avenue construction that will replace the bridge across the Sheyenne River, which is an Engineering Department led project.


Project WA2158 is important for conveying Sheyenne River water to the Water Treatment Plant and for the Red River Valley Water Supply Project. The project is being funded through a State Revolving Fund (SRF) loan and is on the Water Utility 20-year Capital Improvement Plan.

MOTION:

On a motion by Ben Dow, seconded by Mark Miller, the Utility Committee voted to approve Amendment No.1 to AE2S Task Order #12 in the amount of \$36,000.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				X
				Proxy
Denise Kolpack, City Commissioner	X			
Terri Gayhart, Director of Finance				
Brian Ward, Water Plant Supt.				
Mark Miller, Wastewater Plant Supt.	X			
Bruce Grubb, Temp. Asst. City Administrator	X			
Scott Liudahl, City Forester	X			
James Hausauer, Water Recl. Utility Director	X			
Troy Hall, Water Utility Director	X			
Ben Dow, Public Works Operations Director	X			
Brenda Derrig, City Engineer	X	(Tom Knakmuhs)		
Dan Portlock, Water Utility Engineer	X			
Scott Olson, Solid Waste Utility Director	X			

ATTEST:


Troy B. Hall
Water Utility Director

C: Tim Mahoney, Mayor
Commissioner Strand
Commissioner Piepkorn
Commissioner Preston



Water Treatment Plant
435 14th Avenue South
Fargo, ND 58103
Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

MEMORANDUM
March 30th, 2023

To: Utility Committee

From: Dan Portlock, Water Utility Engineer *DLP*

Re: AE2S Task Order No. 12, Amendment No. 1 – Regional Emergency Water Supply Lift Station and Pipeline - Design

Attached, please find a proposed task order amendment in the amount of \$36,000 with AE2S for additional engineering design services related to the Regional Emergency Water Supply Lift Station and Pipeline. There were additional design hours spent on the project and are listed below.

Additional Services:

- Assess project design capacities and implications to the operation of the water conveyance system.
- Calculate hydraulic limitations and ability of the proposed and existing system components to operate within intended design parameters.
- Coordination with the designers of the 52nd ave. reconstruction project and with the City of Fargo.
- Design and prepare plans for the large diameter pipeline to be bid as either Reinforced Concrete pipe (RCP) or Hobas pipe.
- Coordination with the local electric utility to manage the primary electrical feed crossing the site and review project limitations.
- Adjust the design of the control structure to allow the 60-inch RCP to remain in operation during the construction work.

The original task order was for \$448,720, the proposed task order would total \$484,720.

Plan of Financing

This project is in the 20-year CIP and is an eligible project for using a State Revolving Fund (SRF) loan. The SRF loan funding is available and already approved for this specific project by the North Dakota Department of Environmental Quality (NDDEQ).

SUGGESTED MOTION:

Approve task order #1 amendment with AE2S in the amount of \$36,000 for the Regional Emergency Water Supply Lift Station and Pipeline - Design

Your consideration in this matter is greatly appreciated.

Amendment No. 1 To Water Consulting Task Order No. 12

In accordance with Exhibit K of the Agreement Between Owner and Engineer for Professional Water Consulting Services – Task Order Edition, dated January 1, 2021 (“Agreement”), Owner and Engineer agree to amend an existing Task Order as follows:

1. Background Data:

- a. Effective Date of Amendment: April 5, 2023
- b. Owner: City of Fargo (Water Utility)
- c. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- d. Engineer Project No.: P00803-2021-028

2. Description of Modifications

- a. Engineer shall perform the following Additional Services:
 - Assess project design capacities and implications to the operation of the water conveyance system.
 - Calculate hydraulic limitations and ability of the proposed and existing system components to operate within intended design parameters.
 - Coordination with the designers of the 52nd Ave reconstruction project and with the City of Fargo.
 - Design and prepare plans for the large diameter pipeline to be bid as either Reinforced Concrete Pipe (RCP) or Hobas pipe.
 - Coordination with the local electric utility to manage the primary electrical feed crossing the site and review project limitations.
 - Adjust the design of the control structure to allow the 60-inch RCP to remain in operation during construction work.
- b. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation: \$36,000

3. Task Order Summary (Reference only)

- a. Original Task Order amount: \$448,720
- b. Net change for prior amendments: \$0
- c. This amendment amount: \$36,000
- d. Adjusted Task Order amount: \$484,720

The foregoing Task Order Summary is for reference only and does not alter the terms of the Task Order, including those set forth in Exhibit C of the Agreement.



Water Treatment Plant
 435 14th Avenue South
 Fargo, ND 58103
 Office: 701.241.1469 | Fax: 701.241.8110
www.FargoND.gov

MEMORANDUM
 March 30th, 2023

To: Utility Committee

From: Dan Portlock, Water Utility Engineer *DP*

Re: AE2S Task Order No. 25 – Regional Emergency Water Supply Lift Station and Pipeline - Construction

Attached, please find a proposed task in the amount of \$642,200 with AE2S for construction services related to the Regional Emergency Water Supply Lift Station and Pipeline. The task order includes RPR and construction administration for the project. The breakdown of hours on the project are listed below.

Phase	Task Number and Task Name	Payment Method	Estimated Hours	Amount
060	Construction Administration Services	Method A		
	01 Project Management		180	\$43,450
	02 Construction Administration		1,137	\$245,900
061	Construction Field Services	Method B		
	01 Construction Field Services*		1,730	\$330,900
	02 Survey and Project Control		87	\$21,950
Total			3,134	\$642,200

* The construction period for the Fargo Regional Water Supply Lift Station and Pipeline extends through September 2024. Construction Field Services fee covers professional services through December 2023. Additional services related to construction, project closeout, and instrumentation and controls in 2024 will be addressed in future task orders.

There are three major components in this project:

1. Installation of 3 high capacity pumps to transfer water from the Sheyenne River into Drain 27 that flows into the Red River.
2. The pump station has 3 expandable pump slots as the City of Fargo grows.
3. Replacing a small section of the Sheyenne pipeline with a history of breaks.

Plan of Financing

This project is in the 20-year CIP and is an eligible project for using a State Revolving Fund (SRF) loan. The SRF loan funding is available and already approved for this specific project by the North Dakota Department of Environmental Quality (NDDEQ).

SUGGESTED MOTION:

Approve task order #25 with AE2S in the amount of \$642,200 for the Regional Emergency Water Supply Lift Station and Pipeline.

Your consideration in this matter is greatly appreciated.

This is Water Consulting Task Order No. 25, consisting of 3 pages.

Water Consulting Task Order No. 25

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated January 1, 2021 ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- A. Effective Task Order Date: April 5, 2023
- B. Owner: City of Fargo (Water Utility)
- C. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)
- D. Engineer Project No.: P00803-2021-028
- E. Specific Project (title): Regional Emergency Water Supply Lift Station and Pipeline – Construction

F. Specific Project (description):

Project includes construction phase services for the Regional Emergency Water Supply Lift Station and Pipeline project. The project components include a connection to the existing Sheyenne River intake pipeline with a control structure, a large diameter pipeline routed to a new lift station consisting of low head, high flow vertical turbine pumps with provisions for future capacity expansion, a lift station discharge manifold with valves and fittings, a flow meter vault, a large diameter discharge pipe routed to a storm water pond, an outfall structure, and other ancillary improvements.

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are detailed in Attachment 1 and include the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference

- Construction Phase Services (Exhibit A, Paragraph A1.05)
 - including Resident Project Representative (RPR) services (A1.05.A.2)

B. Resident Project Representative (RPR) Services:

The scope of services for this Task Order includes RPR services and Exhibit D of the Agreement is expressly incorporated in this Task Order by reference.

- C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2, Exhibit B of the Agreement.

4. Task Order Schedule

In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following approximate schedule:

- Task Order approval – April 5, 2023
- Construction Services for TO 25 – March 2023 through December 2023

5. Payments to Engineer

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

<i>Phase</i>	<i>Task Number and Task Name</i>	<i>Payment Method</i>	<i>Estimated Hours</i>	<i>Amount</i>
060	Construction Administration Services	<i>Method A</i>		
	01 Project Management		180	\$43,450
	02 Construction Administration		1,137	\$245,900
061	Construction Field Services	<i>Method B</i>		
	01 Construction Field Services*		1,730	\$330,900
	02 Survey and Project Control		87	\$21,950
Total			3,134	\$642,200

* The construction period for the Fargo Regional Water Supply Lift Station and Pipeline extends through September 2024. Construction Field Services fee covers professional services through December 2023. Additional services related to construction, project closeout, and instrumentation and controls in 2024 will be addressed in future task orders.

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer’s labor, overhead, profit, reimbursable expenses (if any), and Consultants’ charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C, where Method A is a Lump Sum payment and Method B is payment for Standard Hourly Rates.

6. Consultants retained as of the Effective Date of the Task Order: None.

7. Other Modifications to Agreement and Exhibits: None.

8. Attachments:

Attachment 1 – Scope of Services for Task Order No. 25

9. Other Documents Incorporated by Reference: None.

10. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is April 5, 2023.

OWNER: City of Fargo (Water Utility)

ENGINEER: Advanced Engineering and Environmental Services, LLC (AE2S)

By: _____

By:  _____

Name: Troy B. Hall

Name: Lisa Ansley, PE

Title: Water Utility Director

Title: Chief Operating Officer

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Dan Portlock, PE

Name: Richard Wagner, PE

Title: Water Utility Engineer

Title: Senior Project Manager

Address: 435 14th Ave S
Fargo, ND 58103

Address: 4170 28th Ave S
Fargo, ND 58104

E-Mail Address: DPortlock@FargoND.gov

E-Mail Address: Richard.Wagner@AE2S.com

Phone: (701) 476 - 6799

Phone: (701) 364 - 9111

This is Attachment 1 to Water Consulting Task Order No. 25 consisting of 2 pages.

Attachment 1 to Water Consulting Task Order No. 25

Regional Emergency Water Supply Lift Station and Pipeline – Construction

April 5, 2023

Scope of Services

The Project entails the construction of regional emergency water supply infrastructure to convey water from the Sheyenne River to the Fargo Water Treatment Plant by means of overland conveyance. This Scope of Services provides for the Construction Phase services to support the construction of the connection to the existing Sheyenne River intake pipeline with a diversion structure, a large diameter pipeline routed to a new lift station consisting of low head, high flow vertical turbine pumps with provisions for future capacity expansion, a lift station discharge manifold with valves and fittings, a flow meter vault, a discharge pipe routed to a storm water pond, an energy dissipation outfall structure, and other ancillary improvements. The following is a detailed breakdown of this Scope of Services to Water Consulting Task Order No. 25.

Phase 060 – Construction Administration Services

In accordance with Paragraphs A1.05 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Construction Phase services under Water Consulting Task Order No. 25:

Task 01 – Project Management

ENGINEER shall perform general Project management activities including progress monitoring, scheduling, general correspondence, office administration, and invoicing. These activities include maintaining contact and liaison with the OWNER and Project staff; providing OWNER with monthly Project financial status updates; ensuring that the needs of the OWNER are met in a timely manner, and monitoring Project budgets and schedules.

Task 02 – Construction Administration

ENGINEER shall perform general project administration activities for two prime Contractors in accordance with Paragraph A1.05 of Exhibit A of the Original Task Order Agreement including:

- General project coordination and correspondence with Owner and Contractors;
- Facilitation of project meetings, which are anticipated to consist of:
 - Preconstruction meeting
 - Construction progress meetings
 - Specialty construction coordination meetings
- Review and approval of shop drawings;
- Review of applications for payment submitted by each Contractor;
- Review and response to requests for information (RFIs);
- Prepare and issue work change directives;
- Change order review and subsequent acceptance or rejection; and
- Solicit and coordinate with Construction Material Testing providers.

- Perform construction administration activities associated with the Drinking Water State Revolving Fund (DWSRF) program requirements including the following:
 - Certified payroll review;
 - DWSRF project documentation for reimbursement requests;
 - Davis-Bacon Wage interviews;
 - American Iron and Steel (AIS) submittal review; and
 - Facilitation of the NDDEQ interim construction inspections/walkthroughs.

Phase 061 – Construction Field Services

In accordance with Paragraphs A1.05 and A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Post-Construction and Commissioning Phase services under Water Consulting Task Order No. 25:

Task 01 – Construction Field Services

In accordance with Exhibit D of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following additional Resident Project Representative (RPR) services under Water Consulting Task Order No. 25:

ENGINEER shall provide on-site observation services of a Resident Project Representative (RPR) to observe and document construction activities in accordance with Exhibit D of the Original Task Order Agreement. The significant construction work is anticipated to occur from May 1, 2023 through December 31, 2023 resulting in approximately 9 months of construction activity. ENGINEER shall provide part-time RPR services when the contractor is onsite performing the work based on the following approach:

- Provide part-time RPR services to observe and document the contractor’s work, averaging 32 hours per week (months noted above) for construction in 2023;
- Provide part-time Senior Consultant services to observe and document the contractor’s work, averaging 5 hours per week (months noted above) for construction in 2023;
- Provide part-time RPR services to observe and document key electrical construction activities;
- Provide part-time RPR services to observe and document key structural construction activities and concrete pours; and
- Facilitate onsite weekly construction progress meetings to be attended by key representatives of the Owner and Contractors.

Task 02 – Survey and Project Control

ENGINEER shall provide initial construction survey including the following:

- One time staking of reference points that will guide the construction of new structures with re-staking of reference points to be paid for as additional services not covered under this scope of service;
- Verifying the location of structures during construction; and
- Collect limited survey data at the end of the project to be used in the creation of as-builts.

REPORT OF ACTION
UTILITY COMMITTEE

34

Project No. WA2005

Type: Change Order -
Red River Pump Station

Location: Water Treatment Plant Campus

Date of Hearing: 4/13/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/13/2023
Project File	

Dan Portlock, Water Utility Engineer, presented the attached AE2S letter and change order form for Project WA2005, Red River Pump Station Improvements. If approved, this change order will be a cost reduction of \$30,812.88 and a time extension. This is the only General Construction change order for the project. The final contract cost will be \$3,388,187.12. Project WA2005 improved raw water pumping capacity to the Water Treatment Plant and will help flood protect equipment and the local neighborhood. The project was mostly paid through grant funding sources, including a FEMA grant for flood protection and a Regionalization grant through the North Dakota State Water Commission. The remainder of the project was paid with Infrastructure Sales Tax (Fund 450) and F-M Diversion funds.

MOTION:

On a motion by Bruce Grubb, seconded by Scott Olson, the Utility Committee voted to approve the change order with CC Steel, Inc. for Project WA2005 resulting in a cost reduction of \$30,812.88 and project time extension.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Denise Kolpack, City Commissioner	X			
Terri Gayhart, Director of Finance				
Brian Ward, Water Plant Supt.				
Mark Miller, Wastewater Plant Supt.	X			
Bruce Grubb, Temp. Asst. City Administrator	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Retired Waste Utility Director	X			
James Hausauer, Wastewater Util. Director	X			
Troy Hall, Water Utility Director	X			
Ben Dow, Public Works Operations Director	X			
Brenda Derrig, City Engineer	X	(Tom Knakmuhs)		
Dan Portlock, Water Utility Engineer	X			
Scott Olson, Solid Waste Utility Director	X			

ATTEST:



 Troy B. Hall
 Water Utility Director

C: Tim Mahoney, Mayor
Commissioner Strand
Commissioner Piepkorn
Commissioner Preston

MEMORANDUM
February 23, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director

Re: Project WA2005 Final Balancing Change Order - Red River Pump Station

Attached, please find Change Order No. 1 for Contract No. 1 (General Construction) for Project WA2005, Red River Pump Station Improvements. This is the only Contract No. 1 change order for the project. The flood protection portion of this project was a team effort between the Engineering Department and the Water Utility. The proposed change order has a total cost decrease of \$30,812.88 and a time extension to May 1, 2023. With approval, Project WA2005 can be closed out and the total percent change orders under Contract No. 1 is a decrease of 0.9 percent. The new Contract No. 1 cost will be \$3,388,187.12, if approved.

The attached AE2S documentation provides a description and cost of each individual item under this change order with CC Steel, Inc (CC Steel). CC Steel was able to find more efficient methods to complete some construction work and other changes in project scope were negotiated. The funding for Project WA2005 is discussed below and has been complicated, involving a FEMA grant, State Water Commission grant, F-M Diversion funding, and Water Infrastructure Sales Tax (Fund 450).



New elevated pumping floor of the Red River Pump Station for flood protection of equipment. The pumping capacity was increased to match the current Water Treatment Plant capacity with the addition of the Membrane Water Treatment Plant.

Project WA2005 has been an excellent project in remedying several operational and flood protection issues, the overall project involved:

- Flood Protection with FEMA grant funding
- Capacity Improvements with State Water Commission cost-share (grant) funding
- Zebra Mussel Mitigation Infrastructure
- Air Burst Equipment Installation to remove ice from intake screens.
- Other Miscellaneous Operations & Maintenance Improvements

Plan of Financing

This project was in the 20-year CIP and Financial Model for the Water Utility and in the Water Utility budget. Funding for Project WA2005 is complex, having a flood protection component with grant funding and a capacity component with other grant funding. The following are funding components for the project:

- FEMA 75% Grant for Flood Protection: up to \$3.565 million
- Flood Protection Local-Share: Diversion Authority to pay remaining 25% not FEMA covered
- SWC 60%/40% Cost-share funding for Capacity Improvements (needed to be used by June 30, 2021. Pumps and valves pre-ordered for the project which helped fully utilize the SWC grant.
- Capacity Improvements Local-Share: Infrastructure Sales Tax (Fund 450)
- Infrastructure Sales Tax (Fund 450) to fund zebra mussel mitigation, air burst system for ice removal, and other miscellaneous project components.

SUGGESTED MOTION:

Approve Change Order No. 1 under Contract No. 1 with CC Steel, Inc. for a cost reduction of \$30,812.88 and time extension to May 1, 2023 for Project WA2005.



February 27, 2023

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

**Re: Change Order No. 1 to Contract No. 1 – General Construction
Fargo Red River Pump Station Improvements
City of Fargo Project #WA2005**

Dear Mr. Hall:

Enclosed please find **Change Order No. 1 to Contract No. 1**. The Change Order pertains to the following changes to the project:

Change Order No. 1 to Contract No. 1 – General Construction

1. **Work Change Directive No. 01 – Work Change Directive No. 11:** Several changes to the project were made throughout the course of construction, all work change directives have been attached to this change order for reference.
 - a. *Net Deduct of \$2,622.40.*
2. **Addition of 4” Gate Valve:** It was determined that a 4-inch sanitary sewer gate valve and valve box were needed, as this particular sanitary sewer line goes through the floodwall and the valve will be needed in the event of a flood.
 - a. *Adder of \$1,633.52.*
3. **Additional Pump Vibration Testing:** Additional vibration testing for all pumps, outside of what was stipulated in the contract documents, was necessary for pump operations. Great Plains Technical performed this testing.
 - a. *Adder of \$2,828.00.*
4. **Additional Pump Installation Labor:** Due to new pumps and refurbished pumps shipping in more parts than originally anticipated, more labor was required to assemble all pumps. Additionally, due to a delay in the pump column extensions for the small pumps, extra assembly and disassembly took place.
 - a. *Adder of \$6,868.00.*
5. **Adjustment for Drilled Shaft Linear Footage:** The original bid price for helical drilling included \$140,400.00 for drilling above glacial till, and \$16,920.00 into glacial till, for a combined \$157,320.00. The actual cost for drilling was \$136,800.00 for drilling above glacial till and \$21,600.00 for drilling into glacial till, for a combined \$158,400.00.



- a. *Adder of \$1,080.00.*

- 6. **Adjustment for Diver Days Used:** This is a contract price adjustment associated with the number of diver days stipulated in the original bid versus the number of diver days actually utilized.
 - a. *Deduct of \$40,600.00.*

- 7. **Adjustment to Final Completion Date:** This is a no-cost adjustment to the final completion date. The new completion date is May 1, 2023.
 - a. *No cost change.*

Contract No. 1 Change Order Amount: -\$30,812.88.

Upon the City of Fargo's acceptance of **Change Order No. 1 to Contract No. 1**, please sign and date each respective form. Please return a scanned copy of the formal change order forms containing all signatures to AE2S. AE2S will forward the signed copies to the contractors and will retain a copy for our records. Please contact me if you have any questions or need additional information.

Sincerely,

AE2S

A handwritten signature in blue ink that reads "Ryan Grubb".

Ryan Grubb, PE
Operations Manager

Attachments

Approved by Funding Agency (if applicable)

By: _____

Date:

Title: _____

35

REPORT OF ACTION

UTILITY COMMITTEE

Project No. WA1863

Type: Change Order -
Ultraviolet Installation
Pre-Treatment Rehab

Location: 1997 Lime Softening Water Treatment Plant

Date of Hearing: 4/13/2023

<u>Routing</u>	<u>Date</u>
City Commission	4/17/2023
Project File	


Troy Hall, Water Utility Director, presented the attached AE2S letter and change order form for Project WA1863, Fargo LSWTP Pretreatment and Crypto Compliance Improvements. If approved, this change order will be a cost Increase of \$109,660 and a time extension. This is Change Order No. 3 under General Construction and is the final balancing change order for the project. Among other smaller changes, a heating system for sodium hydroxide tanks and specialty solenoid valves for emergency shutdown of an Ultraviolet (UV) system were the larger cost items. The final contract cost will be \$3,637,112. Overall project change order cost for General Construction will be an increase of 6.1 percent. Project WA2012 rehabilitated the whole Pre-Treatment process in the 1997 Lime Softening Water Treatment Plant and installed a new Ultraviolet (UV) disinfection system. A low-interest State Revolving Fund (SRF) loan is being used to pay for the project.

MOTION:

On a motion by Jim Hausauer, seconded by Tom Knakmuhs, the Utility Committee voted to approve the change order with CC Steel, Inc. for Project WA1863 resulting in a cost increase of \$109,660 and project time extension.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				X
				Proxy
Denise Kolpack, City Commissioner	X			
Terri Gayhart, Director of Finance				
Brian Ward, Water Plant Supt.				
Mark Miller, Wastewater Plant Supt.	X			
Bruce Grubb, Temp. Asst. City Administrator	X			
Scott Liudahl, City Forester	X			
Terry Ludlum, Retired Waste Utility Director	X			
James Hausauer, Wastewater Util. Director	X			
Troy Hall, Water Utility Director	X			
Ben Dow, Public Works Operations Director	X			
Brenda Derrig, City Engineer	X	(Tom Knakmuhs)		
Dan Portlock, Water Utility Engineer	X			
Scott Olson, Solid Waste Utility Director	X			

ATTEST:



Troy B. Hall
Water Utility Director

C: Tim Mahoney, Mayor
Commissioner Strand
Commissioner Piepkorn
Commissioner Preston

MEMORANDUM
 February 27, 2023

To: Utility Committee

From: Troy B. Hall, Water Utility Director *TBH*

Re: WA1863 Final Balancing Change Order – Crypto Compliance/Pre-treatment Rehab

Attached, please find Change Order No. 3 for Contract No. 1 (General Construction) for Project WA1863, Crypto Compliance/Pre-treatment Rehab. This change order has a total cost increase of \$109,660 and a time extension to April 1, 2023. With approval, Project WA1863 can be closed out for Contract No. 1 with the total percent change orders under this contract at 6.1 percent. The new price for Contract No. 1 will be \$3,637,112, if the change order is approved.

The primary changes with significant added cost were specialty solenoid valves for cooling the Ultraviolet (UV) reactor under emergency shutdown conditions and changes in sodium hydroxide tank heater specifications from those originally scoped. The sodium hydroxide used for water treatment process pH adjustments freezes to a solid at about 55° F. Thus, the tank heaters are critical equipment in winter operation. The attached AE2S documentation provides a description and cost of each individual item under this change order.



Picture of Ultraviolet (UV) Reactors and flow meters installed with Project WA1863. This is a completely new disinfection system for the 1997 Lime Softening Water Treatment Plant. (Picture by Marisha Lunde)

The new Ultraviolet (UV) treatment system was added to the 1997 Lime Softening Water Treatment Plant as an added disinfection system. The UV system should be fully operational by this coming summer. Staff training, spare parts inventory, and defining regulatory operational parameters, and minor control system changes are all that remains. The LSWTP pre-treatment

process was also rehabilitated under Project WA1863. It saved costs to combine two projects together with construction occurring in the same area of the LSWTP.

Plan of Financing

This project has been funded with a low-interest SRF loan that has already been approved. This project was in the Water Utility Capital Improvement Plan (CIP) and Financial Model. By combining two projects under one (1) construction bid, using existing floor space (not a new building), and receiving good bids, this project has been completed at about \$1.2 million dollars below planning level estimates.

SUGGESTED MOTION:

Approve Work Change Order No. 3 under Contract No. 1 (General Construction) as a cost increase of \$109,660 and time extension with CC Steel, Inc. for Project WA1863, Crypto Compliance/Pre-treatment Rehab.

Your consideration in this matter is greatly appreciated.



February 27, 2023

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

**Re: Change Order No. 3 to Contract No. 1 – General Construction
Fargo LSWTP Pretreatment and Crypto Compliance Improvements
City of Fargo Project #WA1863**

Dear Mr. Hall:

Enclosed please find **Change Order No. 3 to Contract No. 1**. The Change Order pertains to the following changes to the project:

Change Order No. 3 to Contract No. 1 – General Construction

1. **Additional Materials for RO Carrier Water Piping:** During construction, WTP staff and CC Steel worked closely together to determine the best piping route for the new RO carrier water line. This item is a materials only cost for the added piping, valves, and associated appurtenances.
 - a. *Adder of \$5,911.35.*
2. **Additional Floor Grating Fabrication:** This item captures the additional labor for Midwest Ironworks to modify the floor grating around the new UV piping and the transfer pump piping.
 - a. *Adder of \$1,629.75.*
3. **Additional Coatings:** Due to the modification of the sheetrock wall being converted to a masonry block wall, additional coatings were required in the new chemical rooms.
 - a. *Adder of \$3,237.55.*
4. **Added Solenoid Valves for UV Cooling Water System:** Just before UV start-up was set to begin, it was discovered there were several missing solenoid valves required to operate the UV cooling water system. This encompasses the cost for 12 (9 needed + 3 spare) new solenoid valves, as well as labor to install the valves and route the UV cooling water piping.
 - a. *Adder of \$56,646.50.*
5. **Upgraded Sodium Hydroxide Heaters:** The original heaters the chemical system supplier intended to provide were not sufficient for intended use. This cost includes the



new, preferred sodium hydroxide heaters and labor, less the cost from the original bid price.

a. *Adder of \$42,234.85.*

6. **Adjustment to Final Completion Date:** This is a no-cost adjustment to the final completion date. The new completion date is April 1, 2023.

a. *No cost change.*

Contract No. 1 Change Order Amount: \$109,660.00.

Upon the City of Fargo's acceptance of **Change Order No. 3 to Contract No. 1**, please sign and date each respective form. Please return a scanned copy of the formal change order forms containing all signatures to AE2S. AE2S will forward the signed copies to the contractors and will retain a copy for our records. Please contact me if you have any questions or need additional information.

Sincerely,

AE2S

A handwritten signature in blue ink that reads 'Ryan Grubb'.

Ryan Grubb, PE
Operations Manager

Attachments

Date of Issuance: 02/27/2023	Effective Date: 02/27/2023
Owner: City of Fargo	Owner's Contract No.: WA1863
Contractor: CC Steel	Contractor's Project No.:
Engineer: AE2S / B&V	Engineer's Project No.: P00803-2018-021
Project: Fargo LSWTP Pretreatment and Crypto Compliance Improvements	Contract Name: Contract No. 1 – General Construction

The Contract is modified as follows upon execution of this Change Order:

Description: Change order number 3 encompasses the following items: 1) additional materials needed for the RO carrier water piping, 2) additional work from Midwest Ironworks to modify floor grating, 3) cost for new coating required on the masonry block wall in the chemical rooms, 4) UV solenoid valves needed and labor associated with the cooling water system, 5) cost to upgrade the sodium hydroxide heaters to a suitable product, and 6) a no-cost change to the final completion date.

Attachments: Invoices from Core & Main, Midwest Ironworks, Sherwin Williams, and Chromalox.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>3,427,000.00</u>	Original Contract Times: Substantial Completion: <u>October 30, 2021</u> Ready for Final Payment: <u>December 30, 2021</u> days or dates
[Increase] [Decrease] from previously approved Change Order No. <u>1</u> and No. <u>2</u> : \$ <u>100,452.00</u>	[Increase] [Decrease] from previously approved Change Order No. <u>1</u> : Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>February 14, 2022</u> days
Contract Price prior to this Change Order: \$ <u>3,527,452.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>May 2, 2022</u> days or dates
[Increase] [Decrease] of this Change Order: \$ <u>109,660.00</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>No Change</u> Ready for Final Payment: <u>April 1, 2023</u> days or dates
Contract Price incorporating this Change Order: \$ <u>3,637,112.00</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>December 15, 2021</u> Ready for Final Payment: <u>April 1, 2023</u> days or dates

<p>RECOMMENDED:</p> <p>By: <u></u> Engineer (if required)</p> <p>Title: <u>Project Manager</u></p> <p>Date: <u>2-27-23</u></p>	<p>ACCEPTED:</p> <p>By: _____ Owner (Authorized Signature)</p> <p>Title: _____</p> <p>Dat: _____</p>	<p>ACCEPTED:</p> <p>By: _____ Contractor (Authorized Signature)</p> <p>Title: _____</p> <p>Dat: _____</p>
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Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

LSWTP Closeout CO Summary

Job: Fargo LSWTP Pretreatment and Crypto Compliance Improvements
Fargo, ND
Engineer: AE2S
Contractor: CC Steel, LLC

Item 1

Core + Main additional materials

Materials:	Q173433 - Add'l bends, tees, valves, etc.	4,033.43	
	Q480067 - Add'l tees, flanges	515.08	
	Q675902 - Add'l 6" DWV	470.45	
	Q864321 - Add'l PVC Cement / Primer	77.03	
Subtotal			5,095.99
	GC Overhead and Margin on materials only 15%		764.40
	GC Bonding 1%		50.96
Item 1 Change Order			5,911.35

Item 2

Midwest Ironworks - additional fabricate bar grating

Subcontractor:	Midwest Ironworks	1,537.50	
Subtotal			1,537.50
	GC Overhead and Margin on subcontractors only 5%		76.88
	GC Bonding 1%		15.38
Item 2 Change Order			1,629.75

Item 3

Sherwin Williams Coatings - material. Planset originally called for a sheetrocked wall, coated instead. This change is for the additional coatings on the block.

Materials:	Sherwin Williams (less return - see invoice)	2,790.99	
Subtotal			2,790.99
	GC Overhead and Margin on materials only 15%		418.65
	GC Bonding 1%		27.91
Item 3 Change Order			3,237.55

Item 4

Core + Main Solenoid Valves + Installation Labor

Materials:	Core + Main - Solenoids	37,862.50	
Labor:	120 Hours @ \$105.00	12,600.00	
Subtotal			50,462.50
	GC Overhead and Margin on materials only 15%		5,679.38
	GC Bonding 1%		504.63
Item 4 Change Order			56,646.50

Item 5

Chromalox Heaters - see attached PO

Materials:	Chromalox PO 2207R + 7.5% Tax	44,111.34	
	Freight - additional freight cost will be incurred in final invoice	52.11	
Labor:	3 Hours @ \$105.00	<u>525.00</u>	
Subtotal			44,688.45
	GC Overhead and Margin on materials only 15%		6,624.52
	GC Bonding 1%		<u>446.88</u>
Item 5 Total			<u>51,759.85</u>
	Less: deduct for Harrington pricing		<u>9,525.00</u>
Item 5 Change Order			<u>42,234.85</u>

Total Proposed Change Oder

Item 1	5,911.35
Item 2	1,629.75
Item 3	3,237.55
Item 4	56,646.50
Item 5	<u>42,234.85</u>
Total	<u>109,659.99</u>