

FARGO CITY COMMISSION AGENDA

Monday, August 9, 2021 - 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, July 26, 2021 and Special Meeting, July 27, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. Findings, Conclusions and Order of the Board of City Commissioners of the City of Fargo regarding the License Suspension of the International African Restaurant and Nightclub, LLC.
- 2. Draft “Spirit of the Sandbagger” Artwork Donation Agreement with the Fargo Lions Club, subject to further negotiations and provisions by the parties.
- 3. Applications for Games of Chance:
 - a. Brooks Theisen Benefit for a raffle on 9/18/21; Public Spirited Resolution.
 - b. Sts. Anne and Joachim Catholic Church for a raffle on 11/14/21.
 - c. YWCA Cass Clay for a raffle on 9/2/21.
- 4. Doyle’s Yellow Checker Cab, Inc. rate change.
- 5. Pledged securities as of 6/30/21.
- 6. Milestone No. 3 (Change Order No. 1) for a time extension to remove construction of the earthen levee from the 60 calendar day timeframe.
- 7. Payment to Xcel Energy in the amount of \$64,620.78 for the installation of three phase power and a transformer for the new storm sewer lift station.
- 8. Encroachment Agreement with Urban Crossing Apartments, LLP.
- 9. Purchase Agreement, Easement (Temporary Construction Easement), Permanent Easement (Levee for Flood Control), License Agreement and Declaration of Restrictive Covenant with Richard Robert Jordahl and Leanne Jordahl (Project No. FM-19-A).
- 10. Eighth Amended Lease Agreement with North Dakota State University.
- 11. State Water Commission request for cost reimbursement for the FM Metro Area Flood Risk Management Project for costs totaling \$5,862,311.78.
- 12. Agreement for Services with AE2S Communications to expand the “EveryBody” Campaign.

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13. Notice of Grant Award - Restricted Funding with the ND Department of Environmental Quality for public water supply supervision program-EPA Block (CFDA #66.605).
 14. Community Faculty Contract (Hospital/Clinic with Single Contract) with University of North Dakota School of Medicine and Health Sciences.
 15. Resolution Approving Plat of Peterson Addition.
 16. Application for Appropriation from Civil Asset Forfeiture Fund to purchase a 1-year software and maintenance agreement from Leica Geosystems.
 17. Amendment No. 1 to the Energy Conservation Program Grant Agreement with the ND Department of Commerce for Energy Conservation Grant funds for the Police Headquarters Project (RFP20064).
 18. Direct the City Forester to work with the City Attorney to revise the recommended Ordinances to conform with the Tree Ordinance Task Force's recommendations.
 19. Bid award for hardware/software/time/support for the east landfill scale house Project No. SW 20-01.
 20. Bid award for Project No. SW 21-02.
 21. Bid award for Project No. WA2055.
 22. Bills.
 23. Preliminary Engineering Reimbursement Agreement with the ND Department of Transportation (Improvement District No. BR-23-A1).
 24. Change Order No. 2 for an increase in the amount of \$80,337.92 for Improvement District No. PR-21-G1.
 25. Create Improvement District Nos. BN-21-E and BN-21-L.

REGULAR AGENDA:

26. **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).**
27. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
 - a. Application for a Class "GH" Alcoholic Beverage License for Youngblood Coffee Roasters d/b/a Youngblood Coffee to be located at 623 2nd Avenue North; continued from the 7/26/21 Regular Meeting.
 - b. Application for a Class "A-Club" Alcoholic Beverage License for Touchmark at Harwood Groves, LLC d/b/a Touchmark at Harwood Groves to be located at 1200 Harwood Drive South; continued from the 7/26/21 Regular Meeting.
 - c. Special Assessment of nuisance abatement fees.

- d. Hearing on a dangerous building located at 711 10th Avenue North.
 - e. Growth Plan Amendment on Parts of Section 3, 4, 10, 15 and 16, and all of Section 9, Township 138 North, Range 49 West of the Fifth Principal Meridian; approval recommended by the Planning Commission on 7/6/21.
- 28. COVID-19 Update.
 - 29. Update on Mobile Food Trucks.
 - 30. Update from the Inspections Director on 717 3rd Avenue North (Beebe house).
 - 31. Applications for property tax exemptions for improvements made to buildings:
 - a. Christopher and Maureen Moan, 2613 25th Avenue South (3 year).
 - b. Paul and Elizabeth Bervik, 1510 10th Street South (5 year).
 - c. Dean and Beverly Marsh, 1406 14th Street South (5 year).
 - d. Bonnie Nelson, 29 Fremont Drive South (5 year).
 - 32. Recommendation to approve the Mayor's 2022 Preliminary Budget and set the Public Hearing date for Tuesday, September 7, 2021 at 5:15 p.m.
 - 33. Recommendation for appointment of Inspections Director/Building Official.
 - 34. Recommendation for appointment to the Native American Commission.
 - 35. Review of the Fargo City Commission Code of Conduct.

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.

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

August 5, 2021

Board of City Commissioners
City Hall
225 4th St. N.
Fargo, ND 58102

Dear Mayor and Commissioners,

Presented for your consideration and approval are Findings, Conclusion and Order regarding the proceedings pertaining to the International African Restaurant and Nightclub, LLC. The Order mirrors the motion unanimously approved on July 27, 2021, as reflected in the minutes of such special hearing. I understand that the license application has now been completed and submitted to the appropriate personnel for investigation, at which time the matter will be presented to the Liquor Control Board and City Commission for further consideration. The motion provided that the license shall remain suspended until the reapplication is approved by both the Liquor Control Board and board of city commissioners.

SUGGESTED MOTION: I move to approve and adopt the Findings, Conclusion and Order pertaining to the License Suspension of the International African Restaurant and Nightclub, LLC and authorize the Mayor to execute the same.

Please feel free to contact me if you have any questions, comments or concerns.

Regards,


Nancy J. Morris

Enclosure

Cc: Steve Sprague
David Zibolski

**Findings, Conclusions and Order of the Board of City Commissioners of the city of Fargo
regarding the License Suspension of the International African Restaurant and Nightclub,
LLC**

A hearing was held before the board of city commissioners on July 27, 2021 at 11:30 a.m. regarding the Class A license held by the International African Restaurant and Nightclub, LLC. Mballu Brown and Corey Schultz are identified as owners of the LLC and are the licensees in this proceeding. They have designated Mr. Daniel Kwame Omane as their representative, and signed a statement delegating authority to Mr. Omane to act on their behalf. Following Notice of Hearing Admission signed by Ms. Brown and Mr. Schultz for hearing on August 4, 2021, Mr. Omane requested an expedited hearing, which resulted in the scheduling of the hearing on July 27, 2021. Owner Mballu Brown was in attendance. Owner Corey Schultz did not attend. Neither provided any testimony to the board of city commissioners at the hearing.

Procedural Background

The matter of the International African Restaurant and Nightclub was presented to the Liquor Control Board ("LCB") on June 29, 2021. The newly constituted LCB found a violation of Fargo Municipal Code § 25-1512 (B):

- B. The commission may, in its discretion, suspend or revoke for cause any license issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
1. The licensee has filed a petition in bankruptcy.
 2. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this article.
 3. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
 4. The business of the licensee, at the location licensed, is conducted in such a manner as to be in violation of the health and sanitary regulations of the city of Fargo.
 5. The licensee has made any false statement in his application for a license.
 6. The licensee conducts his business in a manner which results in, encourages or is conducive to the creation of disturbances of the peace, disorderly conduct or any other violations of federal, state and/or city laws.

The LCB recommended a 60 days suspension following the presentation of the evidence by Police Chief Zibolski. International African Restaurant and Nightclub, LLC received email and regular mail notice of the hearing before the LCB. Attorney Steven Baird appeared on the licensee's behalf and presented testimony.

The board of city commissioners held a meeting on July 1, 2021 and determined cause existed for the immediate interim suspension of license pending further hearing. Notice of such meeting was provided the licensee, and Steven Baird again appeared. However, rather than making an appearance as counsel he identified himself as the General Manager, replacing Francis Brown in that capacity. Mr. Baird again presented testimony to the board of city commissioners in his capacity as General Manager.

Hearing on Interim Suspension

Steve Sprague, City Auditor, presented evidence pertaining to the status of the initial license application and provided the board of city commissioners a document in which Francis Brown indicated he was relinquishing any ownership interest in the LLC in favor of his spouse, Mballu Brown, and further that he would not be the manager of the establishment.

Fargo Police Chief David Zibolski, Officer Lachlan Vaira and Detective Troy Hanson presented information and testimony to the board of city commissioners re-iterating that presented at the LCB meeting on June 29, 2021, and the board of city commissioners on July 1, 2021. Police Chief Zibolski corrected an inaccurate statement from his earlier presentations involving the connection between a party bus incident and the licensee.

Mr. Daniel Kwame Omane presented information and testimony in response, and further argued that the evidence did not support a suspension of the license, that others were not treated similarly, and that he will be the new General Manager upon license restoration.

The city commission, having previously found cause to exist to suspend the license pursuant to Fargo Municipal Code §25-1512 (B)(6), confirmed that finding and turned its attention to the matter of ending the suspension, and a discussion of the conditions under which such suspension would end ensued. Commissioner Preston noted that the establishment has a pattern of managers being turned over, and that the evidence presented demonstrated a pattern of mismanagement. Mr. Omane stated that Mr. Francis Brown had been the manager for the past 18 months, and that Mr. Baird was only the manager for one or two days. Commissioner Preston highlighted that Mr. Brown's management of the establishment was not supposed to happen, prompting the discussion of the process of reapplication to establish the proper personnel are in place going forward, and an assurance of continuity.

Findings of Fact, Conclusion and Order

Following a full and complete hearing and the submission of the evidence, including consideration of the evidence and testimony presented to the LCB on June 29, 2021 and this board of City Commissioners on July 1, 2021, wherein the board of City Commissioners found cause existed to suspend the license, and additional testimony, the board of City Commissioners confirmed the finding that cause exists for continued suspension of the license. On motion by

Commissioner Gehrig, seconded by Commissioner Piepkorn, the board of city commissioners unanimously suspended the license until such time as there is a reapplication completed and approved by the Liquor Control Board and the City Commission.

Dated this ____ day of August, 2021.

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

ATTEST:

Steve Sprague, City Auditor



②

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

August 5th, 2021

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

RE: "Spirit of the Sandbagger" Artwork Donation Agreement – Fargo Lions Club

Dear Commissioners,

Your approval is sought for an agreement pertaining to the Fargo Lions Club "Spirit of the Sandbagger" artwork project that was commissioned by the Lions Club. You may recall that you approved the project at your April 19th, 2021 meeting, when the Fargo Lions Club presented the project and asked that the City accept the donation of the artwork.

Enclosed is a near-final draft agreement between the City and the Lions Club and, in addition, the original design artist, Karen Bakke, the artist who created the artwork, Brock Davis, and the local construction company that is donating the efforts to install the artwork on City property, Industrial Builders, Inc. There are some details yet to be ironed out in this agreement, however, the Lions Club wishes to install the artwork at the site (the northeast corner of 2nd Street and 1st Avenue North) on or before August 17th and, therefore, your approval is sought for this agreement, authorizing the City Attorney to work with the Communications Director and the Mayor to finalize terms. This agreement has been vetted by the City's Communications & Governmental Affairs, Planning, and Engineering Departments.

Suggested Motion: I move to approve the agreement for the installation and donation of the "Spirit of the Sandbagger" artwork project in substantially the form as presented, subject to further negotiations and revision by the parties, and authorize the Mayor to approve the final form thereof and to execute the same.



Please feel free to contact Gregg Schildberger or me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alissa R. Farol', written over a horizontal line.

Alissa R. Farol
Assistant City Attorney

Enc.

cc: Gregg Schildberger, Director of Communications & Governmental Affairs
Nicole Crutchfield, Director of Planning & Development
Nathan Boerboom, Div. Engineer
Jane Pettinger, Fargo Lions Club

**“SPIRIT OF THE SANDBAGGER”
ARTWORK DONATION AGREEMENT**

This “SPIRIT OF THE SANDBAGGER” ARTWORK AGREEMENT (hereinafter “Agreement”) is entered into between the **CITY OF FARGO**, a North Dakota municipal corporation, whose address is 225 Fourth Street North, Fargo, North Dakota, 58102 (hereinafter “City”), the **FARGO LIONS CLUB**, a 501(c)(4) Social Welfare Organization, whose address is P.O. Box 21, Fargo, North Dakota 58107 (hereinafter “Lions Club”), **INDUSTRIAL BUILDERS, INC.**, a North Dakota corporation, whose address is 1307 County Road 17 North, West Fargo, North Dakota 58078 (hereinafter “Industrial Builders”), **KAREN BAKKE d/b/a BAKKE ART & DESIGN**, a sole proprietorship, whose address is 1119 37th Avenue South, Fargo, North Dakota 58104, and **BROCK DAVIS d/b/a DAVIS DESIGNS, LLC**, a North Dakota Limited Liability Company, whose address is 3202 7th Avenue North, Fargo, North Dakota 58102 (hereinafter cumulatively referred to as “Artists”). The City, Lions Club, Industrial Builders, and Artists shall be referred to herein as the “Parties.”

WHEREAS, Lions Club wishes to donate public artwork, named “Spirit of the Sandbagger Artwork” (hereinafter “Artwork”), to City to commemorate the community’s past flood fighting efforts; and

WHEREAS, the Artwork will consist of a metal gateway arch depicting sandbaggers connected to two existing City-owned pillars located on City property at or near the bridge on 1st Avenue North and 2nd Street North in the city of Fargo (hereinafter “Artwork Location”); and

WHEREAS, City is willing to accept the Artwork donation under the terms and conditions herein; and

WHEREAS, the parties wish to memorialize the terms, provisions, and conditions contained in this Agreement in writing.

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, and agreements contained herein, it is hereby agreed by and between the parties as follows:

1. Purpose of the Agreement. Lions Club agrees to donate the Artwork, more fully described in **Attachment A** hereto, to City subject to the terms and conditions below.
2. Artwork Display. City agrees to exhibit the Artwork at the Artwork Location. Lions Club understands and agrees that the display of the Artwork is at the sole discretion of City and any and all of the Artwork may be removed at any time and at the sole and exclusive discretion of City. City does not guarantee a specific length of time for the display of the Artwork.
3. Installation. The Artwork shall be affixed to two pillars owned by City at the Artwork Location. Industrial Builders agrees to install the Artwork, according to the specifications from the structural engineer report obtained by Lions Club, at no cost to City or Lions Club. Industrial Builders shall be fully responsible for (a) transportation of the Artwork to the Artwork

Location with the assistance of Artist Brock Davis; (b) preparation of anchoring or support; (c) placement of anchoring or support; and (d) installation of Artwork.

The Artwork, other than plaques to be added at a later date, shall be fully installed and completed by August 31st, 2021, unless delays are caused by events beyond the control of the parties, at which time completion may be amended. Any extensions of time must be agreed to in writing by all parties. Once a specific date is chosen for installation as determined by Lions Club, Lions Club shall give City a minimum notice of three (3) business days in order to coordinate efforts for the installation.

City assumes no liability during the installation process, including any damage to the City-owned pillars. In the event damage does occur to any City-owned property at the Artwork Location or there is injury to persons or property caused by the installation of the Artwork or any activity related to the Artwork, Industrial Builders shall be solely responsible.

4. Acceptance. No more than two (2) weeks after installation of the Artwork (other than the plaques) is complete, the City Engineer shall provide Lions Club a Letter of Acceptance, informing Lions Club that either (i) City agrees that the Artwork (other than the plaques) is fully installed and is complete consistent with the terms of this Agreement, City formally accepts the project as completed (hereinafter "Final Acceptance"; or (ii) City does not consider the project completed due to unresolved issues or defects that remain, and describing the outstanding issues or defects and the time frame in which the parties must then, in good faith, cure within two (2) weeks before City will issue a Letter of Acceptance.

Final Acceptance shall, among others, be based on the following:

- a. Lions Club shall provide to the City written certification from its structural and/or design engineer stating that the installation was performed in conformity with the work specifications;
- b. Artists shall provide to the City written certification that the Artwork was installed in conformity with the Artists' work specifications;
- c. Lions Club shall provide to the City an Operations and Maintenance Manual;
- d. Any and all warranties, if any, given to the Lions Club from any and all vendors shall be transferred to the City by way of an Assignment of Warranties; and
- e. The Artwork shall have no damage to the paint, finish and connection points, and shall be structurally sound.

City, in accepting the Artwork, makes no determination of the value of the Artwork project, and makes no representations or assurances as to the value of the Artwork project, for tax purposes or otherwise.

5. Ownership. The parties understand and agree that Lions Club owns said Artwork, and upon City's issuance of a Letter of Final Acceptance, ownership and any and all warranties given to Lions Club shall transfer entirely to City.

6. Maintenance, Repairs and Restoration. Prior to Final Acceptance of the Artwork, Lions Club agrees to remit to City an "Operations and Maintenance Manual," detailing the requisite maintenance for the Artwork. The manual shall include items such as specifications of materials, including coatings and production information, as well as any requisite contact information for any party which has contributed to the creation of the Artwork, such as painter(s).

City recognizes that maintenance of the Artwork on a regular basis according to the Operations and Maintenance Manual is essential to the integrity of the project and that City will put forth a good faith effort to maintain the Artwork after Final Acceptance. City agrees to inspect the welds and connections of the Artwork on an annual basis. Subject to this Agreement, City shall nonetheless have the right to determine, in its sole discretion, when and if maintenance, repairs, and restorations to the Artwork will be made.

City agrees in good faith to install and make operational security video surveillance of said Artwork prior to installation of the Artwork. If the Artwork is vandalized, stolen, or otherwise damaged or destroyed, the City will attempt to clean and repair the Artwork as outlined in the Operations and Maintenance Manual within a reasonable time. However, the City shall not be responsible for replacing the Artwork due to excessive damage or loss.

City agrees to install and maintain lighting of the Artwork, and replace or repair fixtures or components of the lighting sequences as soon as feasible. City agrees to keep access panels under the bridging structure closed and secure unless maintenance is being performed.

7. Copyright. Artists warrant and represent that they are the sole legal owner of all right, title and interest in the Artwork, including all related intellectual property interests such as trademarks and the sole and exclusive copyright in the Artwork. The copyright of the Artwork shall remain with Artists; however, Artists hereby grant a license to City for the unrestricted use of images of the Artwork in any media forum, postings, display, or reproduction for any purpose, including, without limitation, the purposes of promotion or any commercial or non-commercial purpose.

8. Monetary Donation. In addition to the donation of the Artwork, Lions Club agrees to make to City a monetary donation to be used for maintenance and repairs, lighting including installation and infrastructure for lighting, security, and informational enhancements or other signs for said Artwork. The monetary donation total is contingent upon the amount of donations the Lions Club receives from its donors. Lions Club, by way of the Fargo Moorhead Area Foundation Corporation, shall remit the monetary donation to City no later than December 31, 2021.

9. Website. Lions Club will maintain the website located at www.spiritofsandbaggers.com for a period of 2 years. City may acquire and maintain the website at that time, or prior to 2 years upon written agreement by Lions Club and City.

[THIS PROVISION REQUIRES FURTHER DISCUSSION.]

10. Plaques. Plaques will be installed at a later date, and in consultation and agreement with City, by no later than October 31, 2021. Final proof of the plaques will require City approval before installation. Installation of the plaques will be performed by an agreed upon vendor. Upon completion of installation, the plaques will become part of the Artwork.

11. Insurance. Lions Club and Industrial Builders agree to insure the Artwork at their sole expense and shall bear responsibility for any damage, theft, defacing, fire, water, tearing, cracks, breakage, dents or other types of damage to the Artwork and City-owned pillars until Final Acceptance by City, at which time City shall be entirely responsible for insuring said Artwork.

12. Notice. Any notice or election required or permitted to be given or served by any party to this Agreement upon any other will be deemed given or served in accordance with the provisions of this Agreement is said notice or election is (a) delivered personally, (b) mailed by United States certified mail, return receipt requested, postage prepaid, and in any case properly addressed as follows:

To City:	City of Fargo ATTN: City Auditor Fargo City Hall 225 Fourth Street North Fargo, ND 58102
To Lions Club:	Fargo Lions Club ATTN: Jane Pettinger P.O. Box 21 Fargo, ND 58107
To Industrial Builders:	Industrial Builders, Inc. ATTN: Paul Diederich 1307 County Road 17 North West Fargo, ND 58078
To Artists:	Bakke Art & Design ATTN: Karen Bakke 1119 37 th Avenue South Fargo, ND 58104 Davis Designs, LLC ATTN: Brock Davis 3202 7 th Avenue North Fargo, ND 58102

Each such mailed notice or communication will be deemed to have been given on the date the same is deposited in the United States mail. Each such delivered notice or communication will be deemed to have been given upon the delivery. Any party may change its address for service of notice in the manner specified in this Agreement.

13. Indemnification. Lions Club and Industrial Builders agree to indemnify and hold harmless the City and any of its officers, employees, contractors, consultants, representatives, agents, and assigns from and against any and all liability, damages, penalties, judgments, or claims of whatever nature arising from injury to person(s) or property, for which Lion's Club and/or Industrial Builders are at fault, arising out of the installation or display of the Artwork until Final Acceptance by the City. This Agreement to indemnify and hold harmless will include indemnity against all costs, expenses, and liabilities, including any attorneys' fees, reasonably incurred in or in connection with any such claims made or proceedings brought thereof.

To the extent authorized by law, City agrees to indemnify and hold harmless Lions Club, and Industrial Builders, and any of their officers, employees, contractors, consultants, representatives, agents, and assigns from and against any and all liability, damages, penalties, judgments, or claims of whatever nature arising from injury to person(s) or property, for which City is at fault, arising out of the installation or display of the Artwork from and after Final Acceptance by the City. This Agreement to indemnify and hold harmless will include indemnity against all costs, expenses, and liabilities, including any attorneys' fees, reasonably incurred in or in connection with any such claims made or proceedings brought thereof.

Furthermore, Artists agree to indemnify, defend, and hold harmless the City, their respective directors, officers, agents, and employees harmless for any losses, claims, or damages incurred, including reasonable attorneys' fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the display of the Artwork.

12. Entire Agreement. This Agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements between the parties. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions set forth herein, and that no modification of this Agreement and no waiver of any of its terms and conditions will be effective unless in writing and duly executed by the parties.

15. Amendments. No amendment, modification, or waiver of any condition, provision or term will be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver.

16. No Forbearance. The failure or delay of any party to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right to enforce each and every term of this Agreement.

17. Severability. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.

18. Force Majeure. Neither party shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by circumstance beyond its reasonable control. Circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, fire), war, act of a public enemy or terrorist, act of sabotage, strike or other labor dispute, riot, inability to secure materials and/or transportation, or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such circumstance occurs, the party claiming the delay shall undertake reasonable action to notify the other party of the same.

19. Remedies. Except as expressly and specifically stated otherwise, nothing herein will limit the remedies and rights of the parties under and pursuant to this Agreement.

20. Binding Effect. All covenants, agreements, warranties and provisions of this Agreement will be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns.

21. Governing Law. This Agreement has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. Any litigation arising out of this Agreement will be venued in State District Court in Cass County, North Dakota, and the parties waive any objection to venue or personal jurisdiction.

22. Rules of Construction. The parties acknowledge that they have had the opportunity to review this Agreement, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any party to this Agreement.

23. Power to Execute Agreement. Each individual executing this Agreement, on behalf of one of the parties, represents that they are duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

24. Headings. Headings in this Agreement are for convenience only and will not be used to interpret or construe its provisions.

25. Effective Date. The effective date of this Agreement is the date of final signature by the undersigned entities.

(Signature pages to follow.)

Dated this _____ day of _____, 2021.

CITY OF FARGO, NORTH DAKOTA,
a North Dakota municipal corporation

By: _____

Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steve Sprague, City Auditor

Dated this _____ day of _____, 2021.

FARGO LIONS CLUB

Kate Lea, Co-President

DRAFT

Dated this _____ day of _____, 2021.

KAREN BAKKE

BAKKE ART & DESIGN, a sole proprietorship

Artist

DRAFT

Dated this _____ day of _____, 2021.

BROCK DAVIS
DAVIS DESIGNS, a North Dakota Limited
Liability Company

Artist

Dated this _____ day of _____, 2021.

INDUSTRIAL BUILDERS, INC., a North
Dakota Corporation

Paul Diederich, President



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2019)

Application for: ☒ Local Permit ☐ Restricted Event Permit (one event per year)

Name of Nonprofit Organization or group of people permit is issued to <u>Hand Up Brooks Truelsen Benefit</u>		Date(s) of Activity <u>9/18/21</u> to <u>only</u>		For a raffle, provide drawing date(s): <u>9/18/21</u>	
Person Responsible for the Gaming Operation and Disbursement of Net Income <u>Bhanna Truelsen</u>		Title <u>mother of benefit recipient</u>		Business Phone Number <u>701-893-6816</u>	
Business Address <u>4510 11th St W</u>		City <u>West Fargo</u>		State <u>ND</u>	Zip Code <u>58078</u>
Mailing Address (if different)		City		State	Zip Code
Name of Site Where Game(s) will be Conducted <u>DCR Brewing Co.</u>		Site Address <u>630 1st Ave N</u>			
City <u>Fargo</u>		State <u>ND</u>	Zip Code <u>58102</u>	County <u>Cass</u>	
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Restricted Event Permit. <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *					

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
50/50 Raffle	50% proceeds	50% proceeds			

Total: (Limit \$40,000 per year)
\$ 50% proceeds

Intended uses of gaming proceeds: Raffle tickets will be sold for 1\$ per ticket. Winner will receive 50% of proceeds. 50% will go toward Brooks Truelsen Benefit Fund

Does the organization presently have a state gaming license? ☒ No ☐ Yes - 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.

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

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

Signature of Organization or Group's Top Official <u>Bhanna Truelsen</u>	Date <u>7/26/21</u>	Title <u>mother of benefit recipient</u>	Business Phone Number <u>701-893-6816</u>
---	------------------------	---	--



APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT
 OFFICE OF ATTORNEY GENERAL
 SFN 9338 (08/2019)

✓ 23871
 25.00
 8/5/21

Application for: ☒ Local Permit * ☐ Restricted Event Permit (one event per year)

Name of Nonprofit Organization or group of people permit is issued to Sts. Anne & Joachim Catholic Church	Date(s) of Activity 11/14/2021 to 11/14/2021	For a raffle, provide drawing date(s): 11/14/21	
Person Responsible for the Gaming Operation and Disbursement of Net Income Rob Asheim	Title Business Mana	Business Phone Number (701) 235-5757	
Business Address 5202 25th Street South	City Fargo	State ND	Zip Code 58104-7119
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted Sts. Anne & Joachim Catholic Church	Site Address 5202 25th Street South		
City Fargo	State ND	Zip Code 58104-7119	County Cass
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Restricted Event Permit. <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *			

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Cash	\$8,000.00	Raffle	Cash	\$500.00
Raffle	Cash	\$6,000.00			
Raffle	Cash	\$4,000.00			
Raffle	Cash	\$1,000.00			
Raffle	Cash	\$1,000.00			
Raffle	Cash	\$500.00			
Raffle	Cash	\$500.00			
Raffle	Cash	\$500.00			
Raffle	Cash	\$500.00			
			Total: (Limit \$40,000 per year) \$ 22,500.00		

Intended uses of gaming proceeds: Parking lot, roof repairs, and building improvements

Does the organization presently have a state gaming license? ☒ No ☐ Yes - 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.

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

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

Signature of Organization or Group's Top Official 	Date August 2, 2021	Title Business Manager	Business Phone Number (701) 235-5757
---	-------------------------------	----------------------------------	--



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

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

Name of Non-profit Organization Ywca Cass Clay		Date(s) of Activity 9/2/2021 to 9/2/2021		For a raffle, provide drawing date(s): 9/2/2021	
Person Responsible for the Gaming Operation and Disbursement of Net Income Erin Prochnow		Title Ceo		Business Phone Number (701) 232-2547	
Business Address 4650 38th Ave S, Suite 110		City Fargo		State ND	Zip Code 58104-8529
Mailing Address (if different)		City		State	Zip Code
Name of Site Where Game(s) will be Conducted Delta by Marriott		Site Address 1635 42nd St. Sw			
City Fargo		State ND	Zip Code 58103-3323	County Cass County	
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Charity Local Permit.					
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input type="checkbox"/> Raffle Board <input type="checkbox"/> Calendar Raffle <input type="checkbox"/> Sports Pool <input type="checkbox"/> Poker * <input type="checkbox"/> Twenty-one * <input type="checkbox"/> Paddlewheels *					

DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize	Game Type	Description of Prize	Retail Value of Prize
Raffle	Liquor Wagon	\$300.00			
Raffle	Bison Tickets	\$1,000.00			
Raffle	Jewelry	\$1,000.00			
Raffle	Auto Detail	\$300.00			
Raffle	Kids Gator	\$500.00			
Total:					(Limit \$12,000 per year) \$ 3,100.00

Intended uses of gaming proceeds: All proceeds benefit YWCA emergency shelter programs and operations.

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

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

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

Signature of Organization's Top Executive Official <i>Erin Prochnow</i>	Date 8/4/2021	Title Ceo	Business Phone Number (701) 232-2547
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4

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: STEVEN SPRAGUE, CITY AUDITOR

SUBJECT: DOYLE'S YELLOW CHECKER CAB INC.

DATE: AUGUST 2, 2021

The City Auditor's office has received a request for a rate change from Doyle's Yellow Checker Cab Inc. Pursuant to 25-0407 of the Fargo Municipal Code the Auditor's office is informing the City Commission of the request. The rate change is necessary for the company to recruit and retain employees and for the company to remain competitive.

Please approve the requested rate change for Doyle's Yellow Checker Cab Inc.

Recommended Motion:

Approve the requested rate change for Doyle's Yellow Checker Cab, Inc.

Steve Sprague

From: Kerim Nuhbegovic <kerim@doylecab.com>
Sent: Wednesday, July 28, 2021 4:12 PM
To: Steve Sprague
Subject: DYNAMIC RATES APPROVAL

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Hi Steve,

I enjoyed sharing my thoughts and ideas with you and Jill yesterday.

As per our conversation I am writing you to specify the pricing structure that we talked about. We are hoping to change this as soon as possible and is following:

We will keep the same base fee \$4.50 and same per hour wait time \$36/hr.

However we would like to have two different mileage rates:

- Day Rates – 4am – 9pm at \$1.60/mile
- Night Rates - 9pm – 4am at \$2.20/mile

I will send you our proposed paragraphs as an addition to the current legislation sometime next week along with proposed deletion of some paragraphs if any.

Once again Thank you for having me over yesterday.

Please let me know once you read this and confirmed our proposed rates.

Thank you,

Kerim Nuhbegovic
General Manager
Doyle's Yellow Checker Cab, Inc.
Phone: 701-235-5535
Fax: 701-235-7358



5

AUDITOR'S OFFICE

Fargo City Hall
225 4th Street North
PO Box 2471
Fargo, ND 58108
Phone: 701.241.8108 | Fax: 701.241.8184
www.FargoND.gov

MEMORANDUM

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Approval of Pledged Securities

DATE: August 4, 2021

North Dakota Century Code section 21-04-11 requires the approval of securities pledged as collateral for City funds deposited in various financial institutions if the deposited funds exceed the FDIC insurance limit of \$250,000. NDCC calls for re-approval on a semi-annual basis.

At this time, I would request City Commission approval of securities pledged as collateral. Amounts are summarized by financial institution as follows:

First International Bank & Trust	\$ 9,123,548
Wells Fargo BNY Mellon	\$ 4,885,694
US Bank (Letter of Credit)	\$ 5,000,000
Total Pledged Collateral	\$ <u>19,009,242</u>

Detailed pledge security reports are attached for your review.

If you have any questions, please call me at 241-1301

Recommended Motion:

Approve the listing of pledged securities as of June 30, 2021.

08/04/2021
11:23:35AM

Pledged By Location
FIRST INTL. BANK & TRUST - FARGO, ND
FROM 08/01/2021 TO 06/30/2021

Code Receipt#	FAS 115	CUSIP Trade #	Description Maturity	Prerefund	Pool/Type Coupon	Moody S&P	Original Face Pledged Percent	Pledged Original Face	Pledged Par Value	Pledged Book Value	Pledged Market Value
CITY OF FARGO AIRPORT AUTH (CTFG)											
BND	SALE	115158DU8 100015	BROWERVILLE MINN INDPT SCH 02/01/2029		3.000		620,000.00 100.00%	620,000.00	620,000.00	625,663.02	677,120.60
BND	SALE	3128MEBL4 466	FGCI G15243 3.000 11/01/27 11/01/2027		3.000		5,000,000.00 100.00%	5,000,000.00	947,315.20	972,452.49	1,001,927.92
BND	SALE	3138ETW4 1023	FNCI AK3264 3.000 02/01/27 02/01/2027		3.000		7,100,000.00 100.00%	7,100,000.00	762,287.64	771,154.97	806,332.62
BND	SALE	50260RW8 1910	LA CROSSE CNTY WIS 04/01/2025		4.000		900,000.00 100.00%	900,000.00	900,000.00	900,000.00	902,808.00
BND	SALE	527860FY1 1930	LEWIS CNTY WASH SCH DIST NO 30 12/01/2037		4.500		1,000,000.00 100.00%	1,000,000.00	1,000,000.00	1,068,008.57	1,185,320.00
BND	SALE	59333FRZ5 101858	MIAMI-DADE CNTY FLA 07/01/2042		4.000		1,000,000.00 100.00%	1,000,000.00	1,000,000.00	1,111,100.00	1,123,310.00
BND	SALE	60412ALA9 101512	MINNESOTA ST 10/01/2025		5.000		1,500,000.00 100.00%	3,000,000.00	3,000,000.00	1,650,240.00	1,788,600.00
BND	SALE	610100VV8 2084	MONONA WIS 10/01/2023		2.000		600,000.00 100.00%	600,000.00	600,000.00	602,804.71	612,054.00
BND	SALE	820123UM7 100137	SHARYLAND TEX INDPT SCH DIST 02/15/2031		4.500		500,000.00 100.00%	500,000.00	500,000.00	552,134.00	598,965.00
BND	SALE	864165BS3 2722	STUTSMAN CNTY N D 10/01/2033		3.750		395,000.00 100.00%	395,000.00	395,000.00	407,812.10	427,109.55
TOTAL CITY OF FARGO AIRPORT AUTH (CTFG)								20,115,000.00	9,724,602.84	8,661,369.86	9,123,547.65

Mortgage-backed securities display the expected maturity date (stated maturity date + days delay).
The information contained herein, while believed to be reliable, is not guaranteed.

C:\Users\slm02\AppData\Roaming\PrintViewEXP 2005\Reports\Pledged by Location.rpt 3.9



BNY MELLON

Broker/Dealer Services
101 Barclay Street, 4th Floor East
New York, NY 10286

Date: 06/30/21

000879 XBGSCD51
ATTN: STEVEN SPRAGUE
CITY OF FARGO
225 4TH STREET NORTH
FARGO ND 58012-4817

Account Id: WUB366

Tax Id Number: 456002069

This advice is supplied as part of the Tri-Party Collateral agreement among the Customer, Wells Fargo Bank, N.A. and The Bank of New York Mellon. Any questions should be directed to Vinnette Frater, Senior Associate, BDS/Tri-Party Services, (973)569-2411.

As agent we confirm the following collateralized deposit information received from Wells Fargo Bank, N.A. as of close of business the last business day of the month.

Date: 06/30/21

The collateral segregated on your behalf on 06/30/21 is as follows:

CUSIP	DESCRIPTION	QUANTITY	MARKET VALUE
3133A1EH1	FMAC FEPC 3.000% 01/01/50	7,428,640.00	4,885,693.85
TOTAL MKT VALUE			4,885,693.85



BNY MELLON

BROKER DEALER SERVICES DIVISION
PRICING, INDICATIVE DATA AND OTHER DISCLOSURES

The prices of financial assets and indicative data reported or reflected in reports furnished by the Broker Dealer Services Division (BDS) of The Bank of New York Mellon (BNYM) generally are provided by data providers and ratings agencies ("vendors") used by BDS in the ordinary course of business. Trust receipts will be valued based on the face amount of the underlying financial assets, as set forth therein. Prices and indicative data are not independently verified, and may contain errors or omissions.

With respect to certain newly issued financial assets, if vendors do not provide prices, such financial assets will be valued at par or the new issue price for up to three business days. Thereafter, such financial assets will be valued at zero.

With respect to certain financial assets other than new issues, vendors may not provide prices and may not update prices previously provided on a regular basis. If vendors do not provide prices or update previously reported prices within three business days, such financial assets will be valued at zero, unless other arrangements are agreed in writing.

Notwithstanding the foregoing, certain hard-to-price, thinly traded or illiquid financial assets are valued monthly with no adjustment during the interim period (details are available upon request by contacting BDS).

Although BNYM will not utilize prices obtained from brokers or dealers in providing services, BNYM may obtain from any broker or dealer prices and other information and data such as offering memoranda, observable and non-observable information and assumptions in order to assist BNYM's vendors in determining prices of particular financial assets.

With respect to certain financial assets that are not widely held or regularly traded, vendors may report prices based on valuation models which reflect underlying non-observable assumptions that may not be accurate or complete and such models and/or prices may not be regularly adjusted.

The prices reported by BDS may differ from the prices reported or used by other divisions of BNYM or its subsidiaries or affiliates, and such differences may or may not be material. Margin values reported in connection with triparty transactions may differ from margin values used by BNYM for its own account or for the account of its subsidiaries, affiliates or other clients.

Unless otherwise agreed in writing, financial assets held as collateral may include financial assets in default, provided that the prices of such financial assets are made available to BNYM by a vendor which BNYM uses generally for valuing such financial assets.



BNY MELLON

Unless otherwise agreed in writing, financial assets held as collateral may include financial assets issued by your transaction counterparty or its subsidiaries or affiliates.

Average Traded Volume data is obtained from primary or secondary securities exchanges.

Market data, which is subject to availability, may or may not be current.

The information reported or reflected herein is proprietary to its suppliers and is for your internal use only. It may not be copied, reproduced, published, posted, transmitted, displayed, stored, modified, sublicensed, transferred, disclosed or distributed or used for any purpose without BNYM's express written permission or that of its vendors or other third parties, as applicable.

REPORTED PRICES, WHETHER PROVIDED BY VENDORS OR OTHERWISE OBTAINED AS DESCRIBED HEREIN, MAY NOT REFLECT THE ACTUAL AMOUNT THAT CAN BE REALIZED UPON THE SALE OF PARTICULAR FINANCIAL ASSETS.

2015 The Bank of New York Mellon Corporation. Services provided by The Bank of New York Mellon (member FDIC) and its various subsidiaries and affiliates. All rights reserved.



Issue Date: May 3, 2021

LOC No.: 554126

Beneficiary: City of Fargo
225 4th St. N
Fargo, ND 58102-4817

Ladies and Gentlemen:

For the account of U.S. Bank National Association, CINCINNATI, OH, we hereby authorize you to draw on us at sight up to an amount of \$5,000,000.00.

This letter of credit is irrevocable, unconditional and nontransferable.

Drafts drawn under this letter of credit must be accompanied by the original letter of credit and be presented in substantially the form attached as Exhibit A, at the office identified below by an authorized officer of the beneficiary no later than 2:00 P.M., Cincinnati time, on Monday, November 01, 2021.

This letter of credit sets forth in full the terms of our obligations to you, and such undertaking shall not in any way be modified or amplified by any agreement in which this letter is referred to or to which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any agreement.

We engage with you that multiple drafts drawn under and in compliance with the terms of this letter of credit will be duly honored at the Credit Department of the Federal Home Loan Bank of Cincinnati, 221 East Fourth Street, Cincinnati, Ohio 45202.

This letter of credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication 600.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Berryman", is written over a horizontal line.

Jeff Berryman
Vice President

A handwritten signature in dark ink, appearing to read "Lisa Wishart", is written over a horizontal line.

Lisa Wishart
Assistant Vice President

c: Patricia Finnemore
U.S. Bank National Association

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

6

Project No. FM-19-F1 Type: Milestone No. 3 Time Extension (Change Order #1)

Location: Oak Grove Date of Hearing: 8/2/2021

<u>Routing</u>	<u>Date</u>
City Commission	8/9/2021
PWPEC File	X
Project File	Rob Hasey

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, regarding a Milestone No. 3 time extension (Change Order #1) requested by Meyer Contracting, Inc.

In the project specifications, Milestone No. 3 was limited to 60 calendar days for construction of the earthen levee and underground storm sewer behind 73 South Terrace North. The Contractor wishes to start the earthen levee without starting the 60 calendar day timeframe and has sought approval from the homeowner to not start the 60 day window until the underground portion of the work commences.

Staff is recommending approval of the Milestone No. 3 time extension (Change Order #1) to remove construction of the earthen levee from the 60 calendar day timeframe.

On a motion by Steve Sprague, seconded by Kent Costin, the Committee voted to recommend approval of the Milestone No. 3 time extension (Change Order #1) as described above to Meyer Contracting, Inc.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve the Milestone No. 3 time extension (Change Order #1) with Meyer Contracting, Inc. to remove construction of the earthen levee from the 60 calendar timeframe.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax

Yes	No
N/A	
N/A	
N/A	

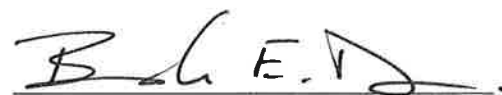
Developer meets City policy for payment of delinquent specials
 Agreement for payment of specials required of developer
 Letter of Credit required (per policy approved 5-28-13)

COMMITTEE

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

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

ATTEST:



Brenda E. Derrig, P.E.
 City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC

From: Rob Hasey, Project Manager

Cc: Nathan Boerboom, Division Engineer

Date: August 2, 2021

Re: Project No. FM-19-F1 – Milestone No. 3 Time Extension (CO #1)

Background:

Project No. FM-19-F1 is for the installation of an earthen levee, concrete floodwalls, sheet pile floodwall and a storm sewer gatewell in the Oak Grove neighborhood.

In the project specifications, Milestone No. 3 was limited to 60 calendar days for construction of the earthen levee and underground storm sewer behind 73 South Terrace North. The Contractor wishes to construct the earthen levee without starting the 60 calendar day timeframe. The Contractor has sought approval from the homeowner to not start the 60 calendar day window until the underground portion of the work commences.

This time extension will not have a cost increase or decrease to the contract. Substantial and Final completion dates will remain the same.

Recommended Motion:

Approve Change Order #1 for changes to Milestone No. 3 to remove construction of the earthen levee from the 60 calendar day timeframe.

Attachments



July 13, 2021

Robert Hasey
City of Fargo Engineering
225 4th Street North
Fargo, ND 58102

**Subject: FM-19-F1 Oak Grove Flood Risk Management Project
Milestone No. 3 Modification**

Mr. Hasey:

Meyer Contracting is requesting a modification to Milestone No. 3 for work on 73 South Terrace North. The contract documents state that once work commences on these properties, the contractor shall be substantially complete with the work within 60 days. As outlined in the attached Changes to Milestone No. 3: South Terrace North letter dated June 9, 2021, the Contractor is requesting that the 60-calendar day timer be modified to pertain to the work associated with the removal of the hardscapes, underground utilities, and construction of the stormwater detention area between station 40+75 and 73+00. As Milestone No. 3 was intended to limit the duration of construction on 73 South Terrace North, the contractor has discussed this request with the property owner and received their written consent to the modification.

We have reviewed the attached request and agree that modifying Milestone No. 3 as noted above is reasonable. Therefore, we recommend approving this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael P. Love', is written over a horizontal line.

Michael P. Love, PE
Project Manager
Direct: 701.499.2062
mlove@houstoneng.com



June 9th, 2021

Mike Love, PE
Houston Engineering
1401 21st Ave N
Fargo, ND 58106

RE: Oak Grove Flood Risk Management Project
Project NO. FM-19-F1
Changes to Milestone No. 3: South Terrace North

Mr. Love

MCI is requesting a change to the 60 consecutive calendar day requirements as it pertains to work associated with the earthen levee in Milestone 3. This would be a no cost, no extension to final or substantial completion change request.

Per the special instruction to bidders within the contract the milestone reads as follows:

Milestone No. 3: 73 South Terrace North

Milestone No. 3 shall consist of all levee work and underground utilities between Station 40+75 and 43+00, with the exception of seeding. The duration of this work shall not exceed 60 consecutive calendar days. Failure to meet this Milestone will result in liquidated damages being applied at a rate of \$500 per calendar day.

MCI would request that they be granted contractual permission to begin the earthwork operation to construct the proposed earthen levee without beginning the 60-calendar day timer. And that this 60-calendar day timer would pertain to the work associated with the removal of the hardscapes, underground utilities, and construction of the settlement basin within the specified stationing adjacent to the current residence.

MCI has reached out to and spoken with the property owner, Malcom Butler, of lot 73 depicted on sheet 1 of section 040 of the and received his permission to begin earthwork operations as it pertains to building the proposed levee from station 40+75 to 43+00 without beginning the 60 calendar-day timer.

Please let MCI know if this is acceptable to the City of Fargo and Houston Engineering.

Thanks for your consideration in this matter.

Eric Wilaby

Senior Project Manager



Mobile: 612.760.6399

Direct: 763.391.5989

A handwritten signature in black ink, appearing to read 'Malcom Butler', written over a horizontal line.

**CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT**

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

EXPLANATION OF CHANGE: Modify Milestone No. 3 Time Duration

The contract documents state that once work commences on these properties, the contractor shall be substantially complete with the work within 60 days. As outlined in the attached Changes to Milestone No. 3: South Terrace North letter dated June 9, 2021, the Contractor is requesting that the 60-calendar day timer be modified to pertain to the work associated with the removal of the hardscapes, underground utilities, and construction of the stormwater detention area between station 40+75 and 73+00. As Milestone No. 3 was intended to limit the duration of construction on 73 South Terrace North, the contractor has discussed this request with the property owner and received their written consent to the modification.

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

CONTRACT TIME

Description

APPROVED

07/28/21

APPROVED DATE

For Contractor

Department Head

8/4/21



CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Title

Mayor

Attest

(7)

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-19-A3 Type: Xcel Energy Transformer Installation

Location: Riverwood Addition Date of Hearing: 8/2/2021

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/9/2021</u>
PWPEC File	<u>X</u>
Project File	<u>Rob Hasey</u>

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, regarding the installation of an earthen levee and storm water pumping station in the Riverwood Addition located north of 40th Avenue North and east of 10th Street North.

Currently 3 phase power is not available at the location of the lift station. The total cost to install 3 phase power and a transformer for the new lift station is \$64,620.78 due to the distance that it will take to get 3 phase power to the site.

Staff is recommending approval of payment to Xcel Energy in the amount of \$64,620.78 for the installation of 3 phase power and a transformer.

On a motion by Kent Costin, seconded by Ben Dow, the Committee voted to recommend approval of payment to Xcel Energy in the amount of \$64,620.78 for the installation of 3 phase power and a transformer for the new storm sewer lift station.

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve payment to Xcel Energy in the amount of \$64,620.78 for the installation of 3 phase power and a transformer for the new storm sewer lift station.

PROJECT FINANCING INFORMATION:Recommended source of funding for project: Flood Sales Tax

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

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

COMMITTEE

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

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


 Brenda E. Derrig, P.E.
 City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Rob Hasey, Project Manager
Date: August 2, 2021
Re: Project No. FM-19-A3 – Xcel Energy Transformer Installation Cost

Background:

Project No. FM-19-A3 is for the installation of an earthen levee and storm water pumping station in the Riverwood Addition located north of 40th Avenue North and east of 10th Street North.

The attached agreement is for Xcel Energy to install 3 phase power and a transformer for the new storm sewer lift station. Currently 3 phase power is not available at the location of the lift station. Total cost for the work is \$64,620.78. For your review, the underground service form is attached with this memo.

Recommended Motion:

Approve the payment of \$64,620.78 to Xcel Energy for the installation of 3 phase power and a transformer for the new storm sewer lift station.

RJH/klb
Attachments

C: Nathan Boerboom, Division Engineer



UNDERGROUND SERVICE FORM

In consideration of Northern States Power Company, a Minnesota corporation ("Xcel Energy") hereinafter called "Xcel Energy", extending its facilities to make 277/480 volt, 3 phase, 4 wire underground service available to (Customer) CITY OF FARGO ENGINEERING
 at (Service Address) 901 41ST AVE N (City) FARGO, ND 58102-5301
 the sum of sixty four thousand six hundred twenty dollars and seventy eight cents Dollars (\$ 64,620.78)
 will be paid to Xcel Energy by (if other than above) CITY OF FARGO ENGINEERING
 Address (if other than above) 225 4th St N City/State/Zip Fargo, ND 58102
 In accordance with the following terms:
 Xcel Energy will extend 2000' of 3ph phase primary and set a padmount transformer to serve the new lift station at 901 41st Ave N Fargo.

Receipt of the above amount hereby acknowledged on behalf of Xcel Energy by Travis Lill

- The Customer hereby grants Xcel Energy the right, privilege and easement to install, operate and maintain its underground facilities on the property as described above and/or the approximate location as shown on the attached "Exhibit A".
- The Customer also agrees that, prior to Xcel Energy starting work, Customer shall ensure that (a) the route of Xcel Energy's underground installation shall be accessible to Xcel Energy's equipment; (b) all obstructions shall be removed from such route at no cost or expense to Xcel Energy; (c) all privately-owned underground facilities such as sewer, water, sprinkler systems, invisible fences, or gas, electric or communication lines are marked or exposed; (d) ground elevation along the route shall not be above or more than four (4) inches below the finished grade; and (e) the area under the transformer pad shall be compacted to at least 2000 lbs./sq. ft.
- CITY OF FARGO ENGINEERING agrees to pay all additional costs incurred by Xcel Energy because of (a) surface or subsurface conditions that impair the installation of underground facilities, such as rock formations, etc., and (b) sidewalks, curbing, black top, paving, sod or other landscaping and obstructions along the cable route. Xcel Energy will backfill trench with existing soil. Restoration of construction area on Customer property is the responsibility of the Customer.
- Xcel Energy is not responsible for any Customer-owned underground facilities not marked or exposed at the time service is installed.
- The underground installation may be subject to a winter construction charge if construction occurs between October 1 and April 15. CITY OF FARGO ENGINEERING agrees to pay this charge if Xcel Energy determines winter conditions, as defined in the General Rules and Regulations of Xcel Energy's Electric Rate Book as they exist at the time the underground facilities are installed. Xcel Energy will waive the winter construction charge if prior to October 1st the Customer is ready to accept electrical service, has executed this form and has notified Xcel Energy in writing that the requirements of Paragraph 2 hereof have been fulfilled.
- The underground facilities installed by Xcel Energy, shall be the property of Xcel Energy and any payments made by the Customer, or their Customer's contractor, shall not entitle the Customer to any ownership interest or rights therein.
- The Customer agrees to pay the cost of installing or relocating any portion of said underground facilities from the Company's designated location, if relocation is made to accommodate the customer's needs, or necessary because of Customer alterations to the grade, additions to structures, installation of patios, decks or gardens or any other surface or subsurface condition that makes maintenance of Xcel Energy's facilities impractical.
- Customer must provide, at minimum, the following clearance around the transformer: front, 10 feet; sides and back, 2 feet. EXCEPTION: side facing building must have 30" clearance. These clearances must be at the same grade as the transformers. If screening is to be used, the area in front of the transformer must be left open or a hinged door, easily operable by one person, must be provided. The area must be accessible 24 hours a day.



\$ 0.00 Excess U.G. Distribution Lateral (Primary Cable)	\$ 0.00 Winter Const. Charge (See Paragraph 5)
\$ 0.00 Excess U.G. Service Lateral	\$ 0.00 Specific Service Location or Route
\$ 0.00 U.G. Service Lateral (Secondary Service From Utility Pole)	\$ 0.00 Replace Overhead Line with Underground
\$ 0.00 U.R.D. Install Including UG Service Lateral	\$ 0.00 Temporary Service KVA
\$ 0.00 U.G. Distribution Lateral (Primary Cable)	\$ 0.00 Other (Explain)
Trench Ft. _____	\$ 0.00 TOTAL _____

**Customer agrees to pay monthly Residential Service Underground rate of the type of installation indicated by a double asterisk.

☐ Applicable

☒ Not Applicable

Dated this _____ day of _____, Dated this _____ day of _____,

Customer _____ Contractor _____
 Print Full Name Signature Print Full Name Signature

Customer Rep _____ Contractor Rep _____
 Print Full Name Signature Print Full Name Signature

Xcel Energy Rep Joe Klein Xcel Energy Work Order # 12239319
 Print Full Name Signature

Construction \$ 64,620.78 Removal \$ _____ = Total \$ 64,620.78

Form 17-2759

Account No. XX-0818715-X
Job No. 12239319
Job Address 901 41ST AVE N
FARGO, ND 58102-5301



Northern States Power Company - Minnesota
2302 GREAT NORTHERN DRIVE
FARGO, ND 58102

July 26, 2021

Dear City Of Fargo,

Thank you for choosing Xcel Energy to be your energy provider. We appreciate your business, and our goal is to deliver you reliable service at an affordable price.

This letter contains important information about your requested service. Please read all details below as well as any accompanying information and respond accordingly to ensure your project is completed accurately and timely.

This letter relates to your request for:

- Extension of Gas and/or Electric Facilities

Your portion of the cost of this project is **\$64,620.78**. A hard copy invoice will be sent to you via U.S. Mail Postal Service in the coming days. Please see the attached payment options document for more instructions. Upon receipt of payment and other required documentation as noted below, your project will be scheduled and you will be notified of the scheduled date. If paying by check, please note the account number identified at the top of this letter on your check to ensure accurate and timely payment processing.

Below is a list of additional documentation that you will need to review, sign, and return to the Xcel Energy Designer by email or U.S. Postal Service to their address listed at the bottom of the letter. Please retain a copy of all documentation for your records.

- **Documents to be returned to Xcel Energy:**
 - UG service form 17-2759
- **Additional enclosures:**
 - Payment Options

If you have any questions about the enclosures or about your specific job, please contact **Travis Lill** at **701-241-8663** and reference your account number and/or job number above.

We look forward to being your energy provider.

Sincerely,
Travis Lill
DESIGNER*SR
2302 GREAT NORTHERN DRIVE
FARGO, ND 58102
Xcel Energy
Travis.R.Lill@xcelenergy.com



Customer Payment Options

Xcel Energy offers seven payment options to pay for your construction project. Please select the payment options that work best for you.

Payment options listed in order of quickest processing

MyAccount/eBill™

Register at xcelenergy.com to make a payment from your checking account. You can also enroll in eBill and an email will let you know your bill is ready to view at the MyAccount site in place of receiving a mailed paper bill statement. MyAccount also provides a convenient list of your bill statement and payment history and retains your banking information for future use. Each additional account number will have to be added to your list of managed accounts within MyAccount.

Pay by Phone

Make payment from your checking or savings account at no charge by using our automated phone system. Please call us at 800.895.4999.

Credit/Debit Card Payment

All Xcel Energy residential and business customers are now eligible for payment via credit or debit card. Most major credit and debit cards accepted. Apple Pay or Google Pay is available to customers with a mobile device.

To pay by phone, call our payment processing partner, Kubra EZ Pay, at **833.660.1365**

To pay online, visit www.xcelenergy.com/billing_and_payment and click on the **Pay with credit/debit card** link to make an online credit/debit card payment through Kubra EZ Pay.

Please note the current fees along with payment information:

- *Residential Customer Accounts*
 - *Payments accepted for up to \$1,000 in a single transaction*
 - *There is a \$1.50 fee per transaction*
 - *No fee for Wisconsin residential customer accounts*
- *Non-Residential Customer Accounts*
 - *Payments accepted for up to \$100,000 in a single transaction*
 - *There is a 2.2% fee per transaction.*

All credit/debit card types allow a maximum 25 credit/debit card payments in a 28-rolling-day period, per Xcel Energy account, per credit/debit card.

**If you receive this message: "The information provided does not match our records please try again," while trying to make a payment, please try again the following day after 8am CST.*

Overnight Payment Delivery Options

Send your payment and remittance stub including **account number (written on the memo line of your check)** via FedEx, UPS or USPS overnight delivery to:

Xcel Energy Attn: Remittance Processing
414 Nicollet Mall, 3rd Floor
Minneapolis, MN 55401-1993
Overnight delivery contact phone number: 612.330.5593

The following alternate zip-codes are also valid:

Minneapolis, MN 55401-1927
Minneapolis, MN 55401-4993

In-Person Pay Stations

Pay in-person at a location near you by visiting xcelenergy.com for pay station locations. **Please include the account number on the memo line of your check.**

Please note: A \$1.50 transaction fee applies. (\$1.45 for Western Union only in Colorado)

Pay by U.S Postal Service

When sending payment by U.S. mail, **please include the account number on the memo line of your check.** Do not combine this payment with any other Xcel Energy bill payments. Mail check payments to:

Xcel Energy
P.O. Box 9477
Minneapolis, MN 55484-9477

Electronic Funds Transfer (EFT) (Only available to business)

The Electronic Funds Transfer (EFT) payment process allows business customers to pay via Corporate Trade Exchange (CTX) formatted Automated Clearing House (ACH) (also referred to as EDI-820), the ability to electronically remit payment. The payments to Xcel Energy's bank accounts are initiated by the customer through a series of steps linked to the billing system. The CTX addenda records included with the funds transfer allow the posting of the payments to occur electronically to the account numbers provided by the customer. To obtain Xcel Energy's EFT bank account numbers and to provide transfer confirmation, please email CustReceive@xcelenergy.com.

Helpful hints to ensure accurate and timely processing of your payment:

- For all payment options, please have your account number available and note on any payment documentation.
- The hard copy invoice will be sent to you via U.S mail in the coming days. If you would like an electronic copy of our invoice prior to receiving the hard copy, please contact your Designer who is identified in the attached letter.
- In order to apply payment to the correct account and avoid unnecessary delays, please make separate payments for each individual project or invoice.
- Please note that depending on payment selection, it may take up to a few days to process your payment.

8

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Encroachment Agreement

Location: 1102 1st Avenue North

Date of Hearing: 8/2/2021

RoutingCity Commission
PWPEC File
Project FileDate

8/9/2021

X

Kristy Schmidt

The Committee reviewed a communication from Civil Engineer, Kristy Schmidt, regarding an Encroachment Agreement with Urban Crossing Apartments at 1102 1st Avenue North.

Staff is recommending to formalize this encroachment with the following stipulations:

- Insurance certificate indemnifying the City.
- Agreement expires upon sale or transfer of the property.
- Application fee for the encroachment in the amount of \$500.
- Annual fee in the amount of \$500.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to recommend approval of the Encroachment Agreement contingent upon the above criteria.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Encroachment Agreement.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: None

Yes	No
N/A	
N/A	
N/A	

Developer meets City policy for payment of delinquent specials

Agreement for payment of specials required of developer

Letter of Credit required (per policy approved 5-28-13)

COMMITTEE

Present	Yes	No	Unanimous
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Tim Mahoney, Mayor

Nicole Crutchfield, Director of Planning

Steve Dirksen, Fire Chief

Bruce Grubb, City Administrator


Ben Dow, Director of Operations

Steve Sprague, City Auditor

Brenda Derrig, City Engineer

Kent Costin, Finance Director

ATTEST:


Brenda E. Derrig, P.E.
City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC
From: Kristy Schmidt, CEII
Date: July 28, 2021
Re: Encroachment Agreement for 1102 1st Avenue North – Pedestrian Ramp and Retaining Wall

Background:

During the design and reconstruction for Improvement District No. BR-21-E1, 11th Street North (NP and 1st Avenue), we discovered an undocumented encroachment at 1102 1st Avenue North. The encroachment is a pedestrian ramp with a railing and retaining block wall adjacent to the building. We either require the removal of the encroachments or to enter into an Encroachment Agreement with the City. The property owner has asked to keep these encroachment items in the boulevard.

Staff is recommending formalizing the existing encroachment with the following stipulations for this agreement:

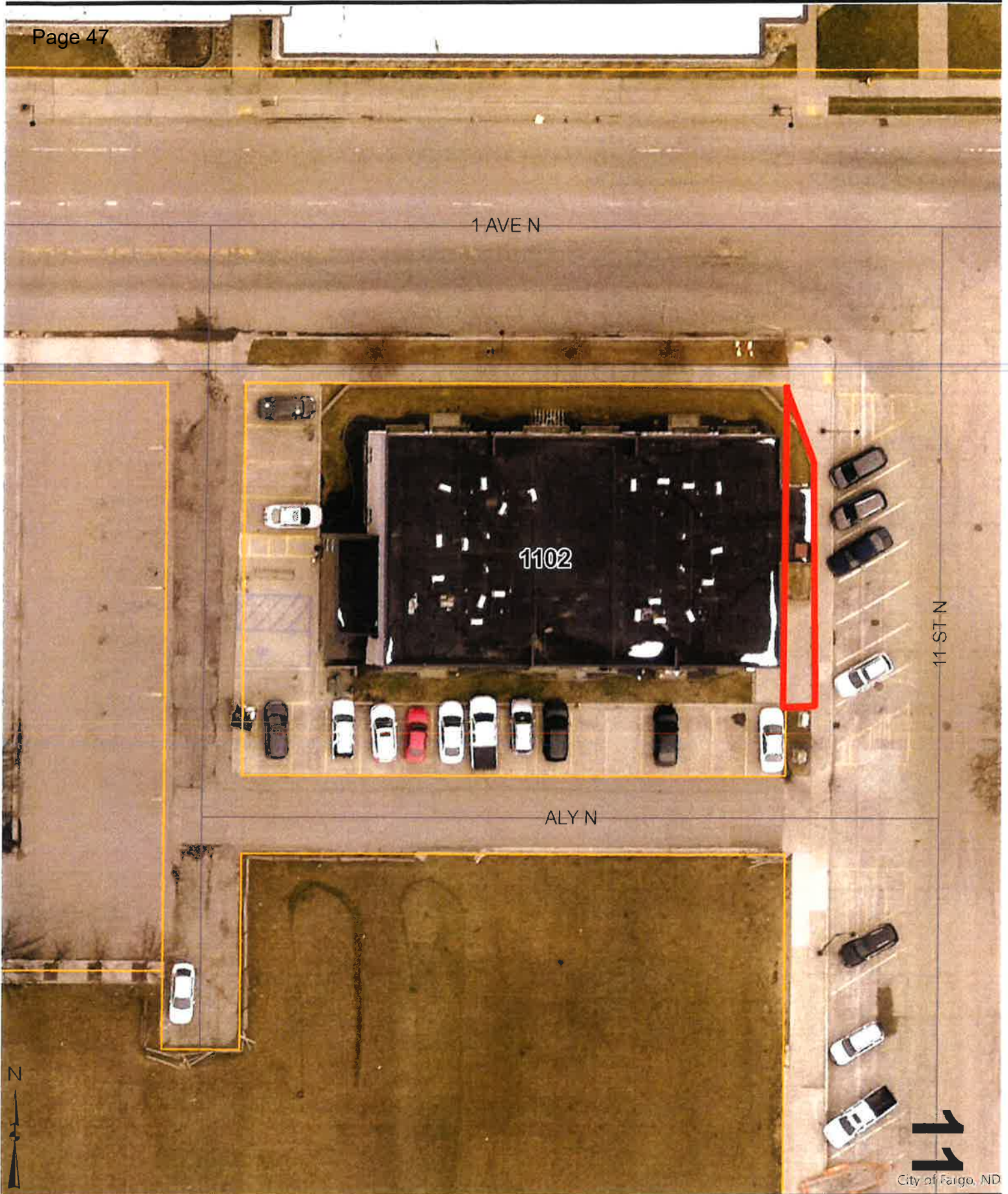
- Insurance certificate indemnifying the City
- Agreement expires upon sale or transfer of the property.
- \$500 annual fee
- \$500 processing fee

Suggested Motion:

Approve the Encroachment Agreement at 1102 1st Avenue South.

KLS/klb
Attachment

C: David Campbell, Campbell Properties
Brian Skanson, Engineering



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

1102 1st Ave N

1:564

7/28/2021 1:12 PM

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

THE CITY OF
Fargo
FAR MORE

ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and entered into by and between **Urban Crossing Apartments, LLP**, a North Dakota Limited Liability Partnership (“Urban Crossing Apartments” or “Owner”), and the **CITY OF FARGO**, a North Dakota municipal corporation, hereinafter referred to as "City",

WITNESSETH:

WHEREAS, Urban Crossing Apartments desires to encroach on a portion of City public right of way (“PROW”) (“Encroachment Area” more fully described below) for a pedestrian ramp with railing and block retaining wall “Permitted Encroachments”); and,

WHEREAS, the purpose of this encroachment Agreement is to detail the parties’ responsibilities with respect to the Permitted Encroachment in the PROW for the benefit of Urban Crossing Apartments’ Property; and,

WHEREAS, Urban Crossing Apartments has requested permission to continue to encroach on the PROW; and,

WHEREAS, Urban Crossing Apartments has agreed to execute this Agreement required by City to permit private facilities to encroach on the PROW.

NOW, THEREFORE, for good and valuable consideration hereby acknowledged, it is hereby agreed by and between the parties hereto as follows:

1. Urban Crossing Apartments owns all right title and interest in the property legally described as follows:

Lot 7 and 8, of Block 39 of Roberts 2nd Addition, to the City of Fargo, situate in the County of Cass and the State of North Dakota

("Urban Crossing Apartments' Property" or "Owner's Property").

2. Urban Crossing Apartments will be permitted to leave in place the existing pedestrian ramp with railing and block retaining wall on a portion of the PROW described as follows:

A tract of land in the Southwest Quarter of Section 6, Township 139 North, Range 48 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota described as follows:

Beginning on the northeast corner of Block 39 of the Plat of Roberts' Second Addition to the City of Fargo on file at the Cass County Recorder's Office as document A-24; thence South 02°18'14" East, along the east line of said Block 39, a distance of 81.70 feet; thence North 87°41'46" East a distance of 6.34 feet; thence North 01°49'44" West a distance of 61.10 feet; thence North 20°42'00" West a distance of 21.71 feet to the point of beginning.

Said tract contains 474 square feet, more or less.

Said encroachment is more particularly described and indicated in attached Exhibit "A" showing the property involved. Exhibit "A" is attached hereto and incorporated herein by reference.

3. Urban Crossing Apartments agrees that it will, during its use of the PROW, inspect, clean, repair and replace the Permitted Encroachment, ensuring the block retaining wall is level,

maintained and not impeding on the sidewalk adjoining the retaining wall, and provides a continuous, unobstructed and safe pedestrian travel path. If any modifications or repairs are done in the encroachment area, Urban Crossing Apartments will bring the encroachment elements into compliance with the current Code. Urban Crossing Apartments agrees to use due care to protect city streets, utilities and all other public property, minimize disruption to pedestrian travel in accordance with PROWAG (Public Rights-of-Way Accessibility Guidelines) for any and all activities undertaken by Urban Crossing Apartments in the PROW.

4. Upon discontinuance of use of the PROW, or removal of the Permitted Encroachment, Urban Crossing Apartments shall restore and replace the PROW by installing ADA compliant pedestrian sidewalks in accordance with City Standards and Specifications, and shall further restore the remaining portion of the PROW to green space, including establishment of grass, at City direction.

5. The parties further understand and agree that the cost of any repairs to the PROW occasioned by the Permitted Encroachment shall be Urban Crossing Apartments' sole responsibility, at its sole cost.

6. In the event Urban Crossing Apartments fails to maintain the PROW to City's satisfaction, City agrees to notify Urban Crossing Apartments of the deficiencies. Except in the event of an emergency as determined by City, Urban Crossing Apartments shall have 10 days, unless otherwise agreed to in writing by the parties, in which to undertake the necessary repairs to the Permitted Encroachment in the PROW. Failure to complete the repairs in a timely manner shall result in City removing the Permitted Encroachments and restoring the PROW to City Standards and Specification. The parties understand and agree that City shall assess the costs directly to the Urban Crossing Apartments' Property following the Infrastructure Funding Policy in effect at the time of repairs, if applicable. City will levy special assessments against the Urban Crossing Apartments'

Property to recover all costs of the Project, in accordance with North Dakota Century Code Chapter 40-22. Owner waives its right to protest the resolution of necessity for the improvements for which such resolutions are required pursuant to North Dakota Century Code §40-22-17, and specifically consents to the construction of the improvements and to the assessment of all costs thereof to the Urban Crossing Apartments' Property. Owner further waives its right to protest the amount, benefit or any other assessment attribute related to the work completed by City. Project costs, which may be assessed against the Owner's Property, include all costs of completing the project, including engineering, fiscal agent's and attorney fees, and all other costs authorized by law.

7. To the fullest extent permitted by law, Urban Crossing Apartments agrees to further hold the City harmless against any and all expenses, demands, claims or suits for damages or injury of any kind that may be brought against the City, its officers, agents and employees, its property, streets, sidewalks, and any other municipal improvements arising from Urban Crossing Apartments' use of the PROW. Urban Crossing Apartments further agrees to pay any and all costs the City incurs to enforce this indemnity provision, including attorney's fees. Urban Crossing Apartments also agrees to secure General Liability Insurance naming the City as an additional insured in an amount not less than \$1,000,000, and shall present the certificate of insurance to the City indicating acceptance by its insurer of its obligation to defend and hold the City harmless.

8. This agreement is personal to Urban Crossing Apartments and shall terminate upon sale, transfer or assignment of the Urban Crossing Apartments' Property. Subsequent owners may request permission to encroach, and enter into a separate agreement with City, which shall not be unreasonably withheld. The non-transferability of this Agreement is intended to ensure the existence of the necessary insurance by the responsible party.

9. It is specifically understood and agreed that in the event City reconstructs or repairs the roadway or above or underground infrastructure adjacent to the Urban Crossing Apartments' Property, City may require removal of the permitted encroachment from the PROW. The parties understand and agree that City shall not be responsible for repair or replacement of the permitted encroachments in the Encroachment Area. City shall remove the Permitted Encroachments and shall not be responsible for any costs occasioned by the City work in the vicinity of the Encroachment Area.

10. It is further understood and agreed that within ninety (90) days' written notice from City, Urban Crossing Apartments shall remove the Permitted Encroachment from the PROW as directed by City, allowing the City to re-take and to use the PROW. The City's request to remove, relocate, or restore the encroachment will be in the City's sole discretion, but shall not be arbitrary or without good reason. This agreement does not provide for Urban Crossing Apartments use of the PROW for a guaranteed minimum duration.

11. It is specifically agreed between the parties that a copy of this Encroachment Agreement may be recorded.

12. It is understood and agreed by and between the parties that this Agreement and permission to encroach is given subject to any limitation on the authority of City to grant such permission, which may now or hereafter exist, provided City acknowledges that it is not aware of any current such limitations.

13. This Agreement will be construed and enforced in accordance with North Dakota law. The parties agree any litigation arising out of this Agreement will be venued in District Court in Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.

14. The failure or delay of City to insist on the performance of any of the terms of this Agreement, or the waiver of any breach of any of the terms of this Agreement, will not be construed as a waiver of those terms, and those terms will continue and remain in full force and effect as if no forbearance or waiver had occurred and will not affect the validity of this Agreement, or the right of the City to enforce each and every term of this Agreement.

15. If any court of competent jurisdiction finds any provision or part of this Agreement is invalid, illegal, or unenforceable, that portion will be deemed severed from this Agreement, and all remaining terms and provisions of this Agreement will remain binding and enforceable, and the parties' obligations under this Agreement will remain binding and enforceable.

16. This Agreement, together with any related documents, as well as any amendments to those agreements and documents, constitutes the entire agreement between the parties regarding the matters described in this Agreement.

17. Any modifications or amendments of this Agreement must be in writing and signed by both parties to this Agreement.

18. Urban Crossing Apartments agrees to pay City a \$500.00 annual fee. City will invoice the Owner for the fees and the fees are payable within 30 days of invoice. If payment is not received within 30 days, interest will accrue on any unpaid amounts at a rate of 1 ½% per month, until paid in full.

19. Urban Crossing Apartments agrees to pay City a \$500 processing fee.

20. **EFFECTIVE DATE.** This Agreement shall be effective as of the date and year last signed by the parties below, as reflected by the date of acknowledgement thereof.

(Signatures on following pages)

Dated this _____ day of _____, 2021.

CITY OF FARGO,
a North Dakota municipal corporation

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

ATTEST:

Steven Sprague, Auditor

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

On this _____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared Dr. Timothy J. Mahoney, M.D. and Steven Sprague, to me known to be the Mayor and Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the North Dakota municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, North Dakota
My commission expires: _____

Legal Description was prepared by:

Brent Wacha
Registered Land Surveyor
City of Fargo
1240 25th Street South
Fargo, ND 58103
701-476-6638
bwacha@fargond.gov

This document was prepared by:

Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 North Broadway, Suite 206
Fargo, ND 58102
701-280-1901
nmorris@lawfargo.com

EXHIBIT A

1st Avenue North

Description:

A tract of land in the 11th Street North right-of-way to the City of Fargo in the Southwest Quarter of Section 6, Township 139 North, Range 48 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Beginning on the northeast corner of Block 39 of the Plat of Roberts' Second Addition to the City of Fargo on file at the Cass County Recorder's Office as document A-24; thence South 02°18'14" East, along the east line of said Block 39, a distance of 81.70 feet; thence North 87°41'46" East a distance of 6.34 feet; thence North 01°49'44" West a distance of 61.10 feet; thence North 20°42'00" West a distance of 21.71 feet to the point of beginning.

Said tract contains 474 square feet, more or less.

11th Street North

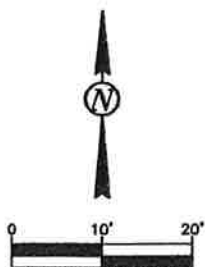
LOT 7

Plat of Roberts' Second Addition

BLOCK 39

LOT 8

N20°42'00"W
21.71'
S02°18'14"E
81.70'
61.10'
N01°49'44"W
6.34'
N87°41'46"E



BEARINGS BASED ON
CITY OF FARGO GROUND COORDINATE SYSTEM,
DECEMBER 1992

LEGEND

- ENCROACHMENT BOUNDARY
- - - STREET RIGHT-OF-WAY
- - - PLATTED LOT LINE



ENGINEERING DEPT.

ENCROACHMENT AGREEMENT

11th STREET NORTH
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: BWW

APPROVED BY: BWW

DATE: 5/5/2021

SHEET 1 OF 1

August 4, 2021

9

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

**Re: Purchase Agreement & Declaration of Restrictive Covenant
Permanent & Temporary Easement - Project #FM-19-A**

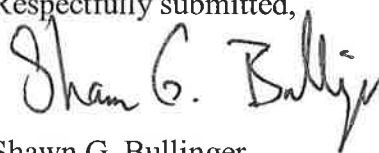
Dear Commissioners:

Enclosed and delivered to the City Commission office is an original Purchase Agreement for the acquisition of a permanent & temporary easement along with a Declaration of Restrictive Covenant in association with Project #FM-19-A. Final purchase price has been reached and at this time we are requesting authorization from the Commission to proceed with the purchase. All land acquisition procedures have been followed and the City Engineer's office recommends purchase.

RECOMMENDED MOTION: I/we hereby move to approve and authorize purchase of a permanent & temporary easement from **Richard Robert Jordahl & Leanne Jordahl** in association with Project #FM-19-A and that the Mayor is instructed to execute the included documents on behalf of the City of Fargo.

Please return the signed originals.

Respectfully submitted,



Shawn G. Bullinger
Land Acquisition Specialist

C: Nancy J. Morris
Nathan Boerboom

PURCHASE AGREEMENT

This Agreement, made and entered into this _____ day of August, 2021, by and between ~~Richard Robert Jordahl and Leanne Jordahl, husband and wife, hereinafter~~ "Owner" and the City of Fargo, a North Dakota municipal corporation, hereinafter "City".

WHEREAS, Owner owns certain real estate situated in the County of Cass and State of North Dakota, hereinafter "Property," described as follows:

Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota.

WHEREAS, City desires to acquire a permanent levee easement and temporary construction easement on the Property and pay Owner under the terms and conditions hereinafter stated; and

WHEREAS, Owner agrees to grant a permanent levee easement and a temporary construction easement to City over the following-described portions of the Property:

Permanent Easement Area (as depicted on Exhibit "A" attached hereto):

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Temporary Construction Easement Area (as depicted on Exhibits "A" and "A1" attached hereto):

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

LESS AND EXCEPTING that portion of the foregoing property lying north of the temporary chain link fence to be installed as per Exhibit "A1" attached hereto.

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

1. Subject Matter. The subject matter of this Agreement are a permanent levee easement and a temporary construction easement over the Property hereinbefore described.
2. Purchase Price. The purchase price for the easements will be Ten thousand and no/100 Dollars (\$10,000).
3. Payment and Purchase Price. The entire purchase price shall be payable in cash at closing.
4. Abstract and Title Assurance. City shall assure itself as to title and Owner need not provide an abstract of title.
5. Closing Date and Transfer of Possession. Closing of this transaction shall take place as soon as possible. The easements shall be effective once executed by Owner and delivered to City at closing.
6. Liens and Encumbrances. The easements on the Property shall be conveyed to City free and clear of all liens and encumbrances except a line of credit mortgage in favor of Western State Bank, special assessments, and subject, however, to all other easements or covenants of record, if any.
7. Easements. The Easement (Temporary Construction Easement) and the Permanent Easement (Levee for Flood Control) shall be in the same form as the

Easement and the Permanent Easement attached hereto as Exhibits "B" and "C", respectively. City will pay the cost of recording the Permanent Easement.

8. Attorney Fees. It is understood and agreed that as part of this transaction, each of the parties shall pay its own attorney's fees.

9. Easements Purchased "AS IS". City represents to Owner that the Property and the easements have been inspected by City and that City has been assured by means independent of Owner or any agent of the Owner of the truth of all facts material to this Agreement and that the easements as described in this Agreement are purchased by City as a result of such inspection or investigation and not by or through any representations made by Owner or by Owner's agent. City hereby expressly waives any and all claims for damages or for rescission or cancellation of this Agreement because of any representations by Owner or Owner's agent, other than such representation as may be contained in this Agreement. The City further agrees that Owner and Owner's agent shall not be liable for or on account of any inducements, promises, representations, or agreements not contained in this Agreement and no agent or employee of Owner is or has been authorized by Owner to make any representations with respect to the Property or the easements and that if any such representations have been made, they are wholly unauthorized and not binding on Owner.

10. Prior to the termination of the Easement (Temporary Construction Easement), City, at City's sole cost and expense, shall lay and install sod in the easement area and any other areas of the Property disturbed by City's activities therein. Owner understands and agrees that upon satisfactory installation of the sod on the Property and acceptance by Owner, Owner shall be solely responsible for the watering and maintenance of the sod.

11. At least two days, but no more than five days prior to commencing any work on the Property, City shall notify Owner of the work commencement date so Owner can have Owner's irrigation contractor shut-off and disconnect the irrigation system, remove irrigation heads in the easement area, and take such other actions related to the irrigation system as Owner deems necessary in preparation of the construction work to be completed by City on the easement area on the Property. After the City work is complete, City will notify Owner, and thereafter Owner will have Owner's irrigation contractor re-install the irrigation heads, repair and replace as necessary any damaged irrigation lines, and reconnect the irrigation system. City shall reimburse Owner for the cost of all of the irrigation system work completed by Owner's irrigation contractor within ten days after presentation of an invoice from Owner to City.


12. Owner and City agree that Exhibit B to the Easement (Temporary Construction Easement) correctly represents the final grading and contours that shall exist on the Temporary Easement Area after the City work is complete. Such final grading and contours shall not deviate more than one foot from the existing ground elevations after topsoil is spread and sod installed.

13. Following completion of the City work, including the reinstallation of the fence along the south line of the Property, City will enter into a License Agreement granting Owner the right to access Lot 6, Block 6, Riverwood Third Addition (which is the lot immediately adjacent to the south of the Property) for purposes of mowing, trimming, and maintaining along the south side of the fence, in the same form as the License Agreement attached hereto as Exhibit "D".

14. Restrictive Covenant. In conjunction with the closing, City shall execute and record a Declaration of Restrictive Covenant in the same form as the Declaration Restrictive Covenant attached hereto as Exhibit "E".

[signature pages to follow]

Dated this _____ day of _____, 2021.



Richard Robert Jordahl

Dated this _____ day of _____, 2021.



Leanne Jordahl

Dated this _____ day of _____, 2021.

THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

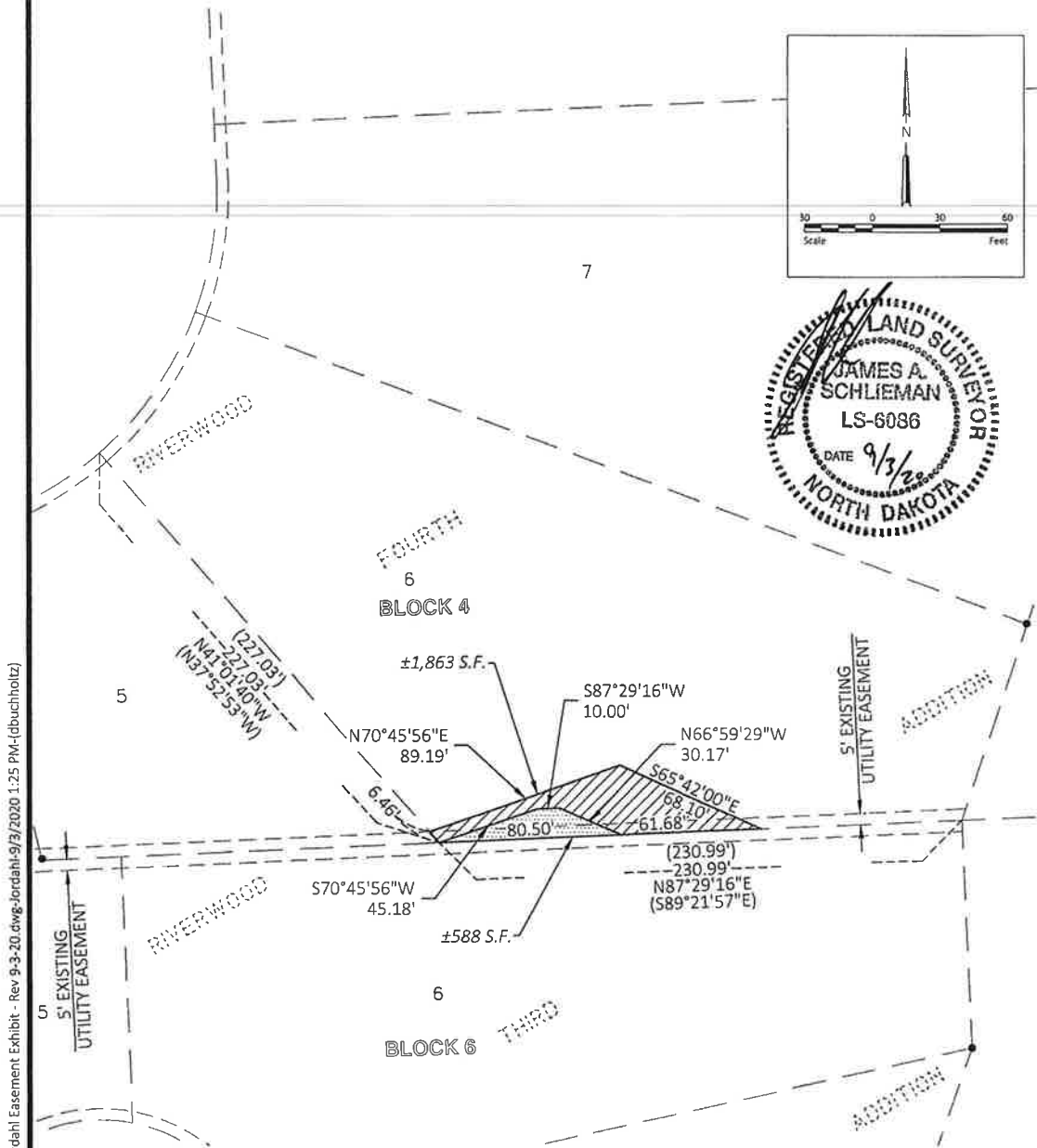
By: _____
Dr. Timothy J. Mahoney, M.D., Mayor

ATTEST:

Steve Sprague, City Auditor

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
MEASURED DISTANCE
PLAT BEARING
PLAT DISTANCE
PERMANENT EASEMENT
TEMPORARY EASEMENT

S59°27'46"E
105.00'
(N57°00'00"W)
(105.00')

NOTE: ALL BEARINGS GIVEN ARE
BASED ON THE CITY OF
FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
1 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL

Description - Permanent Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Description - Temporary Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

Said tract contains 1,863 square feet, more or less.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

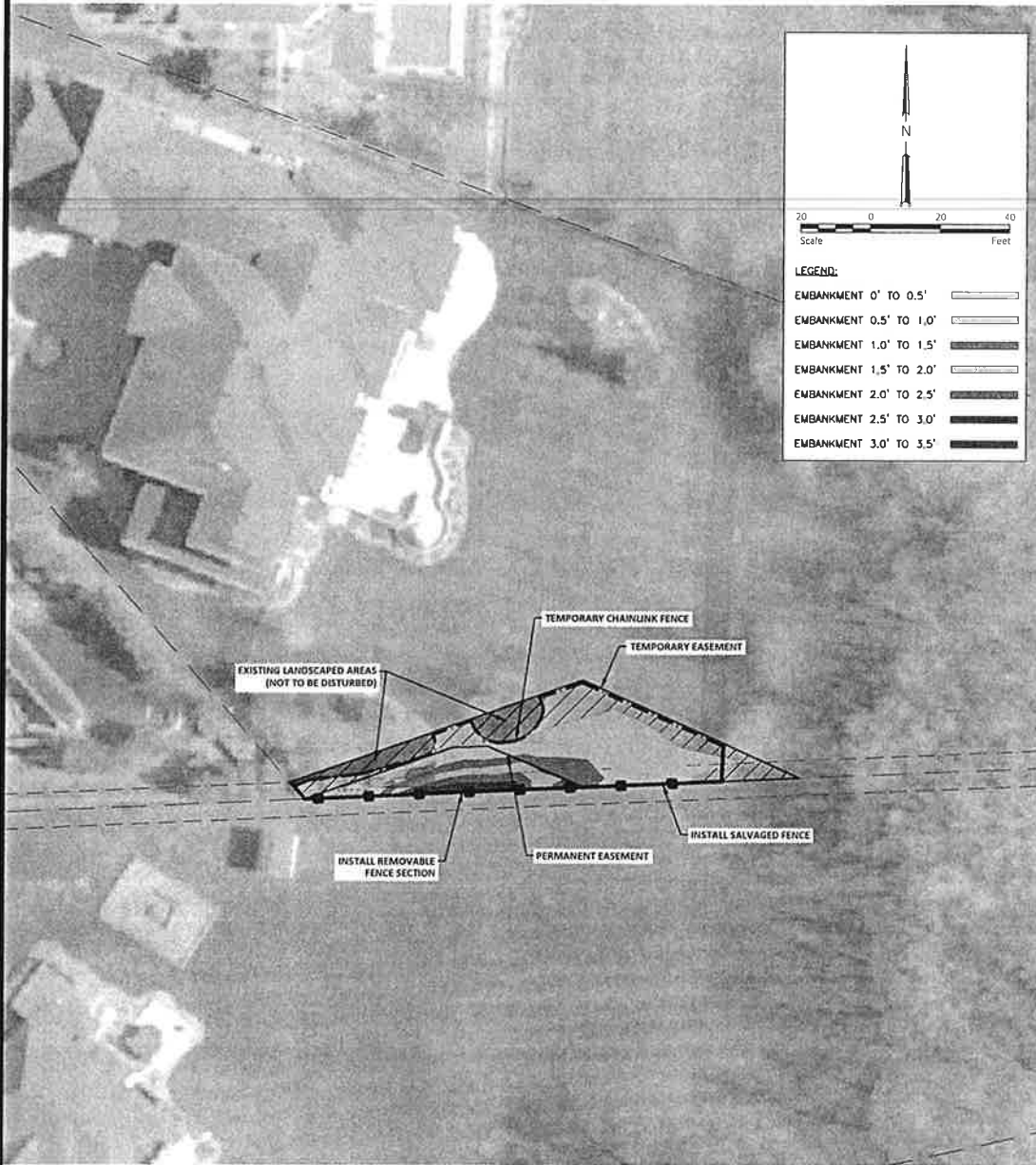
RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

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2 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING S59°27'46"E
MEASURED DISTANCE 105.00'
PLAT BEARING (N57°00'00"W)
PLAT DISTANCE (105.00')
PERMANENT EASEMENT
TEMPORARY EASEMENT

NOTE: ALL BEARINGS GIVEN ARE
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FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

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Exhibit "B"

EASEMENT (Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that RICHARD ROBERT JORDAHL AND LEANNE JORDAHL, husband and wife, hereinafter referred to as "Grantors", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of flood protection measures construction and activities appurtenant thereto, said land being more fully described, to-wit:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

LESS AND EXCEPTING that portion of the foregoing property lying north of the temporary chain link fence to be installed, as depicted on Exhibits "A" and "A1" attached hereto (the "Temporary Easement Area").

Grantors, their successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times, when necessary or convenient to do so, go over and upon the Temporary Easement Area and perform any and all acts necessary or

convenient to carry into effect the purpose for which the grant is made for the duration of this Easement.

Grantee understands and agrees that the grant herein is specifically conditioned on the following:

- (1) Grantee shall stake out all of the items shown on the drawings and surveys attached hereto as Exhibits "A" and "A1" so that the Grantors can review and approve the proposed layout before Grantee commences any work on the Temporary Easement Area;
- (2) Grantee shall install a temporary chain link fence as shown on the final approved drawings and the staked layout approved by the Grantors prior to Grantee removing any portion of the existing fence or commencing any work on the Temporary Easement Area;
- (3) Grantee will remove a portion of the existing fence along the south line of the Temporary Easement Area, and following completion of the levy construction work, the Grantee shall re-install the fence in the existing location with a like-kind and quality fence, and if any of the fence is salvaged but does not match up well with any new fence panels, then the fence sections that do not match up well will be put in a location where it is less noticeable, i.e. behind the tree/landscaping area in the southwest corner of the Grantors' property. The parties agree that there shall be no gate along the reinstalled fence line, however, Grantee may install a section of the fence with a removable panel to accommodate future flood fighting efforts.
- (4) The rocks in the landscaping west of the levee and south of the pavers can be removed. Other than those rocks, no landscaping of any nature or kind, including trees, plants, or flower beds such as the existing landscaping/flower bed shaped in a circle, shall be disturbed and the temporary chain link fence shall be installed so as to protect the same. There shall be no land disturbed north of the temporary chain link fence.
- (5) At least two days, but no more than five days prior to commencing any work on the Grantors' property, Grantee shall notify Grantors of the work commencement date so Grantors can have Grantors' irrigation contractor shut-off and disconnect the system, remove irrigation heads in the Temporary Easement Area, and take such other actions related to the irrigation system as Grantors deem necessary in preparation of the construction work to be completed by Grantee on the Temporary

Easement Area on the Grantors' property. After the Grantee's work is complete, Grantee will notify Grantors, and thereafter Grantors will have Grantors' irrigation contractor re-install the irrigation heads, repair and replace as necessary any damaged irrigation lines, and reconnect the irrigation system. Grantee shall reimburse Grantors for the cost of all of the irrigation system work completed by Grantors' irrigation contractor within ten days after presentation of an invoice from Grantors to Grantee.

(6) Grantors and Grantee agree that Exhibit "B" attached hereto correctly represents the final grading and contours that shall exist on the Temporary Easement Area after the Grantee work is complete. Such final grading and contours shall not deviate more than one foot from the existing ground elevations after topsoil is spread and sod installed.

(7) Prior to the termination of this Easement, Grantee, at Grantee's sole cost and expense, shall lay and install sod in the Temporary Easement Area and any other areas of the Grantors' property disturbed by Grantee's activities therein. Grantors understand and agree that upon satisfactory installation of the sod and acceptance by Grantors, Grantors shall be solely responsible for the watering and maintenance of the sod.

The foregoing conditions are reflected on Exhibits "A1" and "B" attached hereto and made part of this Easement.

Grantors, their successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with the Temporary Easement Area during the term of this Easement and Grantors expressly warrant and state that no buildings, trees, shrubs or other obstacles of any kind shall be placed upon the Temporary Easement Area by Grantors during the term of this Easement so as to interfere in any manner with the Temporary Easement Area during the term of this Easement, except as shown on Exhibits "A1" and "B" attached hereto, including temporary fencing to be installed by Grantee. Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, and repair any damage caused by Grantee or Grantee's agents or contractors, leaving the premises in as good condition as it was prior to the time of commencement of the construction activities.

Grantee, by acceptance of this Easement, agrees, to the fullest extent permitted by law, to indemnify and hold Grantors harmless from any and all claims, demands, damages, costs, expenses, and legal fees, including the cost of defense, for any loss, injury, death or damage to persons or property, which, at any time, is suffered or sustained by the Grantors, its employees, the public, or by any person whosoever may be using, occupying, visiting, or maintaining the

Temporary Easement Area or any portion of Grantors' property, or may be on or about the Temporary Easement Area or any portion of Grantors' property, when such loss, injury, death or damage is asserted to have been caused by any negligent act or omission, or intentional act or misconduct of the Grantee, its agents, servants, employees, invitees, or contractors, or by the breach of this Easement by the Grantee or its agents, servants, employees, invitees, or contractors. In case of any action or proceeding brought against the Grantors, by reason of such a claim, upon notice from the Grantors, Grantee shall cover the cost to defend such action or proceeding. The Grantors shall not be liable and the Grantee waives and releases the Grantors from all claims for damage to persons or property sustained by the Grantee, or the Grantee's employees, agents, servants, invitees, contractors and customers resulting by reason of occupying or visiting the Temporary Easement Area or any portion of the Grantors' property and/or pertaining to any equipment or appurtenances being used, save for Grantors' negligence. All property belonging to the Grantee and any use of the Temporary Easement Area or any portion of Grantors' property shall be at the risk of the Grantee, and the Grantors shall not be liable for damages to any such property or for theft or misappropriation thereof. The parties further acknowledge that during construction, the Grantee shall insure that the Grantee's contractor shall have a valid bond and liability insurance which shall protect and cover the Grantee and the Grantors until construction is completed.

This Easement shall commence on the date this Easement is executed by Grantors and Grantee and shall automatically terminate 45 days thereafter (but in no event later than September 30, 2021), unless otherwise agreed to in writing signed by both Grantors and Grantee.

IN WITNESS WHEREOF, the parties have caused this Easement to be executed this ____ day of _____, 2021.

[Signatures on following page.]

GRANTORS:

Richard Robert Jordahl

Leanne Jordahl

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared RICHARD ROBERT JORDAHL AND LEANNE JORDAHL, to me known to be the persons, described in and who has executed the within and foregoing instrument, and acknowledged to me that they executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

GRANTEE:

City of Fargo, a North Dakota municipal corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

The legal description was prepared by:

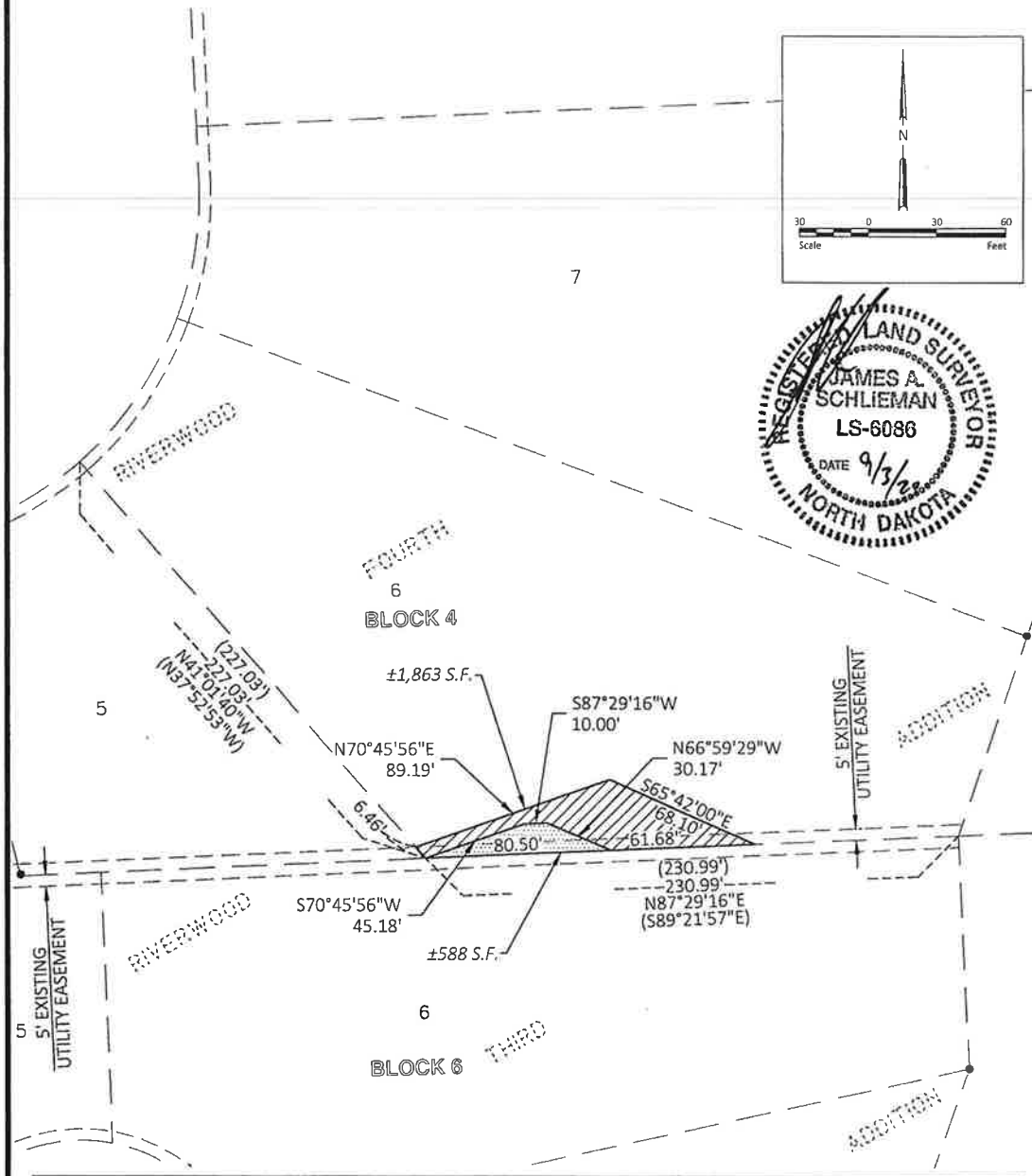
James A. Schlieman
Registered Land Surveyor
LS-6086
Houston Engineering Inc.
1401 21st Ave. N.
Fargo, ND 58102
(701) 237-5065

This document was prepared by:

Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
(701) 280-1901
nmorris@lawfargo.com

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
MEASURED DISTANCE
PLAT BEARING
PLAT DISTANCE
PERMANENT EASEMENT
TEMPORARY EASEMENT

S59°27'46"E
105.00'
(N57°00'00"W)
(105.00')

NOTE: ALL BEARINGS GIVEN ARE
BASED ON THE CITY OF
FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
1 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL

Description - Permanent Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Description - Temporary Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

Said tract contains 1,863 square feet, more or less.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

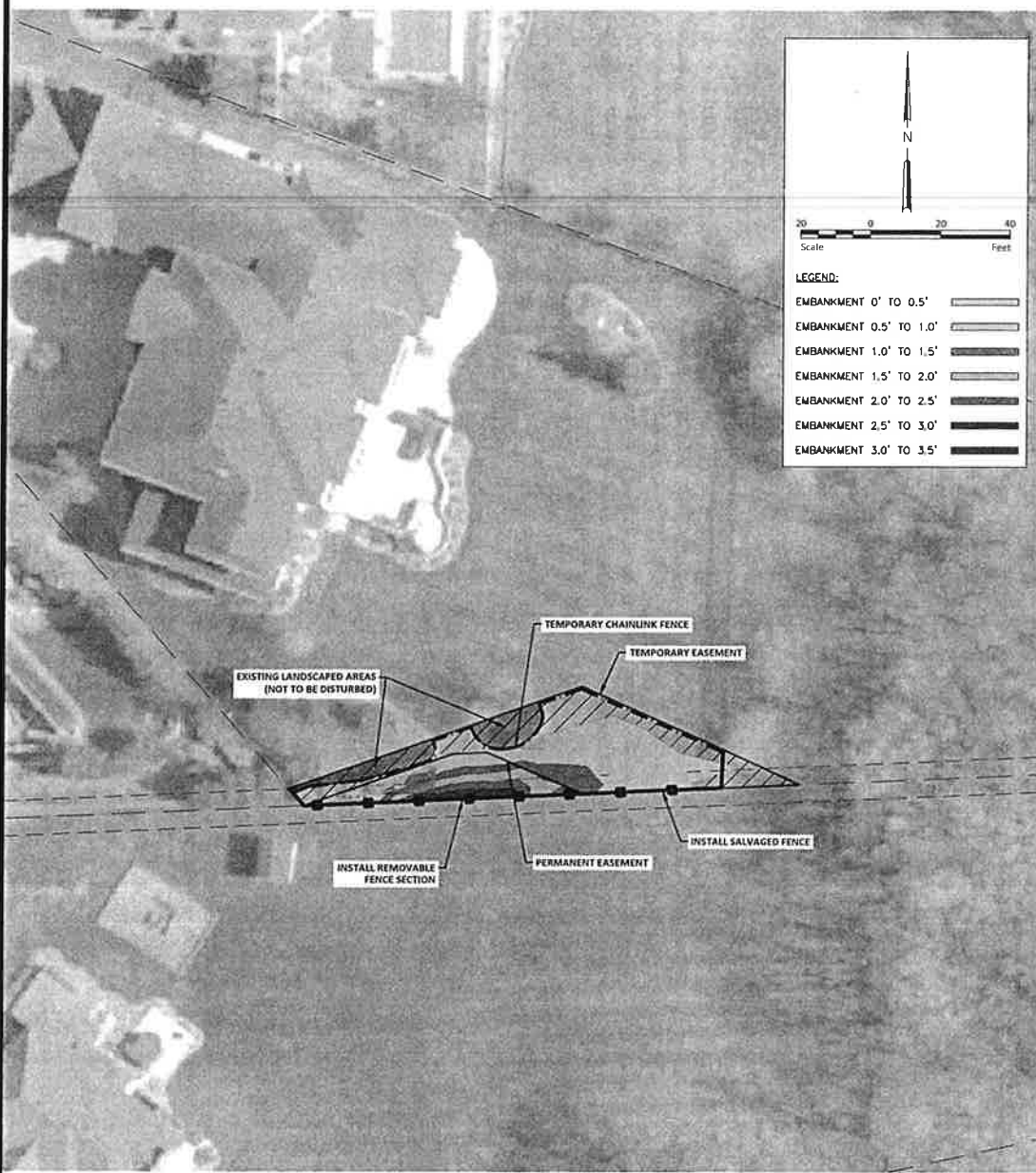
RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

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2 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

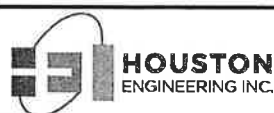
OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
MEASURED DISTANCE
PLAT BEARING
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EASEMENT EXHIBIT

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RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
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Exhibit "B"

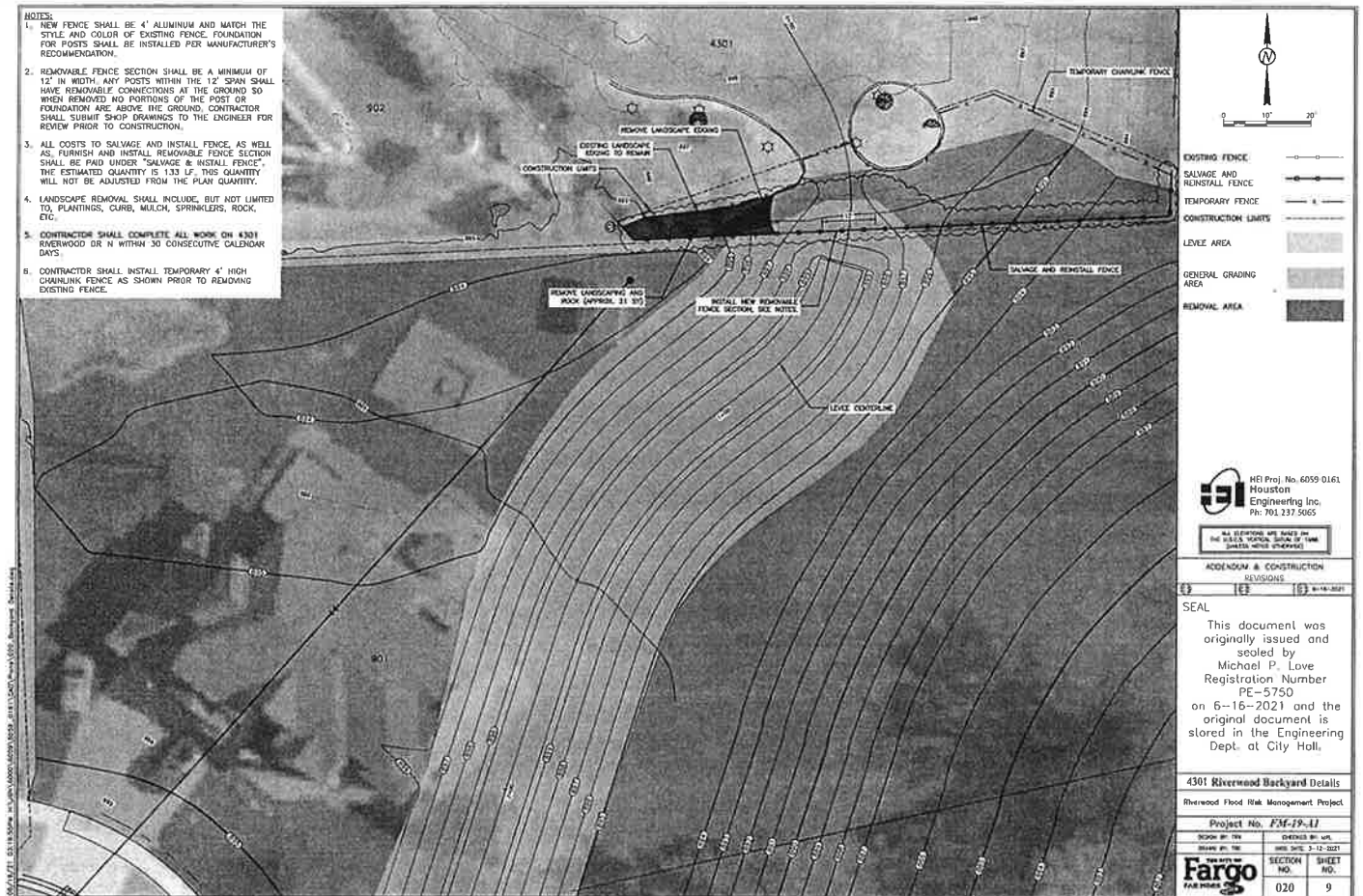


Exhibit "B"

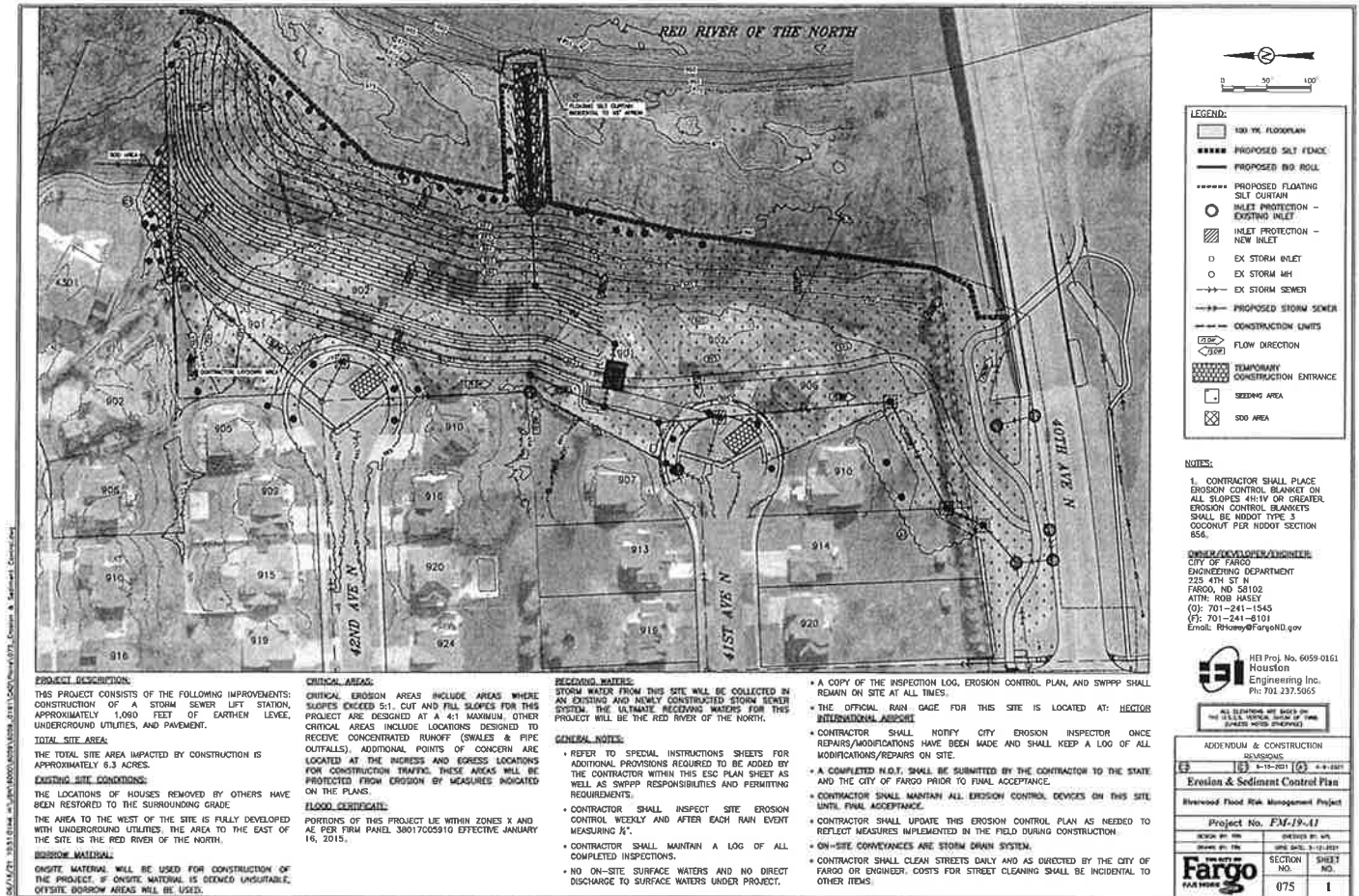


Exhibit "C"

PERMANENT EASEMENT **(Levee for Flood Control)**

KNOW ALL MEN BY THESE PRESENTS that **RICHARD ROBERT JORDAHL AND LEANNE JORDAHL**, husband and wife, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, **HEREBY GRANT UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a permanent and perpetual easement over, under, upon and in the land hereafter described for the purpose of constructing and maintaining an earthen dike, together with any and all other appurtenant structures or devices, said tracts of land being more particularly described as follows:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Said parcel is pictorially represented in Exhibit "A" hereto and made a part hereof (the "Permanent Easement Area").

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee's officers, contractors, agents and employees may, at any and all times when necessary or

convenient to do so, go over and upon the Permanent Easement Area and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further understands and agrees that Grantor will not disturb, injure, molest or in any manner interfere with said earthen dike as constructed and the customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the Permanent Easement Area. Grantor, its successors and assigns, further expressly warrants and states that no buildings, trees, shrubs, sprinkler systems or other obstacles of any kind shall be placed or located upon the Permanent Easement Area in any manner which may interfere with said earthen dike, except the fence. Grantee shall reinstall a fence on the South property line, which shall be permitted to remain so long as Grantor desires. Such fence shall not have a gate, but shall have a removable panel to allow Grantee access to the Permanent Easement Area for the purpose stated herein. Grantor agrees that upon acceptance by Grantor, the fence shall become the property and responsibility of Grantor, and further agrees that any modifications to the fence shall be approved by Grantee, which approval shall not be unreasonably withheld. Grantee, at Grantee's sole expense, shall repair any damage to the Permanent Easement Area caused by Grantee or Grantee's agents, employees, or contractors, including during any flood fighting efforts, and shall restore the Permanent Easement Area in as good condition as it was prior to the time of such damage.

Grantee, by acceptance of this Permanent Easement, agrees, to the fullest extent permitted by law, to indemnify and hold Grantor harmless from any and all claims, demands, damages, costs, expenses, and legal fees, including the cost of defense, for any loss, injury, death or damage to persons or property, which, at any time, is suffered or sustained by the Grantor, its employees, the public, or by any person whosoever may be using, occupying, visiting, or maintaining the property that is the subject of this Permanent Easement or any portion of Grantor's property, or may be on or about the property that is the subject of this Permanent Easement or any portion of Grantor's property, when such loss, injury, death or damage is asserted to have been caused by any negligent act or omission, or intentional act or misconduct of the Grantee, its agents, servants, employees, invitees, or contractors, or by the breach of this Permanent Easement by the Grantee or its agents, servants, employees, invitees, or contractors. In case of any action or proceeding brought against the Grantor, by reason of such a claim, upon notice from the Grantor, Grantee shall cover the cost to defend such action or proceeding. The

Grantor shall not be liable and the Grantee waives and releases the Grantor from all claims for damage to persons or property sustained by the Grantee, or the Grantee's employees, agents, servants, invitees, contractors and customers resulting by reason of occupying or visiting the property that is the subject of this Permanent Easement or any portion of Grantor's property and/or pertaining to any equipment or appurtenances being used, save for Grantor's negligence. All property belonging to the Grantee and any use of the Permanent Easement shall be at the risk of the Grantee, and the Grantor shall not be liable for damages to any such property or for theft or misappropriation thereof. The parties further acknowledge that during the term of this Permanent Easement, Grantee shall have liability insurance which will protect the parties during the term of this Permanent Easement.

This Permanent Easement shall commence on the date this Permanent Easement is recorded.

IN WITNESS WHEREOF, the parties have caused this Permanent Easement to be executed this ____ day of _____, 2021.

(Signatures on following page.)

GRANTORS:

Richard Robert Jordahl

Leanne Jordahl

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

On this _____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared Richard Robert Jordahl and Leanne Jordahl to me known to be the persons described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.

(SEAL)

Notary Public

County, _____

GRANTEE:

City of Fargo, a North Dakota municipal
corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

The legal description was prepared by:

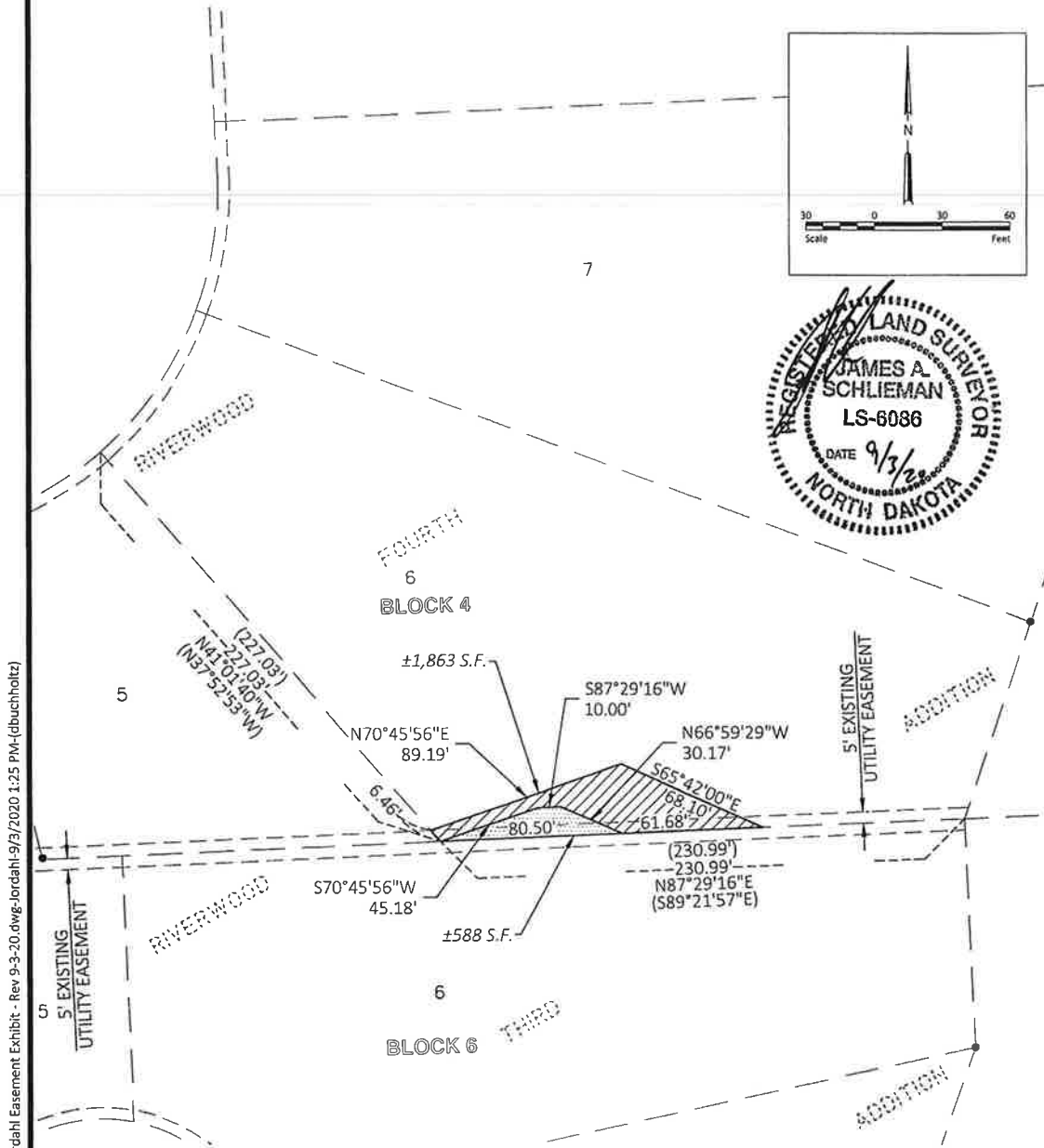
James A. Schlieman
Registered Land Surveyor
LS-6086
Houston Engineering Inc.
1401 21st Ave. N.
Fargo, ND 58102
(701) 237-5065

This document was prepared by:

Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
(701) 280-1901
nmorris@lawfargo.com

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
MEASURED DISTANCE
PLAT BEARING
PLAT DISTANCE
PERMANENT EASEMENT
TEMPORARY EASEMENT

S59°27'46"E
105.00'
(N57°00'00"W)
(105.00')

NOTE: ALL BEARINGS GIVEN ARE
BASED ON THE CITY OF
FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
1 OF 2

H:\JBN\6000\6059\6059_0161\CAD\Easements\6059-0161 Jordahl Easement Exhibit - Rev 9-3-20.dwg Jordahl 9/3/2020 1:25 PM (dbuchholtz)

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL

Description - Permanent Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Description - Temporary Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

Said tract contains 1,863 square feet, more or less.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
2 OF 2

H:\VBA\6000\6059\6059_0161\CAD\Easements\6059-0161_Jordahl Easement Exhibit - Rev 9-3-20.dwg-Jordahl (2)-9/3/2020 1:25 PM-(dbuchholtz)

Exhibit “D”

LICENSE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2021 between the City of Fargo, North Dakota, a municipal corporation, whose address is 225 4th Street North, Fargo, North Dakota, hereinafter referred to as “Licensor”, and Richard Robert Jordahl and Leanne Jordahl, husband and wife, whose address is 4315 Riverwood Drive, Fargo, North Dakota 58102-5324, hereinafter referred to as “Licensee”.

WHEREAS, Licensor is the owner of Lot 6, Block 6, Riverwood Third Addition to the City of Fargo, Cass County, North Dakota (the “Licensor Property”); and

WHEREAS, Licensee is the owner of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota (the “Licensee Property”); and

WHEREAS, Licensor and Licensee executed a Purchase Agreement dated August _____, 2021, wherein Licensee agreed to grant to Licensor certain easements, and in turn, Licensor agreed to grant to Licensee a license to access the Licensor Property for the purposes of mowing, trimming, and general maintenance; and

WHEREAS, Licensee has granted the easements to Licenser.

NOW THEREFORE, for good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Grant of License. Licenser hereby grants to Licensee, their agents, contractors and employees, a license to access the Licenser Property for purposes of maintaining, mowing, and trimming along the south side of the fence located on the Licensee Property. The parties acknowledge and agree that Licenser is responsible for mowing, trimming, and maintaining the Licenser Property, but in the event Licensee determines that Licenser has not adequately mowed, trimmed, or maintained along the south side of the fence line, then Licensee has the right pursuant to this Agreement to access the Licenser Property immediately adjacent to Licensee's fence line to mow, trim, and maintain along the south side of the fence line.

2. Term. The term of this Agreement shall be for a period of 10 years from the date this Agreement is recorded and thereafter shall automatically terminate.

3. Successors and Assigns. In the event Licenser sells or otherwise transfers all or any part of the Licenser Property during the term of this Agreement, the Licenser Property shall remain subject to this Agreement and any successors to Licenser shall take the Licenser Property subject to this Agreement. In the event that Licensee sells or otherwise transfers the Licensee Property during the term of this Agreement, then the new owner of the Licensee Property may request that Licenser enter into a new license agreement for the purposes stated herein, which request must not be unreasonably withheld by Licenser.

IN WITNESS WHEREOF, the parties have executed this License Agreement at
Fargo, North Dakota, the day and year first above written.

[signature pages to follow]

LICENSOR:

City of Fargo, a North Dakota Municipal Corporation

Dr. Timothy J. Mahoney, M.D.

ATTEST:

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me a Notary Public in and for said county and state, personally appeared Dr. Timothy J. Mahoney and Steve Sprague, to me known to be the Mayor and City Auditor, respectively, of THE CITY OF FARGO, NORTH DAKOTA, the municipal corporation described in and who executed the within and foregoing instrument and acknowledged to me that said municipal corporation executed the same.

Notary Public
Cass County, North Dakota
My Commission Expires:

LICENSEE:

By: _____
Richard Robert Jordahl

By: _____
Leanne Jordahl

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

On this ____ day of _____, 2021, before me a Notary Public in and for said county and state, personally appeared Richard Robert Jordahl and Leanne Jordahl, husband and wife, to me known to be the persons described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same.

Notary Public
Cass County, North Dakota
My Commission Expires:

Exhibit “E”

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION is made and entered into as of the ____ day of _____, 2021, by **THE CITY OF FARGO**, a North Dakota municipal corporation (the “Declarant”).

RECITALS

WHEREAS, the Declarant is the owner of Lots 6, 7, and 8, Block 6, Riverwood Third Addition to the City of Fargo, Cass County, North Dakota (the “Declarant Property”);

WHEREAS, Richard R. Jordahl and Leanne Jordahl, husband and wife (the “Jordahls”) are the owners of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota (the “Benefitted Property”);

WHEREAS, the Declarant and the Jordahls executed a Purchase Agreement dated August _____, 2021, wherein the Jordahls agreed to grant the Declarant an Easement (Temporary Construction Easement) and a Permanent Easement (Levee for Flood Control), and in turn Declarant agreed to subject the Declarant Property to certain restrictive use covenants in favor of, and for the benefit of the Jordahls and the Benefitted Property; and

WHEREAS, the Jordahls have granted the Declarant the Easement (Temporary Construction Easement) and the Permanent Easement (Levee for Flood Control).

NOW, THEREFORE, for good and valuable consideration, including but not limited to the foregoing recitals, the receipt of which is hereby acknowledged, the Declarant hereby declares as follows:

1. Restricted Use Covenant. None of the following uses or operations shall be made, conducted, or permitted on or with respect to all or any portion of the Declarant Property: (a) sidewalk; (b) bike path; (c) walking path; (d) nature path; (e) any similar path or trail; or (f) any path, trail, sidewalk, or walkway providing connecting access to and from the cul-de-sac which abuts the Declarant Property to any trail, path, sidewalk, walkway or the like that may be constructed or maintained by the Fargo Park District along the corridor of the Red River located adjacent to, and east of the Declarant Property (the "Restricted Use Covenant").
2. Expiration. This Declaration shall automatically expire, without the need for any further agreements or recorded documentation 10 years after the date this Declaration is recorded, unless earlier terminated by a written agreement executed and recorded by the owner of the Declarant Property and the owner of the Benefitted Property.
3. Zoning. The Declarant Property is presently zoned SR-2 – Single Family Residential. The City will not rezone the Declarant Property or take any action, or approve any action, via conditional use permit or otherwise, which would allow the Declarant Property to be used for any purpose or use other than single family residential during the term of this Declaration.
4. Remedies.
 - (a) Legal Action Generally. This Declaration is intended to benefit and burden the fee title owners, from time to time, of the Benefitted Property and the Declarant Property, respectively. If the Declarant, or its successors or assigns, breaches any provision of this Declaration, then the Jordahls, or their successors or assigns may institute legal action against the Declarant or its successors or assigns for specific performance, injunction, declaratory relief, damages, or any other remedy provided by law. All remedies herein or at law shall be cumulative and not inclusive. As used herein, any reference to rights or remedies "at law" or "under applicable law" shall also include any rights or remedies "in equity".
 - (b) Injunctive and Declaratory Relief. In the event of any violation or threatened violation by the Declarant, tenant, or occupant of all or any portion of the Declarant Property of any of the terms, covenants, conditions, and restrictions herein contained, in addition to any other remedies provided for in this Declaration, the Jordahls, or their successors and assigns, shall have the right to enjoin such violation or threatened violation and bring an action for declaratory relief in a court of competent jurisdiction.
 - (c) Personal Obligation. The Declarant's tenants, licensees, successors and/or assigns by acceptance of a deed to, lease of, or other conveyance of all or a portion of the Declarant Property or interest therein, shall be deemed to covenant and agree to be bound by this Declaration, so long as any such party has any ownership of or interest in any of the Declarant Property.

- (d) Attorneys' Fees. In the event that the Jordahls, or their successors or assigns are required to institute any action for a breach of or to enforce any provision or right hereunder, then the Declarant, or its successors or assigns shall pay to the Jordahls, or their successors or assigns, all costs and expenses, expressly including, but not limited to, reasonable attorneys' fees and costs incurred by the Jordahls or their successors or assigns, in connection with such action, including without limitation all fees and costs incurred on any appeal from such action or proceeding. This obligation to pay attorneys' fees shall arise only in the event that the Jordahls or their successors or assigns are successful in their claim against the Declarant.
5. Covenants Running with the Land. All the covenants, agreements, conditions, and restrictions set forth in this Declaration are intended to be and shall be construed as covenants running with the land, binding upon, and inuring to the benefit of and enforceable by the Jordahls and all subsequent owners of the Benefitted Property or any parts thereof. The covenants, agreements, conditions and restrictions contained in this Declaration are intended for the sole benefit of the Jordahls and any future owners of the Benefitted Property. No other party shall be entitled to rely on or enforce these covenants.
6. Not a Public Dedication. Nothing contained in this Declaration shall, or shall be deemed to, constitute a gift or dedication of any portion of the property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration be strictly limited to and for the purposes expressed herein.
7. Waiver. No waiver of any breach of any rights, obligations, restrictions, covenants and/or provisions herein contained shall be construed as, or constitute, a waiver of any breach or a waiver, acquiescence in or consent to any further or succeeding breach of the same or any other such rights, obligations, restrictions, covenants and/or other provisions.
8. Recording. This Declaration shall be recorded in the Office of the County Recorder, Cass County, North Dakota.
9. Severability. If any term or provision of this Declaration shall, to any extent, be held invalid or unenforceable, the remaining terms or provisions of this Declaration shall not be affected thereby, but such remaining terms and provisions shall be valid and enforceable to the fullest extent permitted by law.
10. Section Headings. The section headings of this Declaration are for convenience and reference only, and in no way define or limit the scope and content of this Declaration or in any way affect its provisions.
11. Amendment. This Declaration may be amended at any time by an instrument signed and recorded by the owner(s) of the Declarant Property and the owner(s) of the Benefitted Property.

12. Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of North Dakota.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.

[Signature page to follow]

DECLARANT:

City of Fargo, a North Dakota municipal
corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

EASEMENT
(Temporary Construction Easement)

KNOW ALL MEN BY THESE PRESENTS that RICHARD ROBERT JORDAHL AND LEANNE JORDAHL, husband and wife, hereinafter referred to as "Grantors", for and in consideration of the sum of One Dollar and other valuable consideration (\$1.00), to it in hand paid the receipt whereof is hereby acknowledged, HEREBY GRANT UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a temporary construction easement over, upon and in land hereinafter described for the purpose of flood protection measures construction and activities appurtenant thereto, said land being more fully described, to-wit:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

LESS AND EXCEPTING that portion of the foregoing property lying north of the temporary chain link fence to be installed, as depicted on Exhibits "A" and "A1" attached hereto (the "Temporary Easement Area").

Grantors, their successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times, when necessary or convenient to do so, go over and upon the Temporary Easement Area and perform any and all acts necessary or

convenient to carry into effect the purpose for which the grant is made for the duration of this Easement.

Grantee understands and agrees that the grant herein is specifically conditioned on the following:

- (1) Grantee shall stake out all of the items shown on the drawings and surveys attached hereto as Exhibits "A" and "A1" so that the Grantors can review and approve the proposed layout before Grantee commences any work on the Temporary Easement Area;
- (2) Grantee shall install a temporary chain link fence as shown on the final approved drawings and the staked layout approved by the Grantors prior to Grantee removing any portion of the existing fence or commencing any work on the Temporary Easement Area;
- (3) Grantee will remove a portion of the existing fence along the south line of the Temporary Easement Area, and following completion of the levy construction work, the Grantee shall re-install the fence in the existing location with a like-kind and quality fence, and if any of the fence is salvaged but does not match up well with any new fence panels, then the fence sections that do not match up well will be put in a location where it is less noticeable, i.e. behind the tree/landscaping area in the southwest corner of the Grantors' property. The parties agree that there shall be no gate along the reinstalled fence line, however, Grantee may install a section of the fence with a removable panel to accommodate future flood fighting efforts.
- (4) The rocks in the landscaping west of the levee and south of the pavers can be removed. Other than those rocks, no landscaping of any nature or kind, including trees, plants, or flower beds such as the existing landscaping/flower bed shaped in a circle, shall be disturbed and the temporary chain link fence shall be installed so as to protect the same. There shall be no land disturbed north of the temporary chain link fence.
- (5) At least two days, but no more than five days prior to commencing any work on the Grantors' property, Grantee shall notify Grantors of the work commencement date so Grantors can have Grantors' irrigation contractor shut-off and disconnect the system, remove irrigation heads in the Temporary Easement Area, and take such other actions related to the irrigation system as Grantors deem necessary in preparation of the construction work to be completed by Grantee on the Temporary

Easement Area on the Grantors' property. After the Grantee's work is complete, Grantee will notify Grantors, and thereafter Grantors will have Grantors' irrigation contractor re-install the irrigation heads, repair and replace as necessary any damaged irrigation lines, and reconnect the irrigation system. Grantee shall reimburse Grantors for the cost of all of the irrigation system work completed by Grantors' irrigation contractor within ten days after presentation of an invoice from Grantors to Grantee.

(6) Grantors and Grantee agree that Exhibit "B" attached hereto correctly represents the final grading and contours that shall exist on the Temporary Easement Area after the Grantee work is complete. Such final grading and contours shall not deviate more than one foot from the existing ground elevations after topsoil is spread and sod installed.

(7) Prior to the termination of this Easement, Grantee, at Grantee's sole cost and expense, shall lay and install sod in the Temporary Easement Area and any other areas of the Grantors' property disturbed by Grantee's activities therein. Grantors understand and agree that upon satisfactory installation of the sod and acceptance by Grantors, Grantors shall be solely responsible for the watering and maintenance of the sod.

The foregoing conditions are reflected on Exhibits "A1" and "B" attached hereto and made part of this Easement.

Grantors, their successors and assigns, further agree that they will not disturb, injure, molest or in any manner interfere with the Temporary Easement Area during the term of this Easement and Grantors expressly warrant and state that no buildings, trees, shrubs or other obstacles of any kind shall be placed upon the Temporary Easement Area by Grantors during the term of this Easement so as to interfere in any manner with the Temporary Easement Area during the term of this Easement, except as shown on Exhibits "A1" and "B" attached hereto, including temporary fencing to be installed by Grantee. Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, and repair any damage caused by Grantee or Grantee's agents or contractors, leaving the premises in as good condition as it was prior to the time of commencement of the construction activities.

Grantee, by acceptance of this Easement, agrees, to the fullest extent permitted by law, to indemnify and hold Grantors harmless from any and all claims, demands, damages, costs, expenses, and legal fees, including the cost of defense, for any loss, injury, death or damage to persons or property, which, at any time, is suffered or sustained by the Grantors, its employees, the public, or by any person whosoever may be using, occupying, visiting, or maintaining the

Temporary Easement Area or any portion of Grantors' property, or may be on or about the Temporary Easement Area or any portion of Grantors' property, when such loss, injury, death or damage is asserted to have been caused by any negligent act or omission, or intentional act or misconduct of the Grantee, its agents, servants, employees, invitees, or contractors, or by the breach of this Easement by the Grantee or its agents, servants, employees, invitees, or contractors. In case of any action or proceeding brought against the Grantors, by reason of such a claim, upon notice from the Grantors, Grantee shall cover the cost to defend such action or proceeding. The Grantors shall not be liable and the Grantee waives and releases the Grantors from all claims for damage to persons or property sustained by the Grantee, or the Grantee's employees, agents, servants, invitees, contractors and customers resulting by reason of occupying or visiting the Temporary Easement Area or any portion of the Grantors' property and/or pertaining to any equipment or appurtenances being used, save for Grantors' negligence. All property belonging to the Grantee and any use of the Temporary Easement Area or any portion of Grantors' property shall be at the risk of the Grantee, and the Grantors shall not be liable for damages to any such property or for theft or misappropriation thereof. The parties further acknowledge that during construction, the Grantee shall insure that the Grantee's contractor shall have a valid bond and liability insurance which shall protect and cover the Grantee and the Grantors until construction is completed.

This Easement shall commence on the date this Easement is executed by Grantors and Grantee and shall automatically terminate 45 days thereafter (but in no event later than September 30, 2021), unless otherwise agreed to in writing signed by both Grantors and Grantee.

IN WITNESS WHEREOF, the parties have caused this Easement to be executed this ____ day of _____, 2021.

[Signatures on following page.]

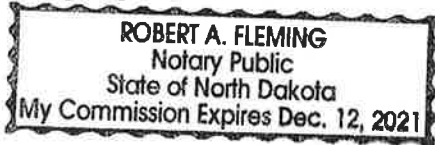
GRANTORS:


Richard Robert Jordahl

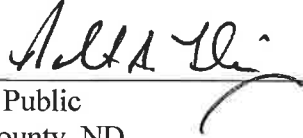

Leanne Jordahl

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

On this 2nd day of August, 2021, before me, a notary public in and for said county and state, personally appeared RICHARD ROBERT JORDAHL AND LEANNE JORDAHL, to me known to be the persons, described in and who has executed the within and foregoing instrument, and acknowledged to me that they executed the same.



(SEAL)


Notary Public
Cass County, ND
My Commission expires: 12/12/2021

GRANTEE:

City of Fargo, a North Dakota municipal
corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

The legal description was prepared by:

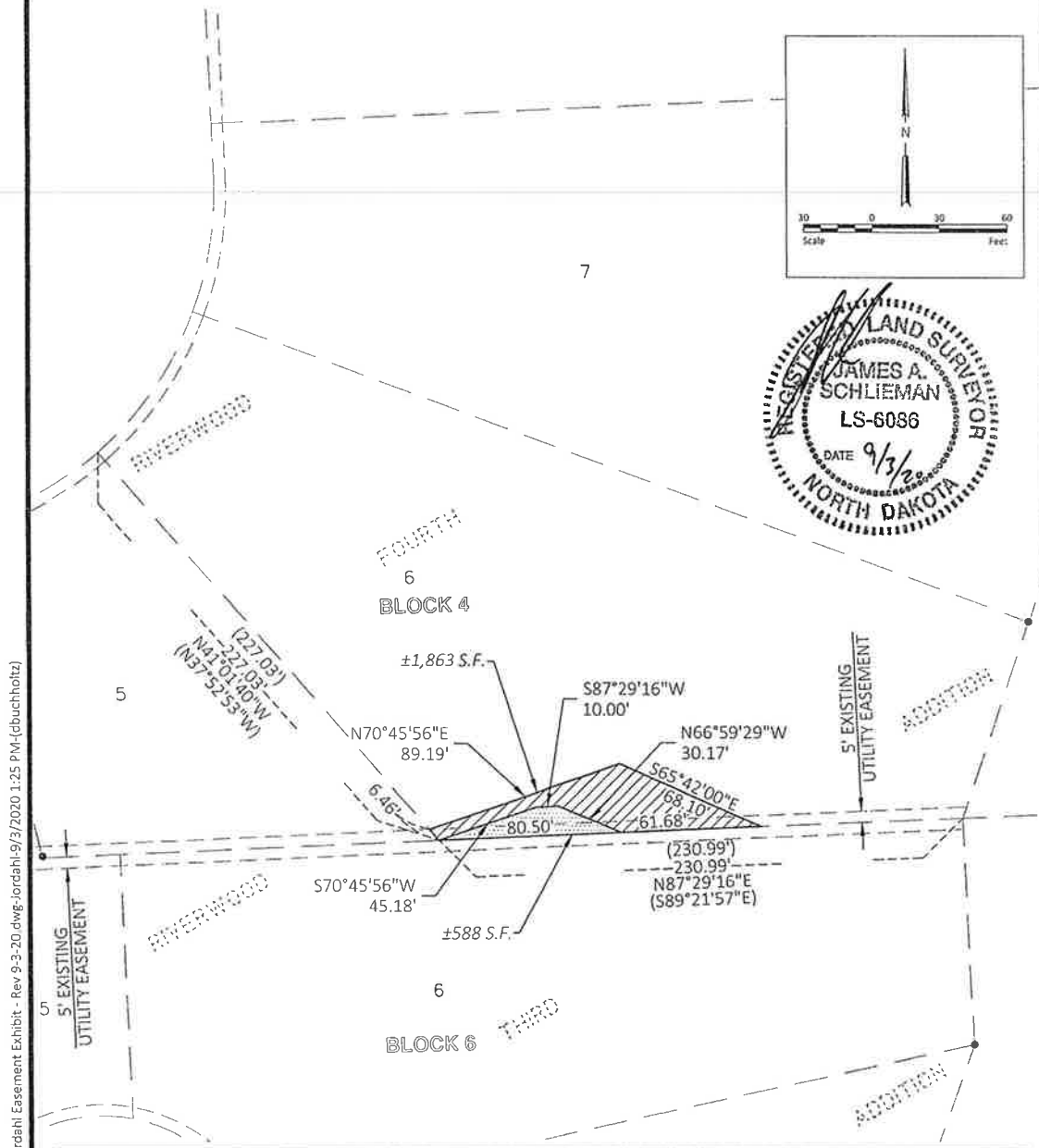
James A. Schlieman
Registered Land Surveyor
LS-6086
Houston Engineering Inc.
1401 21st Ave. N.
Fargo, ND 58102
(701) 237-5065

This document was prepared by:

Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
(701) 280-1901
nmorris@lawfargo.com

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
MEASURED DISTANCE
PLAT BEARING
PLAT DISTANCE
PERMANENT EASEMENT
TEMPORARY EASEMENT

S59°27'46"E
105.00'
(N57°00'00"W)
(105.00')

NOTE: ALL BEARINGS GIVEN ARE
BASED ON THE CITY OF
FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
1 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL

Description - Permanent Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Description - Temporary Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

Said tract contains 1,863 square feet, more or less.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

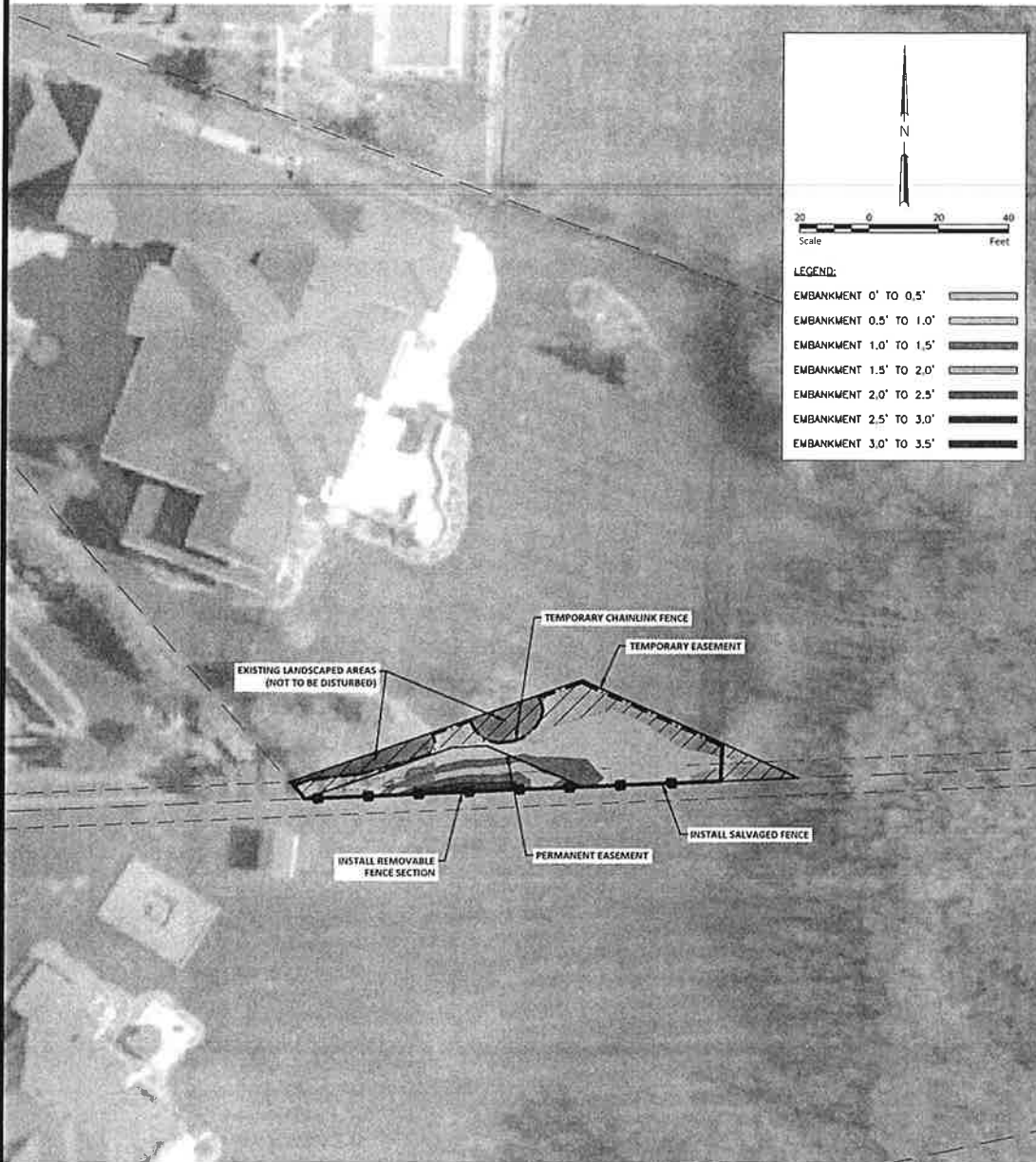
RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
2 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND	●
MEASURED BEARING	S59°27'46"E
MEASURED DISTANCE	105.00'
PLAT BEARING	(N57°00'00"W)
PLAT DISTANCE	(105.00')
PERMANENT EASEMENT	
TEMPORARY EASEMENT	

NOTE: ALL BEARINGS GIVEN ARE
BASED ON THE CITY OF
FARGO GIS COORDINATE
SYSTEM.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

**RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND**

SHEET
1 OF 1

Exhibit "B"

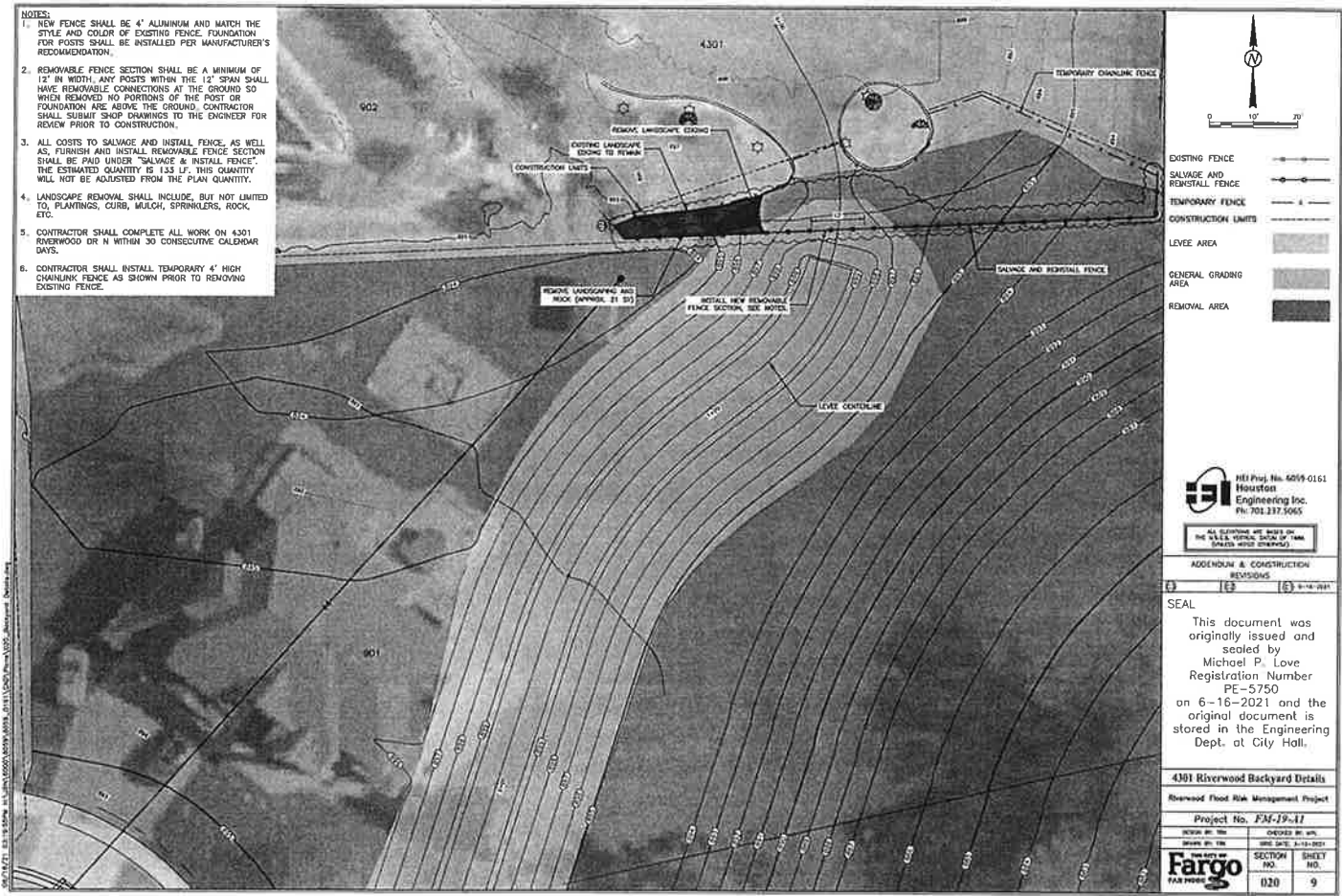
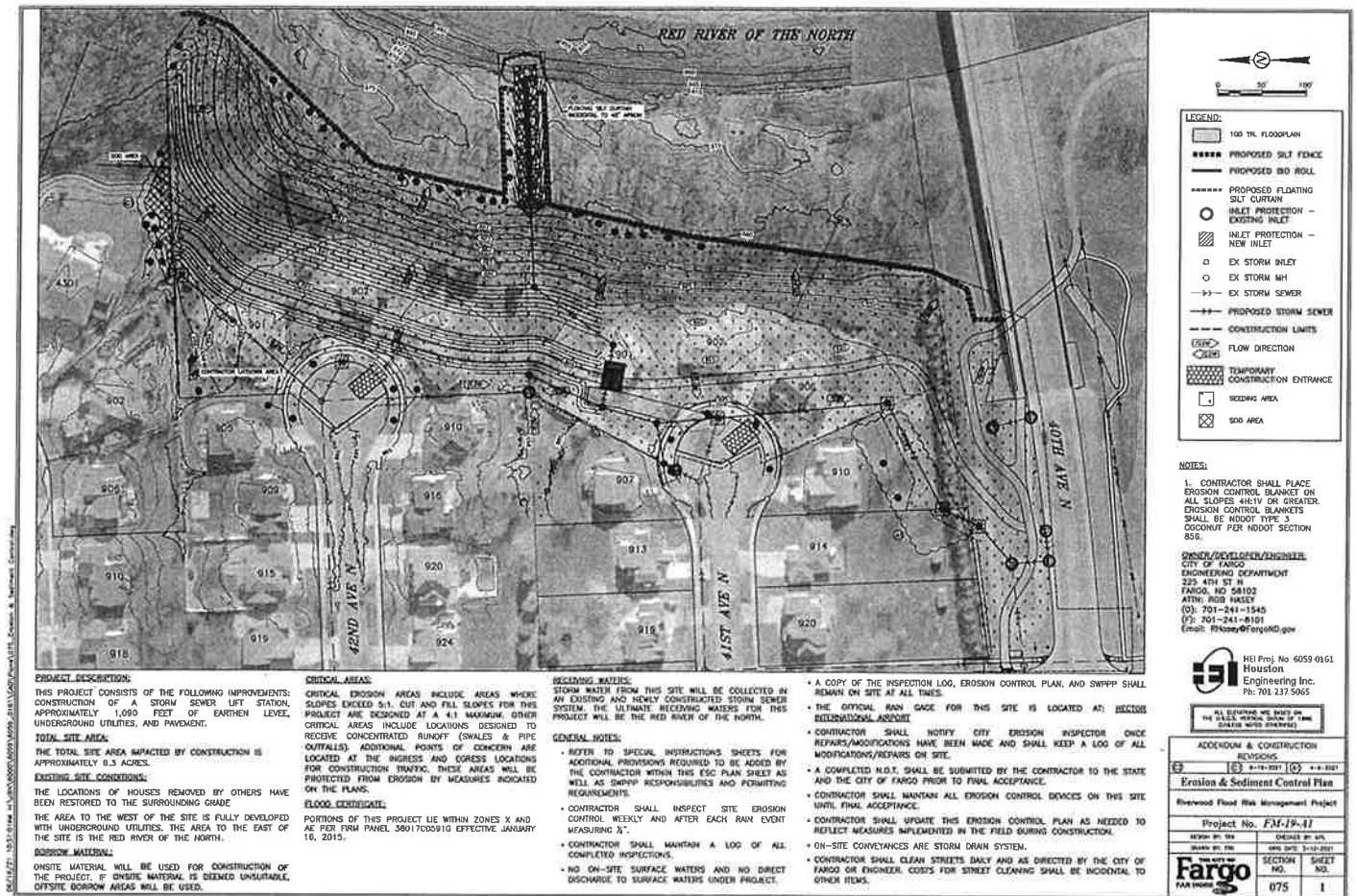


Exhibit "B"



PERMANENT EASEMENT
(Levee for Flood Control)

KNOW ALL MEN BY THESE PRESENTS that **RICHARD ROBERT JORDAHL AND LEANNE JORDAHL**, husband and wife, hereinafter referred to as “Grantor”, whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, **HEREBY GRANT UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as “Grantee”, a permanent and perpetual easement over, under, upon and in the land hereafter described for the purpose of constructing and maintaining an earthen dike, together with any and all other appurtenant structures or devices, said tracts of land being more particularly described as follows:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29’16” East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59’29” West for a distance of 30.17 feet; thence South 87°29’16” West for a distance of 10.00 feet; thence South 70°45’56” West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Said parcel is pictorially represented in Exhibit “A” hereto and made a part hereof (the “Permanent Easement Area”).

Grantor, its successors and assigns, hereby covenants to and with Grantee that Grantee’s officers, contractors, agents and employees may, at any and all times when necessary or

convenient to do so, go over and upon the Permanent Easement Area and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further understands and agrees that Grantor will not disturb, injure, molest or in any manner interfere with said earthen dike as constructed and the customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the Permanent Easement Area. Grantor, its successors and assigns, further expressly warrants and states that no buildings, trees, shrubs, sprinkler systems or other obstacles of any kind shall be placed or located upon the Permanent Easement Area in any manner which may interfere with said earthen dike, except the fence. Grantee shall reinstall a fence on the South property line, which shall be permitted to remain so long as Grantor desires. Such fence shall not have a gate, but shall have a removable panel to allow Grantee access to the Permanent Easement Area for the purpose stated herein. Grantor agrees that upon acceptance by Grantor, the fence shall become the property and responsibility of Grantor, and further agrees that any modifications to the fence shall be approved by Grantee, which approval shall not be unreasonably withheld. Grantee, at Grantee's sole expense, shall repair any damage to the Permanent Easement Area caused by Grantee or Grantee's agents, employees, or contractors, including during any flood fighting efforts, and shall restore the Permanent Easement Area in as good condition as it was prior to the time of such damage.

Grantee, by acceptance of this Permanent Easement, agrees, to the fullest extent permitted by law, to indemnify and hold Grantor harmless from any and all claims, demands, damages, costs, expenses, and legal fees, including the cost of defense, for any loss, injury, death or damage to persons or property, which, at any time, is suffered or sustained by the Grantor, its employees, the public, or by any person whosoever may be using, occupying, visiting, or maintaining the property that is the subject of this Permanent Easement or any portion of Grantor's property, or may be on or about the property that is the subject of this Permanent Easement or any portion of Grantor's property, when such loss, injury, death or damage is asserted to have been caused by any negligent act or omission, or intentional act or misconduct of the Grantee, its agents, servants, employees, invitees, or contractors, or by the breach of this Permanent Easement by the Grantee or its agents, servants, employees, invitees, or contractors. In case of any action or proceeding brought against the Grantor, by reason of such a claim, upon notice from the Grantor, Grantee shall cover the cost to defend such action or proceeding. The

Grantor shall not be liable and the Grantee waives and releases the Grantor from all claims for damage to persons or property sustained by the Grantee, or the Grantee's employees, agents, servants, invitees, contractors and customers resulting by reason of occupying or visiting the property that is the subject of this Permanent Easement or any portion of Grantor's property and/or pertaining to any equipment or appurtenances being used, save for Grantor's negligence. All property belonging to the Grantee and any use of the Permanent Easement shall be at the risk of the Grantee, and the Grantor shall not be liable for damages to any such property or for theft or misappropriation thereof. The parties further acknowledge that during the term of this Permanent Easement, Grantee shall have liability insurance which will protect the parties during the term of this Permanent Easement.

This Permanent Easement shall commence on the date this Permanent Easement is recorded.

IN WITNESS WHEREOF, the parties have caused this Permanent Easement to be executed this ____ day of _____, 2021.

(Signatures on following page.)

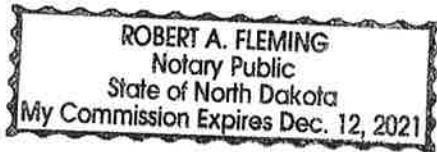
GRANTORS:


Richard Robert Jordahl



Leanne Jordahl

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

On this 2nd day of August, 2021, before me, a notary public in and for said county and state, personally appeared Richard Robert Jordahl and Leanne Jordahl to me known to be the persons described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.



(SEAL)


Notary Public
Cass County, North Dakota

GRANTEE:

City of Fargo, a North Dakota municipal
corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:

The legal description was prepared by:

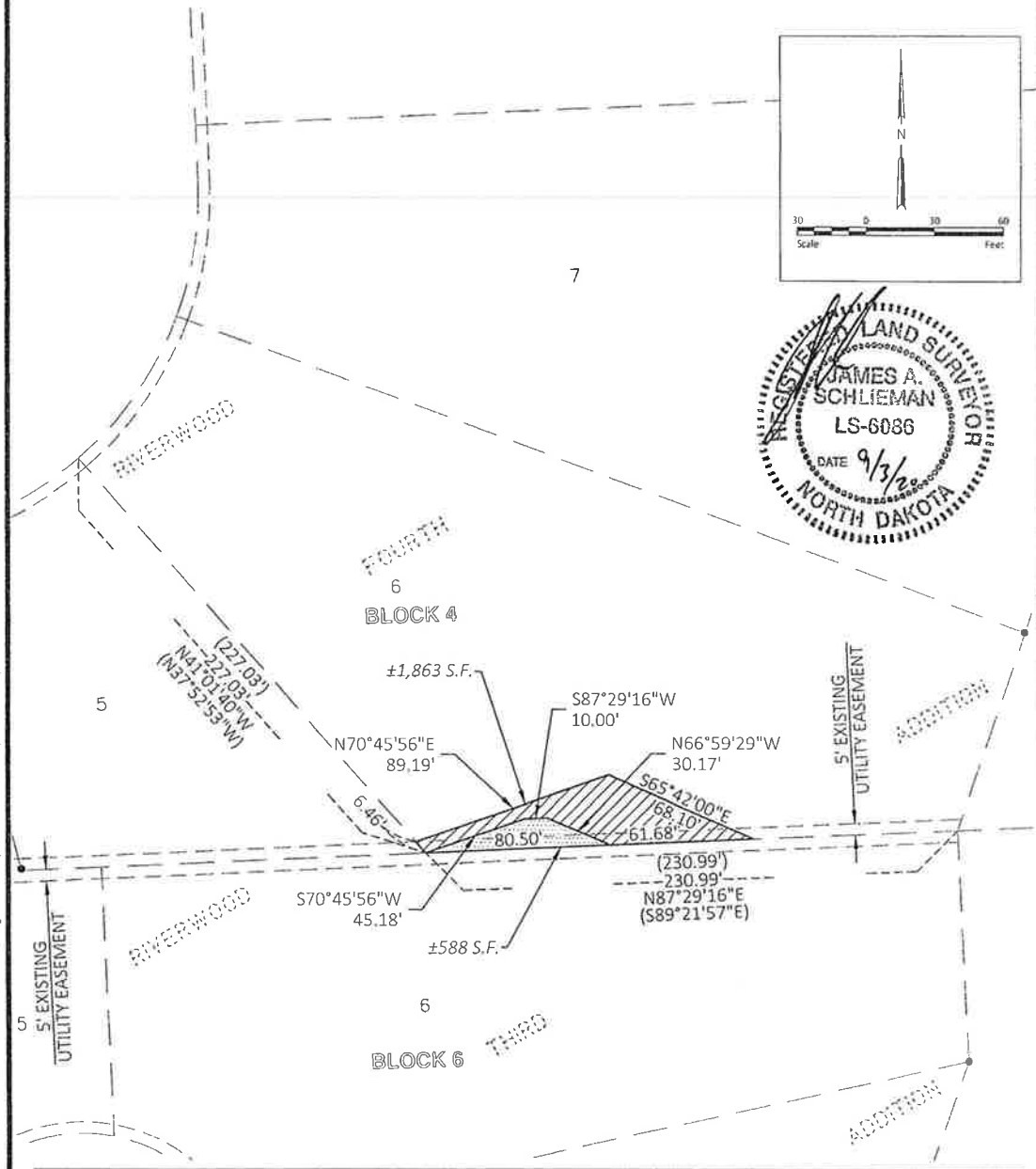
James A. Schlieman
Registered Land Surveyor
LS-6086
Houston Engineering Inc.
1401 21st Ave. N.
Fargo, ND 58102
(701) 237-5065

This document was prepared by:

Nancy J. Morris
Assistant City Attorney
Erik R. Johnson & Associates, Ltd.
505 Broadway N., Ste. 206
Fargo, ND 58102
(701) 280-1901
nmorris@lawfargo.com

PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL



IRON MONUMENT FOUND
MEASURED BEARING
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PLAT BEARING
PLAT DISTANCE
PERMANENT EASEMENT
TEMPORARY EASEMENT

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NOTE: ALL BEARINGS GIVEN ARE
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EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
1 OF 2

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PART OF LOT 6, BLOCK 4
RIVERWOOD 4TH ADDITION
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: RICHARD ROBERT & LEANNE JORDAHL

Description - Permanent Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the point of beginning.

Said tract contains 588 square feet, more or less.

Description - Temporary Easement:

That part of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Lot 6; thence North 87°29'16" East, along the southerly line of said Lot 6, for a distance of 80.50 feet to the true point of beginning; thence North 66°59'29" West for a distance of 30.17 feet; thence South 87°29'16" West for a distance of 10.00 feet; thence South 70°45'56" West for a distance of 45.18 feet to the southwest corner of said Lot 6; thence North 41°01'40" West, along the westerly line of said Lot 6, for a distance of 6.46 feet; thence North 70°45'56" East for a distance of 89.19 feet; thence South 65°42'00" East for a distance of 68.10 feet to a point of intersection with the southerly line of said Lot 6; thence South 87°29'16" West, along the southerly line of said Lot 6, for a distance of 61.68 feet to the true point of beginning.

Said tract contains 1,863 square feet, more or less.



EASEMENT EXHIBIT

PROJECT NO.
6059-0161

RIVERWOOD AREA FLOOD RISK MGMT PROJECT
CITY OF FARGO, CASS CO., ND

SHEET
2 OF 2

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LICENSE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2021 between the City of Fargo, North Dakota, a municipal corporation, whose address is 225 4th Street North, Fargo, North Dakota, hereinafter referred to as “Licensor”, and Richard Robert Jordahl and Leanne Jordahl, husband and wife, whose address is 4315 Riverwood Drive, Fargo, North Dakota 58102-5324, hereinafter referred to as “Licensee”.

WHEREAS, Licensor is the owner of Lot 6, Block 6, Riverwood Third Addition to the City of Fargo, Cass County, North Dakota (the “Licensor Property”); and

WHEREAS, Licensee is the owner of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota (the “Licensee Property”); and

WHEREAS, Licensor and Licensee executed a Purchase Agreement dated August _____, 2021, wherein Licensee agreed to grant to Licensor certain easements, and in turn, Licensor agreed to grant to Licensee a license to access the Licensor Property for the purposes of mowing, trimming, and general maintenance; and

WHEREAS, Licensee has granted the easements to Licensors.

NOW THEREFORE, for good and valuable consideration hereby acknowledged, the parties agree as follows:

1. Grant of License. Licensors hereby grants to Licensee, their agents, contractors and employees, a license to access the Licensors Property for purposes of maintaining, mowing, and trimming along the south side of the fence located on the Licensee Property. The parties acknowledge and agree that Licensors is responsible for mowing, trimming, and maintaining the Licensors Property, but in the event Licensee determines that Licensors has not adequately mowed, trimmed, or maintained along the south side of the fence line, then Licensee has the right pursuant to this Agreement to access the Licensors Property immediately adjacent to Licensee's fence line to mow, trim, and maintain along the south side of the fence line.

2. Term. The term of this Agreement shall be for a period of 10 years from the date this Agreement is recorded and thereafter shall automatically terminate.

3. Successors and Assigns. In the event Licensors sells or otherwise transfers all or any part of the Licensors Property during the term of this Agreement, the Licensors Property shall remain subject to this Agreement and any successors to Licensors shall take the Licensors Property subject to this Agreement. In the event that Licensee sells or otherwise transfers the Licensee Property during the term of this Agreement, then the new owner of the Licensee Property may request that Licensors enter into a new license agreement for the purposes stated herein, which request must not be unreasonably withheld by Licensors.

IN WITNESS WHEREOF, the parties have executed this License Agreement at
Fargo, North Dakota, the day and year first above written.

[signature pages to follow]

LICENSOR:

City of Fargo, a North Dakota Municipal Corporation

Dr. Timothy J. Mahoney, M.D.

ATTEST:

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me a Notary Public in and for said county and state, personally appeared Dr. Timothy J. Mahoney and Steve Sprague, to me known to be the Mayor and City Auditor, respectively, of THE CITY OF FARGO, NORTH DAKOTA, the municipal corporation described in and who executed the within and foregoing instrument and acknowledged to me that said municipal corporation executed the same.

Notary Public
Cass County, North Dakota
My Commission Expires:

LICENSEE:

By: _____

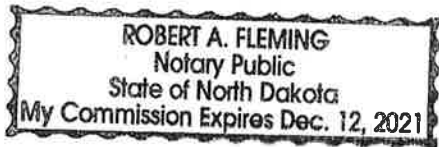
Richard Robert Jordahl

By: _____

Leanne Jordahl

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

On this 2nd day of August, 2021, before me a Notary Public in and for said county and state, personally appeared Richard Robert Jordahl and Leanne Jordahl, husband and wife, to me known to be the persons described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same.



Robert A. Fleming
Notary Public
Cass County, North Dakota
My Commission Expires: 12/12/2021

**DECLARATION
OF
RESTRICTIVE COVENANT**

THIS DECLARATION is made and entered into as of the ____ day of _____, 2021, by **THE CITY OF FARGO**, a North Dakota municipal corporation (the “Declarant”).

RECITALS

WHEREAS, the Declarant is the owner of Lots 6, 7, and 8, Block 6, Riverwood Third Addition to the City of Fargo, Cass County, North Dakota (the “Declarant Property”);

WHEREAS, Richard R. Jordahl and Leanne Jordahl, husband and wife (the “Jordahls”) are the owners of Lot 6, Block 4, Riverwood Fourth Addition to the City of Fargo, Cass County, North Dakota (the “Benefitted Property”);

WHEREAS, the Declarant and the Jordahls executed a Purchase Agreement dated August _____, 2021, wherein the Jordahls agreed to grant the Declarant an Easement (Temporary Construction Easement) and a Permanent Easement (Levee for Flood Control), and in turn Declarant agreed to subject the Declarant Property to certain restrictive use covenants in favor of, and for the benefit of the Jordahls and the Benefitted Property; and

WHEREAS, the Jordahls have granted the Declarant the Easement (Temporary Construction Easement) and the Permanent Easement (Levee for Flood Control).

NOW, THEREFORE, for good and valuable consideration, including but not limited to the foregoing recitals, the receipt of which is hereby acknowledged, the Declarant hereby declares as follows:

1. Restricted Use Covenant. None of the following uses or operations shall be made, conducted, or permitted on or with respect to all or any portion of the Declarant

Property: (a) sidewalk; (b) bike path; (c) walking path; (d) nature path; (e) any similar path or trail; or (f) any path, trail, sidewalk, or walkway providing connecting access to and from the cul-de-sac which abuts the Declarant Property to any trail, path, sidewalk, walkway or the like that may be constructed or maintained by the Fargo Park District along the corridor of the Red River located adjacent to, and east of the Declarant Property (the "Restricted Use Covenant").

2. Expiration. This Declaration shall automatically expire, without the need for any further agreements or recorded documentation 10 years after the date this Declaration is recorded, unless earlier terminated by a written agreement executed and recorded by the owner of the Declarant Property and the owner of the Benefitted Property.
3. Zoning. The Declarant Property is presently zoned SR-2 – Single Family Residential. The City will not rezone the Declarant Property or take any action, or approve any action, via conditional use permit or otherwise, which would allow the Declarant Property to be used for any purpose or use other than single family residential during the term of this Declaration.
4. Remedies.
 - (a) Legal Action Generally. This Declaration is intended to benefit and burden the fee title owners, from time to time, of the Benefitted Property and the Declarant Property, respectively. If the Declarant, or its successors or assigns, breaches any provision of this Declaration, then the Jordahls, or their successors or assigns may institute legal action against the Declarant or its successors or assigns for specific performance, injunction, declaratory relief, damages, or any other remedy provided by law. All remedies herein or at law shall be cumulative and not inclusive. As used herein, any reference to rights or remedies "at law" or "under applicable law" shall also include any rights or remedies "in equity".
 - (b) Injunctive and Declaratory Relief. In the event of any violation or threatened violation by the Declarant, tenant, or occupant of all or any portion of the Declarant Property of any of the terms, covenants, conditions, and restrictions herein contained, in addition to any other remedies provided for in this Declaration, the Jordahls, or their successors and assigns, shall have the right to enjoin such violation or threatened violation and bring an action for declaratory relief in a court of competent jurisdiction.
 - (c) Personal Obligation. The Declarant's tenants, licensees, successors and/or assigns by acceptance of a deed to, lease of, or other conveyance of all or a portion of the Declarant Property or interest therein, shall be deemed to covenant and agree to be bound by this Declaration, so long as any such party has any ownership of or interest in any of the Declarant Property.
 - (d) Attorneys' Fees. In the event that the Jordahls, or their successors or assigns are required to institute any action for a breach of or to enforce any provision or right

hereunder, then the Declarant, or its successors or assigns shall pay to the Jordahls, or their successors or assigns, all costs and expenses, expressly including, but not limited to, reasonable attorneys' fees and costs incurred by the Jordahls or their successors or assigns, in connection with such action, including without limitation all fees and costs incurred on any appeal from such action or proceeding. This obligation to pay attorneys' fees shall arise only in the event that the Jordahls or their successors or assigns are successful in their claim against the Declarant.

5. Covenants Running with the Land. All the covenants, agreements, conditions, and restrictions set forth in this Declaration are intended to be and shall be construed as covenants running with the land, binding upon, and inuring to the benefit of and enforceable by the Jordahls and all subsequent owners of the Benefitted Property or any parts thereof. The covenants, agreements, conditions and restrictions contained in this Declaration are intended for the sole benefit of the Jordahls and any future owners of the Benefitted Property. No other party shall be entitled to rely on or enforce these covenants.
6. Not a Public Dedication. Nothing contained in this Declaration shall, or shall be deemed to, constitute a gift or dedication of any portion of the property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration be strictly limited to and for the purposes expressed herein.
7. Waiver. No waiver of any breach of any rights, obligations, restrictions, covenants and/or provisions herein contained shall be construed as, or constitute, a waiver of any breach or a waiver, acquiescence in or consent to any further or succeeding breach of the same or any other such rights, obligations, restrictions, covenants and/or other provisions.
8. Recording. This Declaration shall be recorded in the Office of the County Recorder, Cass County, North Dakota.
9. Severability. If any term or provision of this Declaration shall, to any extent, be held invalid or unenforceable, the remaining terms or provisions of this Declaration shall not be affected thereby, but such remaining terms and provisions shall be valid and enforceable to the fullest extent permitted by law.
10. Section Headings. The section headings of this Declaration are for convenience and reference only, and in no way define or limit the scope and content of this Declaration or in any way affect its provisions.
11. Amendment. This Declaration may be amended at any time by an instrument signed and recorded by the owner(s) of the Declarant Property and the owner(s) of the Benefitted Property.

12. Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of North Dakota.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.

[Signature page to follow]

DECLARANT:

City of Fargo, a North Dakota municipal
corporation

Timothy J. Mahoney, M.D., Mayor

ATTEST

Steve Sprague, City Auditor

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

On this ____ day of _____, 2021, before me, a notary public in and for said county and state, personally appeared TIMOTHY J. MAHONEY, M.D. and STEVEN SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

(SEAL)

Notary Public
Cass County, ND
My Commission expires:



10

July 28, 2021

Fargo City Commission
225 4th Street North
Fargo, ND 58102

Commissioners:

The Fargo Dome Authority requests your approval of the Eighth Amended Lease Agreement between North Dakota State University and Fargo Dome Authority. The agreement has a one year term running through June 30, 2022, and was negotiated by representatives from the Fargo Dome Authority, FARGODOME management and North Dakota State University.

The Fargo Dome Authority approved this contract at their regularly scheduled meeting on July 27, 2021.

Requested Motion: To approve the Eighth Amended Lease Agreement between the Fargo Dome Authority and North Dakota State University as presented.

Thank you for your consideration of this matter.

Very truly yours,

Rob Sobolik
General Manager, FARGODOME

Attachment

**EIGHTH AMENDED
LEASE AGREEMENT
NORTH DAKOTA STATE UNIVERSITY
FARGO DOME AUTHORITY**

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**SEVENTH AMENDED
LEASE AGREEMENT
NORTH DAKOTA STATE UNIVERSITY
FARGO DOME AUTHORITY**

THIS LEASE AGREEMENT (hereinafter, this "Agreement"), is dated and effective as of this the 1st day of July, 2021, by and between the City of Fargo, a municipal corporation of the State of North Dakota, acting by and through its Fargo Dome Authority (hereinafter, "Authority"), a duly constituted authority existing under and by virtue of Ordinance Nos. 2437, 2506 and 2510 of the City of Fargo, North Dakota, and the North Dakota State Board of Higher Education and North Dakota State University (hereinafter, "NDSU").

WHEREAS, the State Board of Higher Education of the State of North Dakota and NDSU leased certain real property to the City of Fargo for a period of ninety-nine (99) years by a Lease Agreement dated December 15, 1989 (the "Ground Lease") for the purpose of constructing and operating the FARGODOME (hereinafter the "Dome"); and

WHEREAS, the terms of the Ground Lease were intended to adequately compensate NDSU for the use of such land, without jeopardizing the financial success of the Dome, and commit NDSU to substantial use of the completed Dome; and

WHEREAS, the Authority and NDSU entered into a Lease Agreement dated July 1, 1993, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing Section V, Numbers 2 and 3 of the Ground Lease (the "First Operating Lease"); and

WHEREAS, the Authority and NDSU entered into a Second Amended Lease Agreement dated July 1, 1998, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the First Operating Lease (the "Second Operating Lease"); and

WHEREAS, the Authority and NDSU entered into a Third Amended Lease Agreement dated July 1, 2002, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the Second Operating Lease (the "Third Operating Lease"); and

WHEREAS, the Authority and NDSU entered into a Fourth Amended Lease Agreement dated July 1, 2007, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the Third Operating Lease (the "Fourth Operating Lease"); and

WHEREAS, the Authority and NDSU entered into a Fifth Amended Lease Agreement dated July 1, 2012, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the Fourth Operating Lease (the "Fifth Operating Lease"); and

WHEREAS, the Authority and NDSU entered into a Sixth Amended Lease Agreement dated July 1, 2017, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the Fifth Operating Lease (the "Sixth Operating Lease"; and

WHEREAS, the Authority and NDSU, entered into a Seventh Amended Lease Agreement dated July 1, 2020, providing for the terms and conditions for use of the Dome by NDSU and amending and replacing the Sixth Operating Lease (the "Sixth Operating Lease"); and

WHEREAS, NDSU and the Authority have reached an agreement on certain disputed amounts claimed by NDSU under Section VI(3) of the Ground Lease; and

WHEREAS, the Authority and NDSU desire to modify their agreement for the use of the Dome by NDSU, to further modify the Ground Lease and to reflect the resolution of all disputed amounts as provided in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Authority and NDSU do hereby agree that this Agreement and the following terms and conditions shall serve to replace the Sixth Amended Lease, provided; however, that the repeal of Section IV(3) and replacement of Section V, 2 and 3 of the Ground Lease remain as an integral part of this Seventh Amended Lease. Furthermore, the repeal of Section IV(3) of the Ground Lease as referenced in the Third Amended Lease and the reduced rates for the Sponsorship Package referred to in Section 5.A., remain as being, and are, in full settlement and release by NDSU of all disputed amounts claimed by NDSU. All other provisions of the Ground Lease, unless inconsistent with this Agreement, shall remain in full force and effect. If the provisions of the Ground Lease and this Agreement conflict, the provisions of this Agreement shall control.

1. DEFINITIONS.

"Football set-up" (Exhibit A) shall be defined as the entire main floor area, including the permanent seating as specified in Exhibit A and the DOME ticketing manifest, meeting rooms 201-204, the public area of the concourse, two temporary concourse level novelty stands, the area of the east press boxes necessary for the media to cover the event, the east side home team locker rooms and the west side visiting team locker rooms and star dressing rooms.

"Basketball set-up" (Exhibit B) shall be defined as the north end of the main arena floor set up in the basketball configuration with the seating as specified in Exhibit B. This configuration also includes DOME ticketing manifest for basketball, meeting rooms 201-204, the north end concourse public areas, a temporary north end novelty stand, the west side visiting team locker room and the east side home team locker room, if needed.

“Speaker set-up” (Exhibit C) shall be defined as the south end of the main floor, set up in the Arena Concert Configuration with the permanent seating as specified in Exhibit C, with the number of portable floor chairs and their location to be mutually agreed upon and meeting rooms 201-204.

“Other set-ups” shall be defined as any set-ups or arrangements not herein described as shall be mutually agreed upon by both the Authority and NDSU.

“Lease Year” shall be defined as a consecutive twelve (12) month period beginning on July 1 and ending on June 30.

“Non-revenue events” shall be defined as NDSU events where no admission is charged, no fee is taken or no collection is made from event patrons. Examples of eligible non-revenue NDSU events include commencement exercises, student orientation, homecoming celebrations, alumni functions or other types of events which are mutually agreed upon.

“Total Event Days” shall be defined as the sum of Priority Dates, Non-Priority Scheduled Events, and Non-Priority Non-Football Athletic Practices.

“Advertising Inventory” means the proposed agreements with advertisers at the FARGODOME.

“Suite Inventory” means the proposed annual agreements with suiteholders for any of the private suites at FARGODOME;

“Advertising and Suite Revenue” means for each Contract Year, all payments made in cash with respect to the Advertising Inventory, except the following:

- (a) Payment for naming rights to FARGODOME sold by the Authority;
- (b) Payment received from an entity for “branding or naming” rights for a specific FARGODOME event configuration used for the performance of certain events, excluding NDSU football games, i.e. “Gate City Bank Theatre”;
- (c) Payments made for the event rental of any suites not currently under an annual lease contract, or the sub-lease of a suite as provided for in an existing suiteholder agreement between the Authority and suiteholder;
- (d) Payments for printed advertising in FARGODOME bathrooms;
- (e) Payments for printed advertising in event programs;
- (f) Payments with respect to advertising in any new or expanded facility adjacent to FARGODOME and related parking facilities;
- (g) Sponsorships of co-promoted events at FARGODOME, such as “Happy Harry’s Ribfest”.

"Direct Costs" means, for each Contract Year, all expenses incurred by FARGODOME in connection with the sale of the Advertising Inventory and the Suite Inventory and the operation and maintenance of the Display Equipment including, but not limited to (i) service contracts, (ii) repair and maintenance expenses, (iii) fees and commissions paid to any third party sales consultant, (iv) costs incurred in fulfilling any advertising or suite contract, and (v) other mutually agreed upon expenses; but excluding general allocated administrative expenses.

"Display Equipment" means (i) the arena end board LED display panels, (ii) the arena corner LED display panels, (iii) the arena vomitory LED display panels, (iv) the concourse, lobby and restroom television and video displays, (v) the outdoor marquee, (vi) related equipment and software; and (vii) any replacements or additions made by the Authority from time to time.

"City" means the City of Fargo, a North Dakota municipal corporation.

2. **LEASED AREA.** The Authority hereby grants NDSU the right to occupy and use only the areas of the DOME for the various events as defined in Section 1 above. NDSU's use of the DOME for any configurations not covered herein shall be defined and mutually agreed to by NDSU and the Authority. No other areas shall be occupied by NDSU except as is provided in the Lease – Locker Room Project—Fargodome/NDSU dated October 10, 2005, as amended by the Supplement to Lease (Locker Room Project—Fargodome/NDSU) dated May 22, 2006, as the same may be amended or further supplemented from time to time, or unless authorized in writing. The Authority reserves the sole right to rent or use all areas of the DOME not assigned herein to NDSU during the Lease Period. The Authority shall inform NDSU when the Authority plans to use, uses or leases other areas of the DOME during the Lease Period.

3. **LEASE PERIOD.** The Lease Period for each of the primary types of usage shall be as follows:

A. ***Athletic events.*** A period of time beginning no more than four (4) hours before the starting time of the event and ending two (2) hours after the ending time of the event, unless additional time period are mutually agreed upon in writing. NDSU shall have use of the DOME beginning at 8:00 a.m. on days of football games, provided that the start of NDSU's use of the DOME on days of football games is subject to change based on the time that the turf and football field equipment is installed and ready. The Authority may, with the consent of NDSU, lease all or a portion of the Leased Area to another party during the Lease Period and the Authority shall pay NDSU twenty-five percent (25%) of the rent received.

B. ***Speakers/Graduations.*** A period of time beginning no more than four (4) hours before the starting time of the event and ending one (1) hour after the ending time of the event unless additional time periods are mutually agreed upon in writing.

NDSU's use of the DOME in excess of the times stated above shall only be allowed if the Authority has the time available. Such time used in excess of the times stated above may result in NDSU paying an overtime charge.

The Lease Period for any other type of usage shall be defined and mutually agreed to by NDSU and the Authority.

4. **TERM.** NDSU shall have the right to rent the DOME for a maximum of fifty-five (55) Total Event Days per Lease Year during the one (1) year period beginning July 1, 2021, and ending on June 30, 2022. Unless earlier terminated, this Agreement shall expire on June 30, 2022, unless extended in writing by the parties.

5. **RENT AND REVENUE SHARING.** NDSU agrees to pay the Authority for use of the DOME during the term of this Agreement the following annual rental fees:

July 1, 2021 - June 30, 2022 \$165,000

These rental fees shall be paid to the Authority in ten (10) equal monthly installments, on or before the 15th of each month in the month it is due from September to June of each Lease Year.

A. **Sponsorship Package.** NDSU shall sponsor a scoreboard, video and suite package (Suite is in Section 34, East side of the DOME), the terms and conditions of which are set forth in the Fargodome Signage Advertising Agreement between NDSU and the Authority dated July 1, 2020. The amounts payable under the Fargodome Signage Advertising Agreement are intended to be as full settlement and release by NDSU of the disputed amounts owed by the City of Fargo as supplementary rent pursuant to Subsection IV(3) of the Ground Lease, which Subsection is hereby repealed.

B. **Advertising and Suite Revenue.** The Authority and NDSU hereby agree to jointly and cooperatively market and sell the Advertising Inventory and Suite Inventory. FARGODOME will take the lead role in servicing the Advertising Inventory and Suite Inventory and the NDSU Athletic Department will assist in servicing the Advertising Inventory and Suite Inventory as needed and required.

The Authority shall be solely responsible for the payment of all costs incurred in connection with the planning, designing, acquisition, installation, operation and maintenance of the Display Equipment. NDSU shall have no right, title or interest in the Display Equipment. The Authority shall pay all Direct Costs as and when the same shall become due and payable.

The Authority and NDSU agree that the Advertising and Suite Revenue collected each Contract Year shall be allocated as follows:

- (a) First, to the payment of Direct Costs;
- (b) Any remaining Advertising and Suite Revenue shall be divided 80% to the Authority and 20% to NDSU.

Advertising and Suite Revenues shall be distributed in quarterly installments following the end of each calendar quarter based on Advertising and Suite Revenue and Direct Costs accrued during such quarter with any Contract Year adjustments to be made in the final payment after the end of each Contract year. In the event the Direct Costs exceed the Advertising and Suite Revenue during any Contract Year, the Authority and the City shall be solely responsible for the payment of such Direct Costs. Any such deficit shall be carried forward to subsequent Contract Years and reimbursed, together with interest on the amount advanced, before making any distributions pursuant to subsection (b) above. The Authority shall be responsible for the collection of all Advertising and Suite Revenue and the payment and amortization of all Direct Costs and will provide an accounting to NDSU of such Advertising and Suite Revenues and Direct Costs within one hundred twenty (120) days after the end of each Contract Year.

The Authority and NDSU will mutually determine the final terms and conditions of the Advertising Inventory and Suite Inventory. The Advertising Inventory and Suite Inventory shall be between the Authority and the respective advertiser or suiteholder. NDSU shall incur no rights or liabilities with respect to the Advertising Inventory or Suite Inventory (except for the FARGODOME Signage Advertising Agreement between the Authority and NDSU dated July 1, 2020). For NDSU events, the Authority and NDSU will mutually agree upon the advertising of any brand names in FARGODOME and will mutually review and approve the displays and messages used within FARGODOME. The Authority reserves the right to prohibit the advertising of any brand names in FARGODOME and to review and approve the displays and messages used within FARGODOME for non-NDSU events.

C. Concessions. NDSU shall receive fifteen percent (15%) of the gross receipts, after payment of applicable taxes, from the Authority's sale of concessions food and beverage items at NDSU's events until NDSU realizes \$30,000 in concessions revenue per year. After NDSU realizes \$30,000 in concessions revenue, NDSU shall receive ten percent (10%) of the gross receipts (after payment of applicable taxes) from the Authority's concessions revenue in excess of the revenue attributable to the \$30,000 per year NDSU realizes. Concessions revenues shall not include revenues related to suite catering.

The Authority shall prepare a report of the concessions sales on a monthly basis, with said report showing the sales net of applicable taxes and the amount due

NDSU. This report must be received by NDSU no later than ten (10) days following the month for which the report applies. Payment to NDSU from these concessions revenues will accompany said monthly report.

D. Parking. Except as provided in Section 12.B. hereof, NDSU shall not share in any parking revenue from the Authority's parking operations. The Authority shall have the sole right to operate the parking facilities on the DOME premises, including the establishment and collection of parking fees.

E. Novelties. The Authority shall receive fifteen percent (15%) of all novelty sales, after payment of applicable taxes, at NDSU regular season athletic events. The Authority shall receive 7.5% of novelty sales during post-season tournament events. A complete report of these novelty sales shall be furnished to the Authority no later than ten (10) days after the end of each month in which NDSU had events along with any payments due to the Authority.

F. Ticket Income. The Authority shall receive a facility user fee of \$.50 per paid ticket on all season and single game paid tickets for any NDSU football game, including post season playoff football games. NDSU shall retain all other revenue from ticket sales and shall conduct and be totally responsible for all ticket distribution for NDSU events covered by this Agreement. NDSU shall have access to the ticket windows on the East side main entrance and the West side ticket office to sell their event tickets. Such access shall only be on the event day, with the time of the use to be mutually agreed upon.

6. ITEMS INCLUDED IN RENTAL FEE. The aforementioned rental fee includes lighting, heat or air conditioning, water and the sound system as installed and standard cleaning services normally provided after each event, but only in normal and reasonable amounts. Amounts required in excess of normal and reasonable amounts may result in an additional cost to NDSU. The rental shall also include those equipment items so noted below for the various configurations. The Authority hereby agrees to provide and pay for an operator for all Dome video advertising systems, concourse display systems, and the exterior electronic marquee (excluding game-specific personnel such as scoreboard operators and live video production personnel).

Football. Rental fee includes the football field set-up for the actual game with the turf, goal posts, netting, field wall padding, player benches, down markers and first down chains, scoreboards and 25 second clock and coaches headsets. NDSU shall provide all other football related equipment and staffing required for the operation of a football game.

Basketball. Rental fee includes the moveable riser set-up on the north end for the game, the portable risers set in the basketball configuration, the basketball court, the basketball goals, the scorers table and the portion of the north side press box necessary for the media to cover the game.

7. **ITEMS NOT INCLUDED IN RENTAL FEE:** All equipment, staffing and services for the event which are not included herein as being provided in the rental fee shall be provided by the Authority at NDSU's sole expense per the Authority's published Equipment, Staffing and Services rate schedule. These items may include, but are not necessarily limited to:

- Event staffing
- License fees
- Sound system operator
- Live video production personnel
- Equipment set-up and removal
- Equipment rental items
- Special hook-ups for electrical and utility services
- Food, beverage and catering services
- Advertising, marketing and publicity costs
- Ticketing costs
- Other equipment, staffing or services costs

NDSU hereby agrees to provide and pay for an operator for the scoreboard scoring system.

The Authority shall provide all event staff personnel for the football games and NDSU shall pay the published labor billing rates, at the time of the event, for all event staff (including part-time event, custodial and live video production staff) and actual billings of third party vendors including police, medical and fire personnel per game for providing event staff. Staffing will be set at levels in the best interest of public safety and mutually agreeable by the Authority and NDSU.

Upon request by NDSU, the Authority shall furnish NDSU with a projection of event expenses for all NDSU events.

8. **SCHEDULING AND EVENT TYPE RIGHTS GRANTED TO NDSU.**

- A. Total Event Days: NDSU shall have the right to rent the DOME for a maximum of fifty-five (55) total event days per Lease Year.
 - i. If NDSU fails to use all of the fifty-five (55) total event days during the Lease Year, the unused dates shall not carry forward to future Lease Years except that if NDSU is bumped from any of its Non-Priority Event Dates during the last six (6) months of a Lease Year, NDSU can carry over up to three (3) dates into the following Lease Year.
 - ii. NDSU's athletic playoff dates which are held will count towards the fifty-five (55) total event days, except that if NDSU does not use the playoff date and the Authority is able to schedule another revenue producing event, NDSU shall not be charged for that playoff date as a use date.

B. Priority Dates: Of the fifty-five (55) total event days, NDSU shall have the right to a priority in scheduling for a maximum of twelve (12) NDSU events per year. In order to have priority in scheduling these dates, NDSU must notify the Authority no less than three (3) years in advance of the desired date(s).

C: Non-Priority Non-Football Athletic Practices: Of the fifty-five (55) total event days, NDSU's use of ten (10) event days will be limited to non-football athletic practices to be scheduled around the Authority's event schedule. The Authority retains the option to re-schedule athletic practices if an event opportunity arises. NDSU will be responsible the costs associated with practices, including security staffing and field installation, if required.

D. Non-Priority Event Dates: Of the fifty five (55) total event days, NDSU's access to the remaining thirty-three (33) days shall be on a first come, first served basis, just as the access that is granted to other lessees. NDSU must comply with the Authority's requirements and procedures for the leasing, booking, and use of the DOME for these events, including the Authority's protection period requirements for similar events and other event definitions set solely by the Authority.

E. NDSU's use of the DOME for Priority Dates and Non-Priority Event Dates shall be limited as such:

- i. NDSU must use five (5) of the Priority Dates and/or Non-Priority Event Dates in the months of July and August.
- ii. Events will be limited only to NDSU athletic events, amateur athletic events/NCAA athletic events, NDSU or Tri-College sponsored job/career fairs, and non-revenue producing NDSU sponsored events.
- iii. Unless waived in writing by the Authority, NDSU shall not use the DOME for any of the following types of events:
 1. Official high school activity association sponsored or sanctioned events, unless these games are a part of NDSU's football/basketball game day.
 2. Professional sports events of any type.
 3. Trade or consumer shows of any type. A job/career fair shall not be considered a trade or consumer show.
 4. Family entertainment events of any type.
 5. Concert events.
- iv. Practices: As addressed in Section 8.C., NDSU is required to use ten (10) days for non-football athletic practices. NDSU shall be able to use their

remaining 45 (forty-five) days of Priority Dates and Non-Priority Event Dates for football or non-football athletic practices, but the Authority reserves the right to eliminate the practice day in favor of an event the Authority schedules into the DOME. If the Authority schedules an event which results in NDSU having to incur the expense of installing and/or removing the football field set-up for practice, the Authority shall attempt to have the field installation and removal expense paid by the event. If the Authority is unsuccessful in getting the event to pay this expense, then the payment of the expense shall be mutually agreed upon by the Authority and NDSU. The amount of the field installation and removal shall be mutually agreed upon by NDSU and the Authority. Athletic game practice days also count as one of the use dates, except that football practice dates shall count as one-half of a use date. NDSU shall have the option of paying an additional fee for use of the DOME for practices instead of having the practice date count against their use dates. The practice rental fee shall be \$250 per hour measured from one-half hour before the practice until one-half hour after the practice ends.

NDSU shall not incur any additional expenses of the football field set-up for use on non-game days if the field is already in place. However, if the field must be set-up for practice days or other non-game day use, NDSU shall be responsible for paying all costs incurred by the Authority for setting up the football configuration.

NDSU further agrees to reimburse the Authority for any cleaning or staffing expenses the Authority incurs as a result of NDSU's use of the DOME for practice days.

If the Authority has no events between the specified practice date and the game date, and the Authority shall incur no additional expense by placing the field down in time for the practice date, then the Authority shall place the field down for the practice and game and NDSU shall not incur any additional expense. If there is no DOME event between home football game dates, NDSU shall not be charged for, nor shall any credit be given to NDSU, for any set-up costs.

F. NDSU agrees not to give, sell or sublease any of their use dates to any party or potential lessee of the Authority who could have otherwise leased the DOME directly from the Authority.

G. NDSU shall be allowed to schedule and present any of the prohibited events listed herein as long as NDSU rents the DOME under a separate lease agreement outside of the terms and fees stipulated in this Agreement.

H. It is desired that the Authority and NDSU develop the type of working relationship whereby the parties communicate freely with the other so as to work

collaboratively and avoid conflict in this and all other areas relative to this Lease Agreement. The Authority shall follow its own policies relative to first come, first served basis in the event NDSU and the Authority want to schedule a similar or competitive event. The Authority reserves the right to schedule another event at the same time as an NDSU event only if the other event does not interfere with the NDSU event.

I. The Authority shall also assume all responsibility for keeping records on the number of dates scheduled and used in a Lease Year. The Authority shall have the responsibility and obligation to notify NDSU when NDSU has scheduled all of their fifty-five (55) total event days in a Lease Year. NDSU shall pay the Authority for all dates used in excess of the fifty-five (55) total event days herein described at rates solely established by the Authority and covered by a separate lease agreement..

9. DEFAULT. The Authority has the right to cancel this Agreement if NDSU fails to pay the required rentals and expenses or otherwise materially breaches this Agreement and does not cure such material breach within fourteen (14) days after receiving written notice stating the material breach. Failure to indemnify the Authority pursuant to the provisions of Section 17 or failure to provide liability insurance, if required, in accordance with Section 45, shall be a material breach. This remedy is not exclusive and the Authority may, at its discretion, pursue any appropriate remedy.

NDSU shall have the right to cancel this Agreement if the Authority fails to pay any required funds due NDSU or otherwise materially breaches this Agreement and does not cure such material breach within fourteen (14) days after receiving written notice stating the material breach.

10. FINANCIAL SETTLEMENT/EVENT EXPENSES. The Authority shall prepare and present a settlement report to NDSU on a per event basis which shall show the expenses from the event payable to the Authority from NDSU, with payment of such expenses due to the Authority. If NDSU and the Authority cannot agree on the financial settlement for an event, then NDSU's Vice-President for Business Affairs and the Authority's President shall be the arbitrators to make final and binding decision regarding the disputed NDSU event.

11. COMPLIMENTARY TICKET. NDSU shall provide Authority with a mutually agreed upon number of complimentary tickets to each NDSU ticketed event in locations mutually agreeable to NDSU and the Authority.

12. PARKING.

A. *FARGODOME Event Parking.* Except as provided in subsection B below, the Authority shall have the sole right and responsibility to manage and control all of the DOME parking lot areas, control all ingress and egress areas and

collect and retain all parking revenues from vehicles using the DOME parking facilities.

B. *NDSU's Use of FARGODOME Parking Lot Areas.* NDSU shall have the right to use Lot C (the Southeast DOME parking lot), Lot D (the South DOME parking lot) and Lot E (the Southwest Dome parking lot) in accordance with the terms of an annual Fargodome-NDSU Parking Agreement originating July 30, 2002, and renewing annually. NDSU's use of any other Authority parking areas may only be done with prior written approval from the Authority except as provided below:

1. NDSU Team Makers shall have the right use parking lots E& F (the west DOME parking lots) for all NDSU home football games in accordance with the terms of an annual FARGODOME-NDSU Team Makers Parking Agreement originating August 1, 2012, and renewing annually.
2. NDSU employees or faculty working at the Sanford Health Athletic Complex (hereinafter "SHAC"), or other persons attending SHAC events or going to SHAC during regular business hours, may park in Lot C or Lot B, at no charge, unless the Authority has an event at the DOME and is charging a parking fee for use of the lot. On those occasions, SHAC attendees must pay the regular parking fee in order to park in the DOME lot, and the Authority shall retain all such revenue. At no time shall NDSU collect, receive or retain any parking revenue from vehicles parked on the Authority's parking lots unless otherwise agreed to in writing by the Parties. NDSU must notify the Authority in writing regarding the dates and times when a SHAC event is scheduled to take place which will require NDSU's use of the Authority's parking lot.
3. The Authority and NDSU shall designate three hundred-fifty (350) parking spaces in a good location as a VIP parking area for NDSU's use during NDSU football games. Persons using these spaces shall be responsible for paying the Authority for use of the spaces, and/or NDSU may buy-out these spaces for football games at the prevailing per-car parking rate.
4. The Authority hereby agrees that parking in the Authority lots shall be provided free of charge to patrons when NDSU has a non-revenue event, as defined herein, at the DOME. NDSU shall be responsible for the payment of any staffing expenses or other expenses incurred by the Authority for providing this free event parking.
5. NDSU shall be allocated twenty-five (25) parking spaces free of charge for its staff parking on days of its events in Lot A.

13. **CONCESSIONS.** The Authority shall retain all rights to concession sales, including, but not necessarily limited to, all food and beverage products, vending items and checkroom services except as herein agreed upon. No outside food and beverages will be allowed in the DOME. All food and beverages, with the exception of catering services, are provided by the Authority's authorized concessionaire.

14. **FREE SAMPLES.** Neither NDSU nor any of NDSU's attendees may sell or give away any samples of food, beverages or any product deemed by the Authority to be in competition with items sold or distributed by the Authority without prior written approval of the Authority. NDSU, on behalf of its advertisers and sponsors, shall be permitted to give away samples as long as NDSU obtains prior written approval from the Authority and does hereby agree to pay the additional cleaning costs, both inside the DOME and outside the DOME, and assumes all responsibility and liability for damages or injuries which may be incurred from the giveaway items.

15. **ALCOHOLIC BEVERAGES.**

- A. No alcoholic beverages shall be served at any NDSU athletic event or non-revenue producing NDSU event unless mutually agreed upon in writing by NDSU and the Authority; provided that the Authority may serve alcohol in the second floor meeting rooms if the leasing of those rooms is not associated in any manner with the NDSU event.
- B. The Authority reserves the right to serve a nonalcoholic beer product at any NDSU event.
- C. With regards to tailgating in FARGODOME parking lots, pursuant to the standards established by a joint task force of NDSU Athletics, the Fargo Police Department, and the DOME, consumption of alcohol during tailgating will be allowed at NDSU football games in accordance with the Rules and Regulations set forth by said task force or as modified by said task force at a future date, in accordance with terms agreeable to task force participants.

16. **STORAGE.** NDSU shall have the use of approximately 1,000 square feet of temporary storage space in the DOME during the football season for the storage of athletic or band equipment. NDSU shall further have the use of the novelty storage room areas on the concourse level, except that NDSU shall be required to remove all their novelty items when another event requires the use of this novelty sales area. The Authority shall provide alternative storage areas for use by NDSU for the storage of said novelty items when the novelty storage area is not available. The Authority assumes no responsibility or liability whatsoever for the safety or security of any items NDSU chooses to store at the DOME.

17. **INDEMNIFICATION.** To the extent permitted under North Dakota law and subject to available appropriations, NDSU shall keep, defend, indemnify and hold harmless, the City of Fargo, the Authority and the management company, and all its officers, agents and employees and each of them, from and against any and all costs, liability, damage or expense, including legal fees and costs, claimed by anyone by reason

of injury or damage to person or property directly or indirectly arising out of the leasing and use of the DOME under the terms of this Agreement, except to the extent that the injuries or damage resulting in such claims, costs, liability, damage or expense, including legal fees and costs, are the result of the City's, the Authority's, or the management company's negligence or fault. Nothing, herein shall preclude NDSU from asserting against third parties any defenses to liability it may have under North Dakota law. Each party hereto shall give the other prompt and timely notice of a claim or suit instituted within its knowledge that in any way, directly or indirectly, contingently or otherwise affects or might affect the other party. Notwithstanding the duty of NDSU to defend, indemnify and hold harmless the City of Fargo, the Authority and the management company as hereinabove provided, the City of Fargo, the Authority and the management company shall each have the right, but not the obligation, to participate in the defense of any claim or action to the extent of its own interest, at its own expense. In the event available appropriations are insufficient to indemnify and satisfy claims against NDSU arising hereunder, NDSU agrees to include in its budget request an appropriation fully sufficient to satisfy such claims. Should the Governor of the State of North Dakota not include in the executive budget for any reason the amount requested pursuant to the preceding sentence, NDSU shall request The North Dakota State Board of Higher Education to independently request that the Legislative Assembly amend the executive budget to include such amounts. NDSU, to the extent permitted by North Dakota law and subject to the available appropriations, shall agree to assume, defend, indemnify, protect and hold the Authority, the City of Fargo and the management company, harmless against any and all claims, damages, or liability resulting directly or indirectly from NDSU's use of the Authority's parking lot areas, except to the extent that the injuries or damage resulting in such claims, costs, liability, damage or expense, including legal fees and costs, are the result of the City's, the Authority's, or the management company's negligence or fault. NDSU further agrees to pay any and all claims or costs which may be made or incurred due to NDSU's use of the DOME parking lot areas. Nothing herein shall preclude NDSU from asserting against third parties any defenses to liability it may have under North Dakota law.

18. **INSURANCE.** NDSU will obtain insurance that meets the following criteria:

A. Such insurance shall be provided by a comprehensive general liability form of policy including the broad form liability extended coverage, with a combined single limit of at least \$250,000 per person and \$1,000,000 per occurrence.

B. NDSU shall also provide necessary Workers Compensation insurance for NDSU's employees.

C. NDSU shall further furnish comprehensive automobile liability insurance coverage as shall protect NDSU against claims for damages from bodily injury, including wrongful death and property damage which may arise from the operations of any owned, hired or non-owned automobiles used by or for NDSU

in any capacity with respect to the performance of Agreement in the amount of \$500,000 per occurrence.

D. The insurance must be written by an insurance company licensed to do business in the State of North Dakota and have an A.M. Best rating of A+ or higher, or the alternative, provide coverage through the North Dakota Risk Management Fund. NDSU shall provide proof of such insurance coverage to the City and the Authority. If NDSU fails to provide the aforementioned insurance, the Authority shall have the right to either obtain the required insurance with the premium to be paid by NDSU or to terminate this Agreement.

19. FORCE MAJEURE. In the event the DOME or any portion thereof shall be destroyed or damaged by fire or other calamity so as to prevent the use of the premises for the purposes and during the periods specified herein, or if the premises cannot be so used because of strikes, acts of God, national emergency or other causes beyond the control of the Authority, then this Lease Agreement shall terminate and NDSU hereby waives any claim against the Authority for damages by reason of such termination except that any unearned portion of the rental fee due hereunder shall abate or be refunded by the Authority to NDSU.

20. BROADCAST RIGHTS. NDSU shall retain all rights for Internet streaming and radio and television broadcasting of athletic events and shall be allowed to stream and broadcast athletic events from the DOME at no additional expense, except that NDSU shall pay the Authority for the Authority's out of pocket expenses, including labor and utilities, incurred as a result of the broadcasts or streaming, if these expenses are not paid by the broadcast company.

21. PUBLIC SAFETY. NDSU shall at all times conduct the event in full regard for public safety and will abide by all regulations as required by local authorities and the Authority. The Authority shall have the right to interrupt or terminate any event when in the sole judgement of the Authority, it is necessary in the interest of protecting the safety of the public. Whenever possible, the Authority shall confer with NDSU before any such termination. If a termination or interruption occurs, NDSU hereby agrees to waive any claims for damages against the Authority.

Any rigging or hanging of items from the DOME ceiling or roof must be done by approved DOME personnel. No other persons will be permitted to access the DOME roof or catwalk areas.

Any explosives, pyrotechnics or similar materials must be approved by the Authority and local, state and federal officials.

Any vehicle displayed inside the DOME must have the battery cables disconnected, the gas tank either taped shut or locked and may contain no more than one-fourth of a tank of fuel.

22. **EVACUATION.** The Authority shall have the sole right to determine when and if it is necessary to evacuate the DOME for whatever reason. If such evacuation occurs and results in cancellation of the event, NDSU hereby waives any claims for damages against the Authority. In the event such an evacuation occurs, the Authority and NDSU will settle the expenses for the event in a reasonable manner. NDSU will not be charged for that event day as a use date.

23. **OBSTRUCTIONS.** NDSU agrees to keep all portions of sidewalks, entries, doors, passages, vestibules, hallways, corridors, stairways, passageways, concessions stands and all areas of public access unobstructed at all times.

24. **HAZARDOUS MATERIALS.** NDSU agrees not bring onto the premises any material or equipment which could constitute a hazard to property or persons.

25. **FARGODOME SOUND AND LIGHT EQUIPMENT.** Any connection or operation of DOME sound or light equipment will be done only by Authority personnel.

26. **MOTORIZED EQUIPMENT.** All DOME motorized equipment must be operated by authorized Authority employees.

27. **UTILITY REQUIREMENTS.** All utility requirements for the event must be ordered from the Authority. Said utility order must specify whether, and if necessary for the event, in what quantity the following utilities will be needed: electrical, water, compressed air, telephone, gas, drain and cable television.

28. **OPENING OF DOORS.** The Authority reserves the right to open the doors when the Authority deems it necessary to safely and orderly move the public into the DOME. The Authority may cancel any event preparations in order to safely move the public into the DOME.

29. **ADMISSIONS.** All DOME patrons shall be prohibited from bringing food and beverages, bottles, cans, containers, alcoholic beverages, projectiles, weapons, items which may be used as weapons, incendiary devices or any controlled or illegal substances into the DOME or onto the DOME premises.

The Authority reserves the right to conduct a reasonable search of all persons and their possessions prior to entry.

Re-entry on ticket stub is not permitted.

Glitter, confetti, lighter than air or helium balloons are not permitted inside the DOME.

No animals will be permitted in the DOME unless the animal is part of the show or exhibit, or if the animal is used by a physically disabled individual, and only if the animal is on a leash, in a pen or in a caged area.

30. **OBJECTIONABLE PERSONS.** The Authority reserves the right to eject or cause to be ejected from the DOME premises any persons causing a danger to person or property, or a breach of the peace or other disorderly conduct or who otherwise violates FARGODOME rules and regulations.

31. **ACCESS.** The Authority shall have the right to a reasonable access of any and all areas of the DOME occupied by NDSU.

32. **AUTHORITY CONTROL.** The Authority shall at all times maintain control of the DOME and shall be the sole administrator of its rules and regulations relative to its operation of the DOME.

33. **LICENSES.** NDSU shall pay, obtain and be responsible for any and all taxes, licenses or permits required for use of the DOME, and shall relieve the Authority from any responsibility for acquiring or paying for such taxes, licenses or permits.

34. **COPYRIGHT.** NDSU shall assume all responsibility for procuring and paying for the use of any copyrights, trademarks or other materials used in the event. To the extent permitted under North Dakota law and subject to available appropriations, NDSU further agrees to save and hold harmless the Authority from any costs or claims arising from any copyright violations, including copyright or trademark violations resulting from the advertising signs sold or displayed by NDSU.

35. **ANNOUNCEMENTS.** The Authority reserves the right to make announcements in the interest of public safety, to provide information to attendees or to announce upcoming events at the DOME.

36. **ADVERTISING/PUBLICITY.**

A. ***FARGODOME Trademark.*** The name "FARGODOME" and the FARGODOME logo are trademarked. Unauthorized use of either is strictly prohibited. NDSU shall have the right to use both the logo and the FARGODOME name only in the promotion and advertising of the events covered by this Agreement. No other use of the name FARGODOME or the FARGODOME logo will be permitted by NDSU without prior written approval from the Authority.

North Dakota State University Trademark. The name "North Dakota State University" and the "Bison Logo" are trademarked. Unauthorized use of either is strictly prohibited. The Authority shall have the right to use both the logo and the North Dakota State University name only in the promotion and advertising of the events covered by this Agreement. No other use of the name "North Dakota State University" or the "Bison Logo" will be permitted by the Authority without prior written approval from NDSU.

B. *FARGODOME Advertising.* NDSU shall have the right to advertise and publicize the events covered under this Agreement at no cost on the Authority's electronic display equipment. The Authority and NDSU shall mutually agree on the times when these messages shall run and the content of these messages. The Authority hereby grants NDSU permission to advertise their corporate game sponsor(s) and announcements related to NDSU on the interior electronic message centers and on temporary signs as mutually agreed upon. NDSU shall be responsible for removing all temporary signs and banners immediately after an NDSU related event. If the Authority removes the banners and/or signs, NDSU shall be responsible for payment of all expenses related to the removal. Other than the aforementioned permission for NDSU events, the Authority Reserves all rights to advertising, electronic display equipment messages, temporary signage and banners in their entirety for non-NDSU related events.

C. *Blocking/Covering FARGODOME Signs.* The DOME's permanent signs, graphics or displays must not be visibly blocked in any manner, nor may temporary signs or decorations be attached to permanent building graphics.

37. SOLICITATION. No solicitation, distribution or sale of any products, services, advertising or publicity materials or flyers of any type shall be permitted on the DOME premises without obtaining prior written approval from the Authority.

38. EVENT CONTENT. To the extent allowed by applicable law, the Authority reserves the right to approve the content of the event, to cancel an event in progress or to have questionable portions of the event removed if such portions contain materials which are illegal or patently offensive in nature.

39. DEFACEMENTS. NDSU shall not injure, mar, nor in any manner deface the DOME or any equipment contained therein, and shall not cause or permit anything to be done whereby the premises or equipment therein shall be in any manner injured, marred or defaced. NDSU further will not drive or permit to be driven, nails, hooks, tacks or screws into any part of the DOME, or any equipment contained therein, and will not make or allow to be made any alterations of any kind to the DOME or any equipment contained therein and will not affix or permit to be affixed by adhesives, any signs, posters, notices or graphics of any description without written consent of the Authority. NDSU agrees that if the DOME is damaged by NDSU, its event patrons, guests or any person admitted to the premises as a result of the NDSU event, then NDSU shall pay the Authority upon demand such sums as shall be necessary to restore the premises to their original condition, ordinary wear and tear excepted.

40. COMPLIANCE WITH LAW. NDSU agrees that it will comply with all applicable federal, state and local laws, rules, regulations and/or ordinances.

41. CIVIL RIGHTS/ADA. NDSU and the Authority hereby agree that they will not illegally discriminate against any persons relative to admission, services or privileges

offered to or enjoyed by the general public. NDSU agrees that it will not illegally discriminate against any person relative to hiring and employment practices for any NDSU event involving NDSU staffing. NDSU further agrees to comply and cooperate with the Authority relative to requirements stipulated in the Americans with Disabilities Act (ADA). The Authority shall pay for any alterations to the DOME required under ADA.

42. **ASSIGNMENT.** This Agreement shall not be assigned, transferred or otherwise encumbered by NDSU without the express written approval of the Authority.

43. **SEVERABILITY.** If any of the provisions contained herein shall for any reasons be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions contained herein.

43. **ENTIRE AGREEMENT.** No alterations, variations, additions, addendums, representations or agreements to the terms of this Agreement shall be valid unless stated in writing, signed by both NDSU and the Authority, and made a part of this Agreement. This Agreement and all such written addendums shall supersede any and all oral representations or agreements.

45. **AUTHORITY AND JURISDICTION.** Any privilege, right or pre-eminence of authority not herein defined or clearly expressed shall be construed in accordance with the laws of the state of North Dakota, and any action herein must be brought in the District Court for Cass County, North Dakota. All matters not authorized expressly by the terms of this Agreement shall be reserved to the discretion of the Authority.

(Remainder of this page intentionally left blank.)



PRESIDENT, FARGO DOME AUTHORITY

DATE: 7/27/21



ATTEST: SECRETARY, FARGO DOME AUTHORITY

DATE: 7/27/21

MAYOR, CITY OF FARGO

DATE: _____

ATTEST: CITY AUDITOR

DATE: _____



PRESIDENT, NORTH DAKOTA STATE UNIVERSITY

DATE: 6/30/21



ATTEST: NORTH DAKOTA STATE UNIVERSITY
VICE-PRESIDENT FOR FINANCE AND ADMINISTRATION

DATE: 6/30/21



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FINANCE OFFICE

PO Box 2083

225 4th Street North

Fargo, ND 58102

Phone: 701.241.1333 | Fax: 701.476.4188

www.FargoND.gov

TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE 

RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL

DATE: July 28, 2021

The existing legislation in place for State Water Commission funding related to the Fargo-Moorhead Metropolitan Area Flood Risk Management Project requires that the Fargo City Commission, Cass County Commission, and the Cass Water Resource Board approve all payment reimbursement requests prior to their submission and ultimate payment.

The attached reimbursement request has been prepared by Finance staff and is ready for processing. Your approval of the request for funds is hereby requested as required.

Suggested Motion:

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$5,862,311.78.

**FINANCE OFFICE**

PO Box 2083

225 4th Street North

Fargo, ND 58102

Phone: 701.241.1333 | Fax: 701.476.4188

www.FargoND.gov

July 28, 2021

Garland Erbele, P.E.
 North Dakota State Water Commission
 900 East Boulevard Avenue, Dept 770
 Bismarck, ND 58505-0850

Dear Garland,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #116 pursuant to the terms and conditions of House Bill 1020 for costs incurred from May 1, 2021 to June 30, 2021 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$5,862,311.78.

State Funds Available	Amount Spent Previous Request	Amount Spent This Period	State Cost Share	Reimbursement Request This Period	Balance of State Funds
\$ 354,500,000.00	\$ 303,533,617.59	\$ 500.00	100%	\$ 500.00	
		11,723,623.55	50%	5,861,811.78	
		<u>\$ 11,724,123.55</u>		<u>\$ 5,862,311.78</u>	<u>\$ 45,104,070.64</u>

Project Narrative, this request:

Project Number	Project Description
V00106	Application to SWC for conditional water permit for the Drain 27 wetland mitigation project
V01201	Soil boring payments to landowners
V01701	Land purchases for homeowners living in various areas of the diversion project
V01701	Land sale of property not needed for DA project
V01701	Residential relocation assistance for homeowners living in the project area. Also includes commercial relocation assistance for a business in the phase II channel area
V01704	Right of entry for biotic and geomorphic services
V02805	Settlement agreement for WP 42A.1/A.3, 4 th St pump station and gateway and 2 nd St S floodwall
V03803	Pay applications #3 & #4 for WP50C – property structure mitigation
V05003	WP-50C, WP-50D, and WP-50E service line abandonments
V05004	SE-2A, Drain 27, and Diversion Inlet Structure – utility relocation
V06002	Pay Applications #2 - #4 for WP43G – OHB wetland mitigation
V06004	Pay Applications #1 & #2 for WP50D2 – property structure mitigation
V08201	Interstate 29 road raise project – utility relocation

Engineering, Legal, and Admin Expense Summary, this request:

Expense Type	Amount
Construction Management	2,253,289.82
Engineering Services	1,962,673.26
Legal Services	751,300.78
Appraisal Services	240,687.50
Financial Advisor	206,470.40
Consulting Services	85,875.00
Crop Loss Program Development	37,146.92
Trustee Fees	16,000.00
Property Holding Costs	12,968.58
Quality Testing	11,890.50
Total Eligible Expense	5,578,302.76

We certify that \$101,280,033 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of SB 2020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

The City of Fargo, Cass County Commission, and the Cass County Joint Water Resource Board have approved our request for funds as required in SB 2020. Copies of their approval letters are included.

If you have any questions relating to our request, please contact me directly.

Sincerely,



Kent Costin
Director of Finance, City of Fargo
Metro Flood Diversion Authority

Required Local Approvals:

City of Fargo

Cass County Commission

Cass County Joint Water Resource Dist.

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
May - June 2021**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-0000-362.40-00	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	(87,584.02)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
790-0000-362.40-00	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	(1,275,278.13)	THE TITLE COMPANY	V01701	ND LAND PURCH-OUT OF TOWN
			Total LERRDS - North Dakota - Land Sales	(1,362,862.15)			
790-0000-206.10-00	6/10/2021	311989	INDUSTRIAL BUILDERS INC	(19,836.40)	OHB WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
790-0000-206.10-00	6/24/2021	312292	INDUSTRIAL BUILDERS INC	(11,859.20)	WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
790-0000-206.10-00	5/6/2021	311322	INDUSTRIAL BUILDERS INC	(17,749.92)	PAY #2 WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
790-0000-206.10-00	6/10/2021	312043	SCHMIDT AND SONS CONSTRUCTION INC	(3,159.54)	REMOVALS/CLEARING/GRUBBIN	V03803	WP50C-STRUCTURE REMOVALS
790-0000-206.10-00	6/10/2021	311989	INDUSTRIAL BUILDERS INC	(9,842.25)	WORK PKG #5002	V06004	WP50D.2-STRUCTURE REMOVLS
790-0000-206.10-00	5/6/2021	311374	SCHMIDT AND SONS CONSTRUCTION INC	(2,510.00)	PAY #3 REMOVALS, CLEARING	V03803	WP50C-STRUCTURE REMOVALS
790-0000-206.10-00	5/6/2021	311322	INDUSTRIAL BUILDERS INC	(10,867.75)	PAY #1 WORK PKG 5002	V06004	WP50D.2-STRUCTURE REMOVLS
			Total Retainage	(75,825.06)			
790-7910-429.38-99	6/3/2021	311816	CASS COUNTY FINANCE	100.00	MISC EXPENSES	V00106	ED & STAFF-PR/ADMIN EXP
			Total - WIK - General & Admin. - Other Services	100.00			
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	250.00	VINCENT ULSTAD	V01201	Cass Joint Water ROE
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	750.00	CHESTER & INGE FETNER	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	750.00	BERNARD OHNSTAD	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	750.00	DIJANE & TRUDY WANNER	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	850.00	VANCE & BONITA GYLLAND	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,400.00	PHUOC LOC TRAN & AL SHUN	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	750.00	MIJ INVESTMENTS LLC	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	4,100.00	RYAN & CAMILLE GRADE	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	850.00	BRETT & HEIDI ODEGAARD	V01704	ND LAND - BIOTIC GEO MORP
790-7930-429.34-65	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,500.00	GARY PRIEVE	V01704	ND LAND - BIOTIC GEO MORP
			Total LERRDS - North Dakota - Right of Entry Requests	11,950.00			
790-7930-429.67-11	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	19,500.00	A-SERVICES OF FARGO MOOR	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	67,770.00	MARTIN & VICKI JOHNSON	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	30,856.50	MICKEAL AND BONNIE FOSSE	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	31,185.00	BRENNAN'S GARAGE LLC	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	365.30	PATRIC & CARLA BELLMORE	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-11	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	8,939.52	LANCE FREIER	V01701	ND LAND PURCH-OUT OF TOWN
			Total LERRDS - North Dakota - Residential Relocation Assistance	158,616.32			
790-7930-429.67-11	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,140.00	TOM KRAFT	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.67-12	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	5,900.00	KANGA MACHINERY LLC	V01701	ND LAND PURCH-OUT OF TOWN
			Total LERRDS - North Dakota - Commercial Relocation Assistance	7,040.00			
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	5,203.86	THOMAS & JENNIFER FETCH	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,125,007.49	JOANNE LENERTZ & KATHLEEN WILLISON	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	46,224.00	ORTEN & SANDRA BRODSHAUG	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	(37,038.00)	ORTEN & SANDRA BRODSHAUG	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	1,437,447.00	DAVID HOUKOM	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	(1,074,200.00)	DAVID HOUKOM	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	757,210.00	MICKEAL & BONNIE FOSSE	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	(750,000.00)	MICKEAL FOSSE	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	(34,800.00)	MICKEAL & BONNIE FOSSE	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,113,349.06	MONTPLAISIR FAMILY LP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	11,185.00	DORIS KROGH, JAMES KROGH, & NANCY KROGH	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	(480,150.00)	MARY ANN TINTES	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.71-30	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,169,024.00	MARY ANN TINTES	V01701	ND LAND PURCH-OUT OF TOWN
			Total LERRDS - North Dakota - Land Purchases	5,288,462.41			

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
May - June 2021**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-7930-429.73-20	6/10/2021	312043	SCHMIDT AND SONS CONSTRUCTION INC	31,600.00	REMOVALS/CLEARING/GRUBBIN	V03803	WP50C-STRUCTURE REMOVALS
790-7930-429.73-20	6/10/2021	311989	INDUSTRIAL BUILDERS INC	98,422.50	WORK PKG #5002	V06004	WP50D,2-STRUCTURE REMOVL
790-7930-429.73-20	5/6/2021	311374	SCHMIDT AND SONS CONSTRUCTION INC	25,100.00	PAY #3 REMOVALS, CLEARING	V03803	WP50C-STRUCTURE REMOVALS
790-7930-429.73-20	5/6/2021	311322	INDUSTRIAL BUILDERS INC	108,677.50	PAY #1 WORK PKG 50D2	V06004	WP50D,2-STRUCTURE REMOVL
			Total LERRDS - North Dakota - Site Improvements	263,800.00			
790-7950-429.73-52	5/11/2021	J805210002	CITY OF FARGO-AUDITORS OFFICE	1,265,051.00	INDUSTRIAL CONTRACT SERVI	V02805	PUMP STATION & FLOODWALL
			Total ND Construction - Flood Control	1,265,051.00			
790-7952-429.73-52	6/10/2021	311989	INDUSTRIAL BUILDERS INC	198,364.00	OHB WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
790-7952-429.73-52	6/24/2021	312292	INDUSTRIAL BUILDERS INC	118,592.00	WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
790-7952-429.73-52	5/6/2021	311322	INDUSTRIAL BUILDERS INC	177,499.20	PAY #2 WETLAND MITIGATION	V06002	WP43G-OHB WETLAND MITIGTN
			Total OHB Construction - Flood Control	494,455.20			
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,990.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,990.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	5/20/2021	311564	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	6/3/2021	311823	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION AGREEM	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	6/3/2021	311823	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION AGREEM	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	6/3/2021	311823	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION AGREEM	V05003	SERVICE LINE ABONDONMENTS
790-7930-429.73-70	6/3/2021	311823	CASS RURAL WATER USERS DIST	1,560.00	UTILITY RELOCATION AGREEM	V05003	SERVICE LINE ABONDONMENTS
			Total LERRDS - North Dakota - Utilities	18,020.00			
790-7950-429.73-70	6/10/2021	311947	CASS RURAL WATER USERS DIST	3,620.00	DRAIN 27 INLET STRUCTURE	V05004	SE-2A, DRAIN 27, & INLET
790-7950-429.73-70	6/3/2021	311856	MINNKOTA POWER COOPERATIVE INC	73,393.07	UTILITY RELOCATION	V08201	UTILITY RELOCATION
			Total ND Construction - Utilities	77,013.07			
790-7915-429.33-05	6/10/2021	311937	BEAVER CREEK ARCHAEOLOGY	2,330.00	CULTURAL INVESTIGATION	V02601	CULTURAL INVESTIGATION
790-7915-429.33-05	6/10/2021	311937	BEAVER CREEK ARCHAEOLOGY	9,943.75	CULTURAL INVESTIGATION	V02601	CULTURAL INVESTIGATION
790-7915-429.33-05	6/10/2021	311937	BEAVER CREEK ARCHAEOLOGY	21,480.90	CULTURAL INVESTIGATION	V02601	CULTURAL INVESTIGATION
790-7915-429.33-05	6/10/2021	311937	BEAVER CREEK ARCHAEOLOGY	8,780.00	CULTURAL INVESTIGATION	V02601	CULTURAL INVESTIGATION
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	21,373.25	DRAFT OPERATION PLAN	V01615	DRAFT OPERATIONS PLAN
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	14,267.50	PERMIT SUBMITTAL PREP	V01616	PERMIT SUBMITTAL PREP
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	16,564.88	GRADE RAISE DRSIGN	V01620	SEAI-129 GRADE RAISE DSGN
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	12,234.00	TASK ORDER #22	V01622	MITIGATION SUPPORT SRVCS
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	24,787.29	TASK 26 WORK IN KIND	V01626	WORK-IN-KIND (WIK)
790-7915-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	7,392.00	PERMIT COMPLIANCE MONITOR	V01631	PERMIT COMPLIANCE MONITOR
790-7915-429.33-05	7/1/2021	312346	AECOM TECHNICAL SERVICES, INC	21,254.61	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
790-7915-429.33-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	450.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
790-7915-429.33-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	1,170.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
790-7915-429.33-05	5/13/2021	311418	AECOM TECHNICAL SERVICES, INC	5,437.00	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	17,507.50	DRAFT OPERATIONS PLAN	V01615	DRAFT OPERATIONS PLAN
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	11,344.25	PERMIT SUBMITTAL PREP	V01616	PERMIT SUBMITTAL PREP
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	19,356.50	TASK 20 SEAI WIK DESIGN	V01620	SEAI-129 GRADE RAISE DSGN
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	17,169.50	TASK 22 UPSTREAM MITIGATI	V01622	MITIGATION SUPPORT SRVCS
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	46,738.06	WORK-IN-KIND WIK TASK 26	V01626	WORK-IN-KIND (WIK)
790-7915-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	13,796.50	1032 TASK 31 PERMIT COMPL	V01631	PERMIT COMPLIANCE MONITOR
790-7915-429.33-05	6/3/2021	311804	AECOM TECHNICAL SERVICES, INC	869.50	CULTURAL RESOURCES INVEST	V01004	SEAI CULTURAL RES INVEST
790-7915-429.33-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	180.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
790-7920-429.33-05	6/10/2021	311984	HOUSTON-MOORE GROUP LLC	49,567.93	PROJECT MGMT	V01601	HMG - PROJECT MANAGEMENT

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-7930-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	321,566.57	PRJECT MGMT TASK 1 1001	V01601	HMG - PROJECT MANAGEMENT
790-7930-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	47,472.11	BOUNDARY SURVEYING	V01628	BOUNDARY SURVEYING SRVCS
790-7930-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	35,279.92	PROP STRUCTURE MITIGATION	V01630	PROPERTY STRUCTURE MITGTN
790-7930-429.33-05	6/24/2021	312248	ADVANCED ENGINEERING INC	268,205.77	FM DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
790-7930-429.33-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	33,827.23	HDR ENGINEERING INC.	V01201	Cass Joint Water ROE
790-7930-429.33-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	80,632.30	SRF CONSULTING GROUP, INC	V01201	Cass Joint Water ROE
790-7930-429.33-05	5/13/2021	311417	ADVANCED ENGINEERING INC	459,572.38	METRO DIVERSION PROJECT	V00302	PROGRAM MGMT SERVICES
790-7930-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	52,542.26	BOUNDARY SURVEYING	V01628	BOUNDARY SURVEYING SRVCS
790-7930-429.33-05	6/3/2021	311842	HOUSTON-MOORE GROUP LLC	20,501.18	PROPERTY STRUCTURE MITIGA	V01630	PROPERTY STRUCTURE MITGTN
790-7930-429.33-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	24,503.60	PROSOURCE TECHNOLOGIES, L	V01201	Cass Joint Water ROE
790-7930-429.33-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	25,888.34	HDR ENGINEERING INC.	V01201	Cass Joint Water ROE
790-7930-429.33-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	108,340.42	SRF CONSULTING GROUP, INC	V01201	Cass Joint Water ROE
790-7952-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	15,144.99	SERVICES DURING CONSTRUCT	V01623	CONSTRUCTN/BID SVCS WP43
790-7952-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	8,268.12	1024 TASK 23 SERVICES	V01623	CONSTRUCTN/BID SVCS WP43
790-7955-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	17,886.26	WORK PACKAGE 42	V02806	CONSTRUCTION SVCS WP42
790-7955-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	19,455.89	1018 TASK ORDER 17	V02806	CONSTRUCTION SVCS WP42
790-7990-429.33-05	6/17/2021	312138	HOUSTON-MOORE GROUP LLC	34,263.19	PROCUREMENT SUPPORT	V01621	P3 RFP PROCUREMENT SUPPRT
790-7990-429.33-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	555.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
790-7990-429.33-05	5/13/2021	311473	HOUSTON-MOORE GROUP LLC	39,037.81	TASK ORDER 21 PROCUR SUPP	V01621	P3 RFP PROCUREMENT SUPPRT
790-7990-429.33-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	5,735.00	MOORE ENGINEERING, INC.	V01201	Cass Joint Water ROE
Total Engineering Services				1,982,673.26			
790-7910-429.33-25	7/5/2021	865	P CARD BMO	127,947.17	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
790-7910-429.33-25	5/6/2021	311356	OXBOW, CITY OF	440.00	TURMAN & LANG	V02407	OXBOW MOU-LEGAL SERVICES
790-7910-429.33-25	6/5/2021	860	P CARD BMO	184,720.21	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
790-7910-429.33-25	6/3/2021	311864	OXBOW, CITY OF	120.00	TURNMAN & LANG	V02407	OXBOW MOU-LEGAL SERVICES
790-7990-429.33-25	7/5/2021	866	P CARD BMO	26,466.50	DORSEY AND WHITNEY LLP	V00101	Dorsey Whitney Legal
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	3,524.87	OHNSTAD TWICHELL, P.C.	V01203	Cass Joint Water OHB
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	420.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,161.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	142.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,457.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	10,267.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	16,911.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	5,516.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	50.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	756.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	1,229.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	8,472.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	21,371.72	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	105.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	210.00	OHNSTAD TWICHELL, P.C.	V01202	Cass Joint Water DPAC
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	11,205.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	1,512.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,410.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	822.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	3,975.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	8,287.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	9,515.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	275.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	730.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	7,025.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	3,357.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,370.00	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	4,621.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
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Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	671.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	592.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	197.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	908.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	951.18	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,014.50	LARKIN HOFFMAN ATTORNEYS	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/5/2021	860	P CARD BMO	21,380.26	DORSEY AND WHITNEY LLP	V00101	Dorsey Whitney Legal
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	3,196.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	832.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	202.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	432.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	80.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	3,672.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	160.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	138.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,448.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	3,753.91	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	48.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	264.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	32.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	3,878.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	48.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	32.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,958.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	860.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,290.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	3,403.80	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,964.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	48.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	190.75	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,054.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	514.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	92.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,334.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	4,249.81	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	90.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	80.00	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7930-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,467.50	OHNSTAD TWICHELL, P.C.	V01201	Cass Joint Water ROE
790-7940-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	42.00	OHNSTAD TWICHELL, P.C.	V01205	CCJWRD-Sheyenne Rvr Mitgn
790-7950-429.33-25	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	787.50	OHNSTAD TWICHELL, P.C.	V01206	CCJWRD-SE Cass Drains
790-7950-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,338.50	OHNSTAD TWICHELL, P.C.	V01206	CCJWRD-SE Cass Drains
790-7950-429.33-25	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	588.00	OHNSTAD TWICHELL, P.C.	V01206	CCJWRD-SE Cass Drains
790-7990-429.33-25	7/5/2021	865	P CARD BMO	94,723.33	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
790-7990-429.33-25	6/5/2021	860	P CARD BMO	79,356.50	OHNSTAD TWICHELL PC	V00102	General & Admin. WIK
790-7990-429.33-25	5/27/2021	311687	ASHURST LLP	33,030.90	LEGAL COUNSEL	V03001	P3 LEGAL COUNSEL-ASHURST
790-7990-429.33-25	6/3/2021	311809	BANK OF NORTH DAKOTA	4,509.37	LEGAL REVIEW SERVICES	V08501	LEGAL REVIEW FEES
			Total Legal Services	751,300.78			
790-7920-429.33-79	6/24/2021	312263	CH2M HILL ENGINEERS INC	547,669.10	PROGRAM MGMT	V00211	CH2M HILL-6/2019-12/2021
790-7920-429.33-79	6/24/2021	312263	CH2M HILL ENGINEERS INC	660,432.77	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
790-7920-429.33-79	5/6/2021	311356	OXBOW, CITY OF	997.75	MOORE ENGINEERING, INC.	V02421	OXBOW MOU-MOORE PROJ MGMT
790-7920-429.33-79	5/6/2021	311356	OXBOW, CITY OF	702.10	MOORE ENGINEERING, INC.	V02421	OXBOW MOU-MOORE PROJ MGMT
790-7920-429.33-79	5/20/2021	311566	CH2M HILL ENGINEERS INC	496,174.92	PROGRAM MGMT & SERVICES	V00211	CH2M HILL-6/2019-12/2021
790-7920-429.33-79	5/20/2021	311566	CH2M HILL ENGINEERS INC	495,838.52	SUPPORT SERVICES	V00212	P3 PROCUREMENT SUPPORT
790-7920-429.33-79	6/3/2021	311864	OXBOW, CITY OF	1,384.60	MOORE ENGINEERING, INC.	V02421	OXBOW MOU-MOORE PROJ MGMT

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
May - June 2021**

Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-7930-429.33-79	6/24/2021	311263	CH2M HILL ENGINEERS INC	30,727.98	PROPERTY ACQUISITION	V00210	CH2M HILL LAND ACQUISITION
790-7930-429.33-79	5/20/2021	311566	CH2M HILL ENGINEERS INC	19,362.08	PROPERTY ACQUISITION MGMT	V00210	CH2M HILL LAND ACQUISITION
			Total Construction Management	2,253,289.82			
790-7930-429.33-32	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	3,500.00	PATCHIN MESSNER VALUATION	V01201	Cass Joint Water ROE
790-7930-429.33-32	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	2,500.00	TRIEBWASSER JOINT VENTURE	V01201	Cass Joint Water ROE
790-7930-429.33-32	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	3,500.00	PATCHIN MESSNER VALUATION	V01201	Cass Joint Water ROE
790-7930-429.33-32	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	215,037.50	COMPASS LAND CONSULTANTS	V01201	Cass Joint Water ROE
790-7930-429.33-32	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	10,450.00	PATCHIN MESSNER VALUATION	V01201	Cass Joint Water ROE
790-7930-429.33-32	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	5,700.00	GEB APPRAISALS	V01201	Cass Joint Water ROE
			Total Appraisal Services	240,667.50			
790-7990-429.33-47	6/17/2021	312190	PROGRAM ADVISOR SERVICES, LLC	40,875.00	PROGRAM CONSULTING SERVIC	V05801	CONSULTING SERVICES
790-7990-429.33-47	5/20/2021	311635	PROGRAM ADVISOR SERVICES, LLC	45,000.00	PROGRAM CONSULTING	V05801	CONSULTING SERVICES
			Total Consulting Services	85,875.00			
790-7990-429.34-55	5/13/2021	311423	AON RISK SERVICES CENTRAL, INC	11,725.00	CONSULTANT FEE	V03201	PRE-AWARD P3 RISK ADVISOR
790-7990-429.34-55	5/27/2021	311709	ERNST & YOUNG INFRASTRUCTURE	133,255.50	MAR FINANCIAL ADVISORY	V03301	PPP FINANCL ADVISORY SVCS
790-7990-429.34-55	6/3/2021	311828	ERNST & YOUNG INFRASTRUCTURE	61,489.90	FINANCIAL ADVISORY SERVIC	V03301	PPP FINANCL ADVISORY SVCS
			Total Financial Advisor	206,470.40			
790-7930-429.52-70	6/17/2021	312222	WATTS AND ASSOCIATES, INC	9,771.98	CROP INS PRODUCT DEVEL	V06901	CROP INSURANCE DEVELOPMNT
790-7930-429.52-70	6/3/2021	311890	WATTS AND ASSOCIATES, INC	27,374.94	CROP INS PRODUCT DEVELOP	V06901	CROP INSURANCE DEVELOPMNT
			Total Crop Loss Program Development Costs	37,146.92			
790-7990-429.34-57	6/30/2021	15221	CITY OF FARGO-AUDITORS OFFICE	16,000.00	BND TRUSTEE FEE-6/2021	V08502	MONTHLY TRUSTEE FEE
			Total Trustee Fees	16,000.00			
790-7940-429.33-06	7/1/2021	312357	BRAUN INTERTEC CORP	204.00	MATERIALS TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	7/1/2021	312357	BRAUN INTERTEC CORP	91.50	MATERIAL TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	7/1/2021	312357	BRAUN INTERTEC CORP	427.00	MATERIAL TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	7/1/2021	312357	BRAUN INTERTEC CORP	1,026.50	MATERIALS TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	5/20/2021	311559	BRAUN INTERTEC CORP	5,548.00	TESTING SERVICES	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	6/3/2021	311813	BRAUN INTERTEC CORP	2,130.75	MATERIALS TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	6/3/2021	311813	BRAUN INTERTEC CORP	1,210.25	MATERIALS TESTING	V00402	TESTING - WP-43 & WP-28A
790-7940-429.33-06	6/3/2021	311813	BRAUN INTERTEC CORP	1,252.50	MATERIALS TESTING	V00402	TESTING - WP-43 & WP-28A
			Total Quality Testing	11,880.50			
790-7930-429.38-95	7/1/2021	312452	TURF TAMERS	3,700.00	7/2020 & 8/2020 MOWING	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.38-95	7/1/2021	312452	TURF TAMERS	900.00	9/2020 MOWING	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.38-95	7/1/2021	312452	TURF TAMERS	450.00	10/2020 MOWING	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.41-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	27.00	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.41-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	32.00	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.41-05	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	27.00	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.41-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	32.00	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.41-05	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	27.00	CASS RURAL WATER USERS	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.52-10	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	236.00	MARSH & MCLENNAN	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.52-10	6/7/2021	12923	CITY OF FARGO-AUDITORS OFFICE	(5,895.40)	INS REFUND ON CANCELLATIO	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.52-10	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	8,368.94	MARCH & MCLENNAN	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.52-10	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	2,723.85	MARSH & MCLENNAN	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	116.84	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	85.53	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	110.30	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	130.95	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	47.21	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN

**FM Metropolitan Area Flood Risk Management Project
Summary of Cash Disbursements Eligible for SWC Funding
May - June 2021**


Account Number	Check Date	Check Number	Vendor Name	Transaction Amount	Expense Description	Project Number	Project Description
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	116.45	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	113.75	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	50.96	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	194.97	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	96.99	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	161.28	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	211.46	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	54.16	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	46.11	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	364.41	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	68.38	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-51	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	(2,446.54)	CASS COUNTY ELECTRIC COOP	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-52	6/3/2021	311822	CASS COUNTY JOINT WATER RESOURCE DI	1,339.01	CHS DAKOTA PLAINS AG	V01701	ND LAND PURCH-OUT OF TOWN
790-7930-429.62-52	5/6/2021	311278	CASS COUNTY JOINT WATER RESOURCE DI	1,477.97	CHS DAKOTA PLAINS AG	V01701	ND LAND PURCH-OUT OF TOWN
Total Property Holding Costs				12,968.58			
Total Expense for Period				11,724,123.55			



(12)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 29, 2021

RE: AGREEMENT FOR SERVICES WITH AE2S
COMMUNICATIONS FOR "EveryBody" CAMPAIGN NOT
TO EXCEED \$8,975.

The attached Contract Agreement with AE2S Communications is to provide communication and engagement support services to amplify and continue development of the "EveryBody" campaign to educate targeted populations about FCPH Clinic services.

No budget adjustment is required for this contract.

Suggested Motion: Move to approve the Contract Agreement with AE2S Communications.

DF/lls
Enclosure



July 28, 2020

Dr. Larry Anenson
Fargo Cass Public Health
1240 25th Street S
Fargo, ND 58103

RE: 2021 Clinic Services Campaign

Dear Larry:

AE2S Communications is pleased to have the opportunity to expand the "EveryBody" campaign we kicked off in 2020 with Fargo Cass Public Health. We are very excited to help you continue to educate the public, specifically low-income people, the uninsured, and high school/college students, about Fargo Cass Public Health's clinic services.

We offer the following scope of services to help Fargo Cass Public Health reach its goals.

Scope of Services

AE2S Communications (AE2S) proposes to work with Fargo Cass Public Health (CLIENT) to provide communications and engagement support services for 2021. This Agreement sets forth the terms and conditions under which the CLIENT and AE2S shall be governed regarding the Assignment.

Scope:

- Amplify and continue to develop "EveryBody" campaign materials to educate targeted populations about the availability of FCPH Clinic services.
- Provide graphic design and videography services to create advertisements.
- Place and monitor paid advertising.
- Provide communications strategies, content development and other assistance as needed for FCPH's Clinic campaign.

Deliverables:

- Design new FCPH Clinic Services brochure.
- Update existing "EveryBody" billboard and bathroom ads.
- Create one (1) :15 video ad for use on TikTok or social media.
- Advertising placement services.

Fees

AE2S proposes to render professional services under this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B not to exceed \$8,975 without written authorization from CLIENT, including reimbursement for all project related expenses. Of the total budget, \$2,975 is for labor and \$6,000 is budgeted for advertising purchases.

RE: 2021 Clinic Services Campaign

July 28, 2021

Page 2 of 3

Scope and Fee Table

	Heather Syverson Project Manager	Zack Otteson Graphic Design	Cody Schuler Digital Storyteller	Taylor Corbett Digital Marketing & Design	Budget Hours	Budget Labor Costs	Audio/Visual per day fee (\$100/day)	General Expenses Budgeted	Total AE2S Fee Budgeted
Task 1: Project Management and Reporting									
1.1 Client communications/team meetings/project management	2.5	2	2	2	8.5	\$ 931			\$ 931
1.2 Advertising placement	2			2	4	\$ 466		\$ 6,000	\$ 233
TOTAL FOR TASK 1	4.5	2	2	2	10.5	\$ 1,397	\$ -	\$ 6,000	\$ 1,397
Task 2: Graphic Design									
2.1 Graphic design services		6			6	\$ 648			\$ 648
TOTAL FOR TASK 2	0	6	0	0	6	\$ 648	\$ -	\$ -	\$ 648
Task 4: Videography									
4.1 Creation of video ad			10		10	\$ 930			\$ 930
TOTAL FOR TASK 4	0	0	10	0	10	\$ 930	\$ -	\$ -	\$ 930
TOTAL PROJECT HOURS/EXPENSES	4.5	8	12	2	26.5	\$ 2,975	\$ -	\$ 6,000	\$ 9,975

Additional Services

Services resulting from significant changes in the general scope, extent, or character of the Assignment are not included as a part of the general Scope of Services. If authorized in writing by the CLIENT, AE2S will provide services beyond the scope of this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B.

CLIENT'S Responsibilities

CLIENT shall do the following in a timely manner, so as not to delay the services of AE2S:

1. Designate a person to act as CLIENT's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define CLIENT's policies and decisions with respect to services for the Assignment
2. Provide relevant information and content regarding requirements for the Assignment. AE2S shall be entitled to use and rely upon all information provided by CLIENT or others in performing AE2S's services under this Agreement.
3. CLIENT shall, so long as AE2S is not in default, promptly pay AE2S for such professional services as have been performed satisfactorily hereunder in accordance with the fee schedule set forth herein.

CLIENT shall bear all costs incident to compliance with its responsibilities pursuant to this section.

Standard Terms and Conditions

Standard terms and conditions of this Agreement between CLIENT and AE2S are specified in Exhibit A.

RE: 2021 Clinic Services Campaign

July 28, 2021

Page 3 of 3

Performance Schedule

Timetables and deliverables will be in conjunction with CLIENT goals for the ASSIGNMENT.

Contract Documents

The Contract Documents consist of the following:

1. This Agreement;
2. The attached Terms and Conditions;
3. All other attached Exhibits; and
4. Any duly executed amendments.

There are no Contract Documents other than those listed above.

If this Agreement sets forth your understanding of our agreement, including the scope of work desired, fees, terms, and conditions, please sign both this original and the enclosed copy in the space provided. Please retain the original for your files and return the copy to AE2S. Thank you for the opportunity to assist in this project and we look forward to working with you.

Sincerely,



Heather Syverson
AE2S Project Manager



Ryan Grubb, PE
AE2S Operations Manager

CLIENT

Accepted this _____ day of _____, 2021

By: 

Desi Fleming
Public Health Director

By: _____

Timothy J. Mahoney
Mayor, City of Fargo



This is EXHIBIT A, consisting of 2 pages, referred to in and part of the Agreement between CLIENT and AE2S for Services dated July 28 2021.

Standard Terms and Conditions

The Agreement is supplemented to include the following terms and conditions:

1. **TERM.** This Agreement shall commence on the Effective Date.

2. **SCOPE OF SERVICES**

2.1.1 CONSULTANT will devote the required amount of time necessary to perform the Services for CLIENT as stated herein. CONSULTANT will have discretion in selecting the dates and times it performs the Services giving due regard to the requirements of the project and schedule of CLIENT.

2.1.2 CLIENT will provide CONSULTANT with materials and information necessary to perform the scope of services proposed.

2.1.3 The relationship between CLIENT and CONSULTANT created by this Agreement is that of independent contractor, and CONSULTANT is not and shall not be deemed to be an employee of CLIENT for any purpose.

3. **INVOICES AND PAYMENTS.** CONSULTANT will invoice CLIENT for time and reimbursable expenses monthly. Payments to CONSULTANT will be made within 30 days of CLIENT's receipt of an invoice documenting the services performed by CONSULTANT. If CLIENT fails to make any payment due AE2S for services and expenses within 30 days, the amounts due AE2S will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, AE2S may, after giving seven days written notice to CLIENT, suspend services under this Agreement until AE2S has been paid in full all amounts due for services, expenses, and other related charges.

4. **TERMINATION**

4.1 If, for any reason, either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, the first party shall thereupon have the right to terminate the Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. This Agreement may be terminated by either party ("the Terminating Party") upon a breach by the other party ("the Breaching Party") of any representation or obligation imposed hereby, provided that Terminating Party has given written notice of the breach to the Breaching Party and such breach has not been cured within ten (10) days of the date of such notice.

4.2 Either party may terminate this Agreement at any time without cause by giving at least 30 days' notice in writing to the other party.

4.3 If the Agreement is terminated as provided herein, CONSULTANT will be paid for the time provided and expenses incurred up to the termination date.

5. **STANDARD OF CARE.** CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

6. **EXCLUSION OR SPECIAL INCIDENTAL, INDIRECT, AND CONSEQUENTIAL DAMAGES.** To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, AE2S and AE2S's officers, directors, partners, employees, agents, and Consultants, or any of them, shall not be liable to CLIENT or anyone claiming by, through, or under CLIENT for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project, Task Order, or this Agreement, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract or warranties, express or implied, of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them.

7. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of AE2S and AE2S's officers, directors, partners, employees, agents, and AE2S's Consultants, and any of them, to CLIENT and anyone claiming by, through, or under CLIENT for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them, shall not exceed total compensation received by AE2S as part of this agreement.

8. **CONFIDENTIALITY.** All of reports, information, and data, prepared or assembled by CONSULTANT under this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of CLIENT.

9. **COPYRIGHT.** No printed or digitally designed documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT.

10. COMPLETE AGREEMENT. This Agreement with its exhibit, attached, constitutes the complete agreement and sets forth the entire understanding and agreement of the parties as to the subject matter of this Agreement and supersedes all prior discussions and understandings in respect to the subject of this Agreement, whether written or oral.
11. MODIFICATION. No modification, termination, or attempted waiver of this Agreement, or any provision thereof, shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.
12. BINDING EFFECT. This Agreement shall be binding on, and shall inure to the benefit of the parties and their respective successors in interest.
13. NOTICES. All notices given under this Agreement shall be in writing, addressed to the parties as set forth on page 1.
14. GOVERNING LAW. This Agreement shall be governed by the laws of the State of North Dakota.
15. EXECUTED IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which together will constitute one and the same instrument. Delivery of an executed counterpart of this Agreement shall constitute effective delivery of this Agreement. Each Party agrees that the delivery of the Agreement by facsimile or electronic mail shall have the same force and effect as delivery of original signature and that each Party may use such facsimile or electronic mail signatures as evidence of the execution and delivery of the Agreement by the Parties to the same extent that an original signature could be used.

Labor Rates*

Administrative I	\$60.00
Administrative II	\$73.00
Administrative III	\$88.00

Communications Specialist I	\$93.00
Communications Specialist II	\$108.00
Communications Specialist III	\$125.00
Communications Specialist IV	\$150.00
Communications Specialist V	\$165.00

Construction Services I	\$142.00
Construction Services II	\$155.00
Construction Services III	\$175.00
Construction Services IV	\$192.00
Construction Services V	\$210.00

Engineering Assistant 1	\$73.00
Engineering Assistant 2	\$88.00
Engineering Assistant 3	\$103.00
Engineer I	\$119.00
Engineer II	\$141.00
Engineer III	\$168.00
Engineer IV	\$193.00
Engineer V	\$205.00
Engineer VI	\$223.00
Engineer VII	\$241.00
Engineer VIII	\$250.00

Engineering Technician I	\$72.00
Engineering Technician II	\$92.00
Engineering Technician III	\$112.00
Engineering Technician IV	\$126.00
Engineering Technician V	\$143.00
Engineering Technician VI	\$158.00
Engineering Technician VII	\$175.00
Engineering Technician VIII	\$186.00

Financial Analyst I	\$99.00
Financial Analyst II	\$112.00
Financial Analyst III	\$135.00
Financial Analyst IV	\$145.00
Financial Analyst V	\$164.00
Financial Analyst VI	\$185.00
Financial Analyst VII	\$202.00
Financial Analyst VIII	\$220.00

GIS Specialist I	\$93.00
GIS Specialist II	\$112.00
GIS Specialist III	\$132.00
GIS Specialist IV	\$148.00
GIS Specialist V	\$165.00
GIS Specialist VI	\$185.00

I&C Assistant	\$88.00
I&C Technician I	\$108.00
I&C Technician II	\$122.00
I&C Technician III	\$136.00
I&C Technician IV	\$147.00
I&C Technician V	\$160.00
I&C Specialist	\$174.00
I&C Senior Specialist	\$185.00

I&C Manager	\$193.00
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IT I	\$111.00
IT II	\$151.00
IT III	\$181.00

Land Surveyor Assistant	\$86.00
Land Surveyor I	\$103.00
Land Surveyor II	\$123.00
Land Surveyor III	\$138.00
Land Surveyor IV	\$152.00
Land Surveyor V	\$169.00
Land Surveyor VI	\$179.00

Operations Specialist I	\$89.00
Operations Specialist II	\$108.00
Operations Specialist III	\$133.00
Operations Specialist IV	\$150.00
Operations Specialist V	\$175.00

Program Coordinator I	\$188.00
Program Coordinator II	\$202.00
Program Coordinator III	\$215.00

Project Coordinator I	\$104.00
Project Coordinator II	\$115.00
Project Coordinator III	\$126.00
Project Coordinator IV	\$141.00
Project Coordinator V	\$159.00

Project Manager I	\$179.00
Project Manager II	\$196.00
Project Manager III	\$216.00
Project Manager IV	\$231.00

Technical Expert I	\$265.00
Technical Expert II	\$289.00
Technical Expert III	Negotiable

Reimbursable Expense Rates

Transportation	\$0.65/mile
Survey Vehicle	\$0.85/mile
Laser Printouts/Photocopies	\$0.30/copy
Plotter Printouts	\$1.00/s.f.
UAS - Photo/Video Grade	\$100.00/day
Total Station – Robotic	\$35.00/hour
Mapping GPS	\$25.00/hour
Fast Static/RTK GPS	\$50.00/hour
All-Terrain Vehicle/Boat	\$100.00/day
Cellular Modem	\$75.00/month
Web Hosting	\$26.00/month
Legal Services Reimbursement	\$238.00/hour
Outside Services	cost *1.15
Geotechnical Services	cost *1.30
Out of Pocket Expenses	cost*1.15
Rental Car	cost*1.20
Project Specific Equipment	Negotiable

* Position titles are for labor rate grade purposes only.


These rates are subject to adjustment each year on January.



(13)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 26, 2021

**RE: NOTICE OF GRANT AWARD AGREEMENT WITH THE NORTH
DAKOTA DEPARTMENT OF HEALTH FOR PUBLIC WATER
SUPPLY SUPERVISION – EPA BLOCK
CONTRACT NO. G21.013 CFDA NO. 66.605 \$416**

This is a request to approve the attached Notice of Grant Award for \$416 with the North Dakota Department of Health for the performing inspections of non-community public water systems within the Health District.

No budget adjustment is required for this notice of grant award.

If you have questions, please contact me at 241.1380.

Suggested Motion: Move to approve the North Dakota Department of Health NGA for the supervision of non-community public water supplies.

DF/lls
Enclosure



NOTICE OF GRANT AWARD – RESTRICTED FUNDING

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

SFN 61630 (05-2019)

Grant Number G21.013	CFDA Name Performance Partnership Grants		CFDA Number 66.605
FAIN Number 99861720	Grant Type (Check One) <input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D	Grant Start Date 8/1/2021	Grant End Date 6/30/2023
Federal Award Date 10/28/2019	Federal Awarding Agency Environmental Protection Agency		
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 Public Water Supply Supervision Program-EPA Block		North Dakota Department of Environmental Quality (NDDEQ) Project Code 5541-EQ3992-41	
Grantee Name Fargo Cass Public Health		Project Director Greg Wavra	
Address 1240 25 th Street South		Address 918 E Divide Ave – Third Floor	
City/State/ZIP Code Fargo ND 58103-2367		City/State/ZIP Code Bismarck ND 58501	
Contact Name Grant Larson, Director of Environmental Health		Contact Name Greg Wavra	
Telephone Number 701-241-1388		Telephone Number 701-328-5224	
Email Address GLarson@FargoND.gov		Email Address gwavra@nd.gov	
	NDDEQ Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	\$416	\$139	\$555
Previous Funds Awarded	\$0	\$0	\$0
Total Funds Awarded	\$416	\$139	\$555
Indirect Rate (Check One)	<input checked="" type="checkbox"/> Subrecipient waived indirect costs	<input type="checkbox"/> De minimus rate of 10%	<input type="checkbox"/> Negotiated/Approved rate of %
<p>Scope of Service Grantee shall conduct inspection of non-community public water systems within the Health District as identified by the NDDEQ as follows: Non-seasonal inspections shall be conducted during year two of the biennium (during the period July 1, 2022-June 30, 2023).</p> <p>Reporting Requirements All payments will be processed upon Department receipt and approval of inspection and expenditure reports unless otherwise specified in the Special Conditions. At the end of each State fiscal year, the final expenditure report for the period ending June 30th must be received by July 15th of each year during the award period.</p> <p>Special Conditions Funding for this award is restricted to \$ 208 until such time as the Federal Award is received and processed by the Department. During this restriction, Grantee expenditures will be limited to (ex: salaries and fringe, routine in-state travel, standard utilities and rent). Financial obligation of the Department is contingent upon funds being made available by the Environmental Protection Agency. The Department will send notification to the Grantee when the restriction has been lifted. This notification serves as official documentation and should be filed with the Notice of Grant Award for documentation.</p> <p>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 NDDEQ as signed by Grantee for the period of July 1, 2021 to June 30, 2023 [Accounting Use Only: <input type="checkbox"/> Requirements Received; <input type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.</p>			
Evidence of Grantee's Acceptance		Evidence of NDDEQ Acceptance	
Date 9/21/24	Signature <i>Desi Fleming</i>	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Public Health Director		Typed Name/Title of Authorized Representative L. David Glatt, P.E., Director	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative	
<p>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.</p>			




Fargo Cass Public Health
1240 25th Street South
Fargo, ND 58103-2367
Phone: 701.241.1360 | Fax: 701.241.1366
www.FargoCassPublicHealth.com



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

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING 
DIRECTOR OF PUBLIC HEALTH

DATE: AUGUST 4, 2021

RE: UNIVERSITY OF NORTH DAKOTA COMMUNITY FACULTY
CONTRACT

The attached contract with the University of North Dakota School of Medicine and Health Sciences for \$75 per one hour lecture and \$150 a week for precepting is for medical school student training in the clinic.

No budget adjustment is required for this contract.

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

Suggested Motion: Move to approve the medical student training for 2021-2022

DF/lls
Enclosure

COMMUNITY FACULTY CONTRACT (Hospital/Clinic with Single Contract)

The parties to this Contract are the University of North Dakota School of Medicine and Health Sciences (hereafter "UND"), and **Fargo Cass Public Health** (hereafter "Service Provider").

1. **Agreement:** UND hereby contracts with Service Provider, and Service Provider agrees to provide to UND the services as outlined in Section 2: Scope of Services of this Contract. UND and Service Provider agree that Physician(s) provided pursuant to the Scope of Services will devote sufficient time to fulfill the requirements as outlined in the Scope of Services. Physician(s), however, will continue their employment with Service Provider and may be assigned other duties and responsibilities deemed necessary by Service Provider.
2. **Scope of Services.** Service Provider, in exchange for the compensation paid by UND under this Contract, agrees to provide the following services without discrimination as to age, race, color, creed, sex or handicap:
 - A. Provide students with an orientation prior to seeing patients in clinic, preceptorship guidance during clinic hours, clinical exposure involving colposcopy experience as well as assist in the utilization of computer and manikin teaching opportunities.
 - B. Provide lectures and seminars as negotiated with the Chair of the Department of Obstetrics and Gynecology or the designated representative.
 - C. Students will be provided with the Title X regulations and guidelines of the Family Planning Program.
 - D. Counsel, advise and instruct medical students as the need, request and/or opportunity arises.
 - E. Complete timely and thoughtful evaluations of the students at the end of their clerkship rotation.
3. **Qualifications.** During the entire term of this Contract, Physician(s) shall be licensed in North Dakota. Physician(s) shall obtain and maintain medical staff privileges as necessary to perform the required duties as set out above.
4. **Term of Contract.** The term of this Contract is for a period of 12 months, commencing on the 1st day of July, 2021, and terminating on the 30th day of June, 2022. This Contract will not renew and there is no promise of continued services beyond the term of this Contract. Any agreement for a subsequent term will require a new contract.
5. **Compensation.** In consideration for the services provided by the Physician(s) under this Contract, UND shall pay to Service Provider an amount of \$75 per one hour lecture and \$150 per week for precepting, to be paid after the services have been provided at the end of each rotation. Additional amounts may be due should the services exceed those set in the scope of services. The Parties agree that the compensation set forth is the result of arms-length

negotiations and is consistent with the fair market value for the services to be provided by the Physician(s). The compensation has not been determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the Parties which may be reimbursed under Medicare or any state healthcare program. Service Provider and Physician(s) shall be under no obligation to refer any business or patients to UND.

6. **Professional Charges.** UND agrees that it shall not bill any patient, third party payor, or any other party for any charges associated with any professional services provided by Physician. Service Provider shall have the sole right to bill and receive payment for any professional services provided by Physician(s).

7. **Independent Contractor.** Service Provider shall perform as an independent contractor under this Contract. The Physician(s) shall not be an employee of UND for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Contribution Act, the North Dakota Unemployment Compensation Law, and the North Dakota Worker's Compensation Act. UND shall not be responsible, and Service Provider agrees to indemnify and hold UND harmless from liability for any employee withholdings charged to UND relating to the contracting with Service Provider for Physician's services, including, but not limited to, state and federal income tax and social security taxes, worker's compensation benefits, unemployment compensation premiums, or any other benefits or obligations. Service Provider will retain sole and absolute discretion in the manner and means of carrying out the activities and responsibilities under this Agreement, except to the extent specified in this Agreement. Specifically, Service Provider will have the right and the responsibility to pay, supervise, terminate, or control the work of the Physician(s) while they provide the services set forth in this agreement. The Physician(s) daily duties, reporting structure, and conduct will remain the sole responsibility of Service Provider. Service Provider shall be responsible for hiring, firing, promotion, or demotion of Physician(s). Furthermore, Physician(s) shall receive compensation and benefits directly from Service Provider and not from UND.

8. **Termination of Contract.**

- A. Termination without cause. This Contract may be terminated by either party upon 30 days' written notice.
- B. Termination for lack of authority. This Contract may be terminated if any license or certificate required by law, rule, or terms of this Contract, or necessary privileges, is for any reason denied, revoked, suspended or not renewed.
- C. Termination for cause. UND by written notice of default to Service Provider may terminate the whole or any part of this Contract if Physician(s) fails to provide services required by this Contract within the time specified or any extension agreed to by UND, or in a manner acceptable to UND. The rights and remedies of UND provided in this section 7 related to defaults by Service Provider are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

Termination of this Contract under this section is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

9. **Professional Liability Insurance.** Subject to applicable deductibles or self-insured retention, each party agrees that throughout the term of this Contract it shall maintain professional liability coverage. UND shall maintain coverage with minimum limits of \$1,000,000 per occurrence and \$5,000,000 annual aggregate for its students and medical residents. Service Provider's professional liability insurance shall provide coverage for Physician's activities under this Contract, with minimum limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. The Parties shall provide at least 30 days' notice of any cancellation or change in professional liability insurance coverage.
10. **Notice.** All notices or other communications required under this Contract shall be given by registered or certified mail and are complete on the date mailed when addressed to the Parties at the following addresses:

Hospital/Clinic:

UND:

Fargo Cass Public Health
1240 25th Street S
Fargo, ND 58103

Department of Obstetrics/Gynecology
1919 Elm Street North
Fargo, ND 58102

The provisions of this section do not supersede any statutes or rules of court regarding notice of claims or service of process. In the event of a conflict between this section and any statutes or rules of court, the statutes or rules of court govern.

11. **Confidentiality.** Except as may be required or permitted by applicable law, patient authorization, court order, or subpoena, each party agrees not to release confidential patient information. Service Provider and UND agree that each is a "covered entity" as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and HIPAA's implementing privacy regulations, 45 C.F.R. §165.500, *et seq.* ("Privacy Regulations") and each party shall comply with all requirements with respect to protected health information as defined in HIPAA. The provisions of this paragraph shall survive the termination of this Contract.
12. **Nondiscrimination and Compliance with Laws.** The Parties agree to comply with all applicable laws, rules, regulations and policies, including but not limited to those relating to nondiscrimination, accessibility and civil rights. Therefore, there will be no discrimination on the basis of race, religion, age, color, sex, disability, sexual orientation, gender identity, genetic information, national origin, marital status, veterans' status, political belief or affiliation, or the receipt of public assistance. Service Provider shall have and keep current at all times during the term of this Contract all licenses and permits required by law.

13. **FERPA.** For purposes of this Contract and pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), UND hereby designates the Physician as a school official with a legitimate educational interest in the educational records of the students who participate in the clinical program to the extent that access to the records are required by the Physician to carry out the clinical program. The Physician agrees to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.

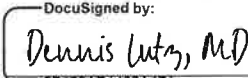
14. **Miscellaneous.**

- A. This Contract contains the entire understanding of the parties and all prior negotiations and understandings are superseded hereby and merged into this Contract.
- B. Any term or provision of this Contract which now or hereafter is determined to be invalid or unenforceable shall not impair the validity of the remainder of the Contract.
- C. Service Provider may not assign or otherwise transfer or delegate any right or duty without UND's express written consent.
- D. Service Provider shall promptly notify UND of all potential claims which arise of result from this Contract.
- E. This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be brought in the Northeast Central Judicial District Court of Grand Forks County, North Dakota.
- F. This Contract may be amended only by the written agreement of both parties hereto.

15. **Effectiveness of Contract.** This Contract is not effective until fully executed by both Parties.

UND:

University of North Dakota School
of Medicine and Health Sciences

By: 
8B190AD1400A471...

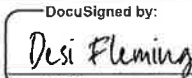
Name: Dennis Lutz, MD

Its: Professor & Chair

Date: 7/29/2021

Service Provider

Fargo Cass Public Health

By: 
4AFC1F54C892477...

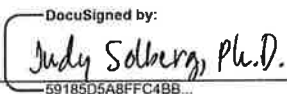
Name: Desi Fleming

Its: Director, Fargo Cass Public Health

Date: 8/2/2021

UND:

University of North Dakota School
of Medicine and Health Sciences

By: 

Name: Judy Solberg, Ph.D.

Its: Chief of Staff

Date: 8/1/2021

By: _____

Name: Timothy J. Mahoney

Its: Mayor, City of Fargo

Date: _____

(15)

City of Fargo Staff Report			
Title:	Peterson Addition	Date:	3-30-21
Location:	302 29 th Street North	Update:	8-5-21
Legal Description:	Part of Lots 1-5, Block 2, Schultz & Lindsay's 1 st Addition		
Owner(s)/Applicant:	Quest Corporation/Michael D. Peterson	Staff Contact:	Aaron Nelson
Engineer:	Apex Engineering Group, Inc.		
Entitlements Requested:	Minor Subdivision (Replat of part of Lots 1-5, Block 2, Schultz & Lindsay's 1 st Addition)		
Status:	City Commission Consideration: August 9, 2021		

Existing	Proposed
Land Use: Vacant	Land Use: Industrial Services
Zoning: LI, Limited Industrial	Zoning: Unchanged
Uses Allowed: Colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation.	Uses Allowed: Unchanged
Maximum Lot Coverage Allowed: 85% building coverage	Maximum Lot Coverage Allowed: Unchanged

<p>Proposal:</p> <p>The applicant is seeking approval of a minor subdivision to accommodate future industrial development of the subject property. The subject property is a largely unused portion of a larger parcel of land owned by Quest Corporation. The Quest Corporation parcel consists of portions of 5 different lots. The proposed minor subdivision, entitled <i>Peterson Addition</i>, would replat a portion of these 5 lots into a single lot.</p> <p>Surrounding Land Uses and Zoning Districts:</p> <ul style="list-style-type: none"> • North: LI, Limited Industrial, with industrial service and office uses; • East: LI, Limited Industrial, with warehouse and office uses; • South: LI, Limited Industrial, with industrial service and office uses; • West: LI, Limited Industrial, with Manufacturing & Production uses. <p>Area Plans:</p> <p>N/A</p> <p>Schools and Parks:</p> <p>Neighborhood: N/A</p> <p>Schools: The subject property is located within the Fargo School District and is served by Madison Elementary, Ben Franklin Middle, and Fargo North High schools.</p> <p>Parks: Unicorn Park (1603 3 Avenue North) is located approximately a mile east of the subject property. Unicorn</p>
--

Park provides basketball, grill, multipurpose field, playground, and picnic table amenities.

Pedestrian / Bicycle: There are no sidewalks or bike facilities in this area.

Staff Analysis:

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.

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 properties within this plat are currently zoned LI, Limited Industrial, which is consistent with that land use designation. No zone change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any communication regarding this project. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

2. **Section 20-0907.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 principles. **(Criteria Satisfied)**

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of Planning Commission and staff and hereby approve the proposed subdivision plat, **Peterson Addition** as outlined within the staff report, as the proposal complies with the standards of Article 20-06, and all other applicable requirements of the Land Development Code".

Planning Commission Recommendation: April 6, 2021

On April 6, 2021, with a vote of 6-0 with 3 commissioners absent, the Planning Commission recommended approval to the City Commission of the proposed subdivision plat, **Peterson Addition** as outlined within the staff report, as the proposal complies with the standards of Article 20-06, and all other applicable requirements of the Land Development Code.

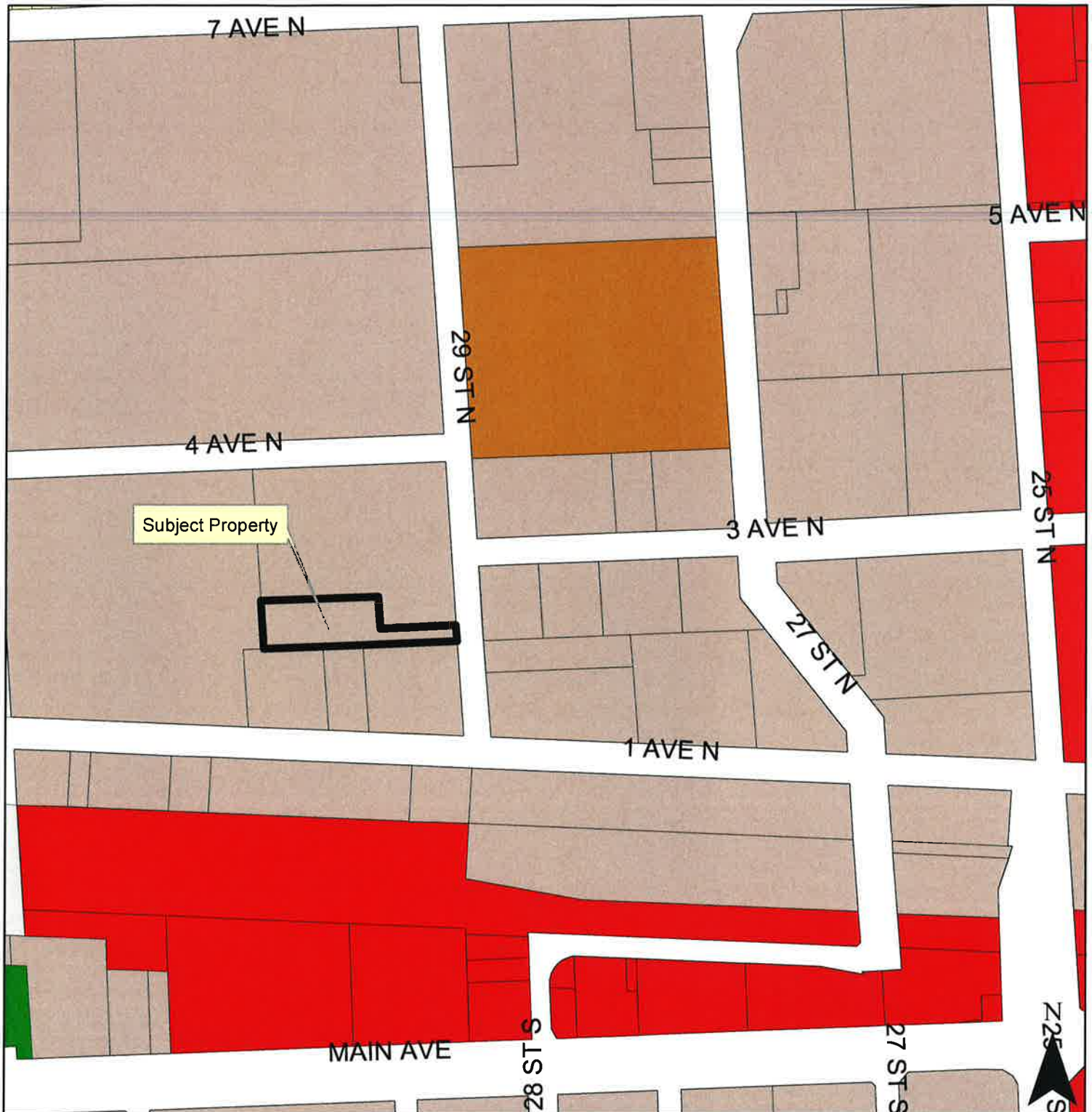
Attachments:

1. Zoning Map
2. Location Map
3. Subdivision Plat

Plat (Minor)

Peterson Addition

302 29th St N



Plat (Minor)

Peterson Addition

302 29th St N



CITY OF FARGO POLICE DEPARTMENT

Chief David B. Zibolski

105 25th Street North, Fargo, North Dakota 58102
Office: 701-241-1400 Fax: 701-297-7789
www.fargopolice.com



16
COPY

August 2, 2021

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Application for Appropriation from Civil Asset Forfeiture Fund for Leica Geosystems Software and Maintenance

Dear Commissioners:

The Fargo Police Department currently uses the Leica Geosystems PS30 crime scene scanner along with the software required for its operation. This machine was purchased in 2018 and was approved for sole source by the commission (sole source #SSP18183). The Leica scanner and software give our detectives the ability to document crime scenes in greater detail, which is useful for investigations and for court testimony. Since it's original purchase, the scanner has been used many times, including for multiple homicide cases.

The software and maintenance costs are provided through Leica Geosystems by way of a renewing agreement with our department. The original 3-year agreement is up for renewal, and the department is requesting to use funds from the Civil Asset Forfeiture Fund to enter into a new 1-year agreement with Leica, which would cost \$8,320. The Leica scanner cannot be used without this software and proper maintenance important to keep the machine functioning. Renewing this subscription will allow our department to continue to use this valuable tool.

The required Application for Appropriation from Civil Asset Forfeiture Fund and a quote from Leica Geosystems is included with this letter.

Recommended Motion:

Allow the Fargo Police Department to use Civil Asset Forfeiture funds to purchase a 1 year software and maintenance agreement from Leica Geosystems.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Zibolski".

Chief David B. Zibolski
Chief of Police

Application for Appropriation from Civil Asset Forfeiture Fund

Applicant

David Zibolski, Chief of Police
Fargo Police Department, 105 25th St. N., Fargo ND, 58102
dzibolski@fargond.gov
701-476-4001

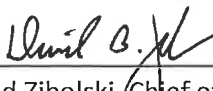
Appropriation Requested:

\$8,320 for the on-going software and maintenance costs related to usage of the Leica crime scene scanning device.

Explanation and confirmation of how the requested appropriation will further the public purpose of reducing criminal activity and aiding the efforts of criminal justice in support and furtherance of the Fargo Police Department's mission:

The Fargo Police Department uses a Leica Geosystems Scanstation PS30 crime scene scanner, which requires software and maintenance to properly operate. This software and maintenance is provided to our department through a re-occurring subscription agreement with Leica, and our current agreement has expired. We are looking to renew this agreement for 1 year through the use of appropriation from the Civil Asset Forfeiture Fund. The Leica scanner provides the ability to document crime scenes in a detailed manner, which is useful in the investigation of those crimes or in court testimony. Losing access to the required software for operation of the scanner would severely limit the Fargo Police Department's effectiveness in solving crimes and apprehending suspects. Improper maintenance of the scanner would also limit its usefulness.

I, Chief David Zibolski, am in support of the above-stated request for appropriation from the Civil Asset Forfeiture Fund. City of Fargo procurement policies will be followed for all expenditures. Written confirmation will be provided to the City of Fargo Finance Office when the funds are expended.



David Zibolski, Chief of Police

08-04-21
Date

Quotation for Contract

No. 21211829

- when it has to be right



City of Fargo
Police Department
222 4 Street North
Fargo ND 58102

Date: 08/04/2021

**Your Reference**

Customer No.: 355741

Our Reference

Sales: Dietrich Evans - (A01 Public Safe
Customer Care: Josephine Briseno

Article No.	Qty.	Description	Item Price	Total Price (USD)
6009445	1	1 yr ScanStation P50/P40/P30 CCP Blue Covers the following product(s): ScanStation P30 Serial No.: 1851660 Article No.: 808687	4,905.00	4,905.00
6007868	1	Cyclone SURVEY CCP 1yr. Covers the following product(s): Cyclone SURVEY Permanent Entitlement ID: 00105-42242-00027-79024-0A665	1,380.00	1,380.00
6007859	1	Cyclone REGISTER CCP 1yr. Covers the following product(s): Cyclone REGISTER Permanent Entitlement ID: 00105-42240-00027-79024-B49D0	1,380.00	1,380.00
6012196	1	Cyclone PUBLISHER Pro CCP 1yr. Covers the following product(s): Cyclone PUBLISHER Pro Permanent Entitlement ID: 00105-42241-00027-79024-FEB78	1,135.00	1,135.00
6015993	1	MAP 360 Pro CCP 1yr. Covers the following product(s): MAP360 Pro Permanent	1,600.00	1,600.00



Leica Geosystems Inc
5051 Peachtree Corners Circle, Suite 250
NORCROSS GA 30092
Telephone 800-367-9453
FAX 800-294-1541
www.leica-geosystems.com

Quotation for Contract

No. 21211829

- when it has to be right



Article No.	Qty.	Description	Item Price	Total Price (USD)
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Entitlement ID: 00107-62131-00032-44938-D76AA

Total Net	10,400.00
Discount	-2,080.00
Total	8,320.00

Terms

Validity:	09/04/2021		
Start Date:	08/05/2021	End Date:	08/04/2022
Currency:	USD		
Payment Terms:	30 days net		

Remarks

20% MN State Contract/GSA Equivalent Discount included



Leica Geosystems Inc
5051 Peachtree Corners Circle, Suite 250
NORCROSS GA 30092
Telephone 800-367-9453
FAX 800-294-1541
www.leica-geosystems.com



PUBLIC WORKS/OPERATIONS

17

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1453
FAX: (701) 241-8100

July 29, 2021

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

RE: RFP 20064 - North Dakota Department of Commerce; Energy Conservation Program Grant #4841

Commissioners:

On March 8th, 2021, Hope Electric was awarded the Main and Carlson Library lighting upgrades with the 50% cost share from the North Dakota Energy Conservation Program Grant.

On July 15th, 2021, an amendment was proposed that extends the project period to add \$4,787.50 in Energy Conservation Grant funds for the Police Headquarters project at the City of Fargo.

Amendment #1 of the North Dakota Department of Commerce – Energy Conservation Program Grant Agreement is located within the City Commission office for your convenience.

SUGGESTED MOTION:

Move to approve, authorize and sign the execution of the enclosed Amendment for the Police Headquarters Lighting project.

Respectfully Submitted,

Tanner Smedshammer
Fleet Management Specialist

Energy Conservation Program Grant Agreement

Between: State of North Dakota, acting by and through (Grantor)
The Department of Commerce
1600 E. Century Avenue, Suite 2
PO Box 2057
Bismarck, ND 58502-2057

And: Tim Mahoney, Mayor (Grantee)
City of Fargo
225 4th Street North
Fargo, ND 58102

Date: July 15, 2021
Grant Number: 4841-ECG21

AMENDMENT #1: This amendment extends the project period through June 30, 2023 and adds \$4,787.50 in Energy Conservation Grant funds for the Police Headquarters project.

SECTION 1 LEGAL BASIS OF AWARD

Pursuant to North Dakota legislative action, the Grantor is authorized to enter into a Grant Agreement and to make an award, from funds received through the North Dakota Department of Commerce to the Grantee for the Energy Conservation Grant Program. The Grantor is willing to make the grant and the Grantee is willing to accept the grant on the terms and conditions of this Agreement. Accordingly, the parties hereby agree as follows:

SECTION 2 GRANT AWARD

The Grantee's Energy Conservation Grant Program Application has been approved for \$36,852.00 in program dollars with dollar-for-dollar matching funds of \$36,852.00. Funds will be used for lighting projects in the Public Works building (\$12,683.50) and the Police Headquarters (\$24,168.50) as shown in the attached applications.

Grant activities must be completed in the approved grant period March 5, 2021 through June 30, 2023.

To request payment of Energy Conservation Grant Program funds, the Grantee must submit a reimbursement request to the Grantor with copies of paid invoices, receipts, or other documentation showing that the approved activity has been completed. The Energy Reimbursement Request is available at <https://www.communityservices.nd.gov/uploads/30/SFN59519EECBGReimbursementRequest.pdf>.



The Grantor will approve payment of energy conservation program funds, based on matching percentages, up to the amount of this award, with additional expenses the sole responsibility of the Grantee.

The Grantor reserves the right to request additional documentation to confirm the completion of the project. Payment of energy conservation grant funds will be held until additional information is received and any questions have been addressed.

The Grantee must submit all reimbursement requests to the Grantor by June 30, 2023. This Grant Agreement will expire on that date and any funds remaining unpaid will revert back to the Energy Conservation Grant Program.

SECTION 3

GRANTEE'S UNDERSTANDING OF TERM OF FUNDING

The Grantee understands that this grant is a one-time grant, and acknowledges that it has been furnished no assurances that this grant may be extended for periods beyond its termination date.

Should no activity occur within three months of the funding of this agreement, the agreement may be terminated with grant funds returning to the energy conservation grant program to be made available to other applicants.

SECTION 4

GRANTEE ASSURANCES

This grant shall be construed according to the laws of the state of North Dakota. In connection with the furnishing of supplies or performance of work under this grant, persons who contract with or receive funds from the North Dakota Department of Commerce are obligated and agree to comply with all local, state and federal laws, regulations and executive orders related to the performance of this grant including but not limited to the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the North Dakota Human Rights Act, the Drug Abuse Prevention Treatment and Rehabilitation Act of 1970, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1992, the Pro-children Act of 1994, and the Drug-free Workplace Act of 1988.

The Grantee certifies by signing this grant that it is not presently debarred, declared ineligible or voluntarily excluded from participation in transactions with the State. Grantee must be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by N.D.C.C. § 54-44.4-09.

SECTION 5

AUTHORITY TO CONTRACT

Grantee may not contract for or on behalf of, or incur obligations on behalf of, Grantor.



SECTION 6 INDEPENDENT ENTITY

Grantee shall perform as an independent entity under this grant. Grantee, its employees, agents, or representatives are not employees of the Grantor for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this grant may be construed to represent the creation of an employer/employee relationship between Grantor and Grantee. Grantee will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Grantee's activities and responsibilities under this grant.

SECTION 7 AUDIT RESPONSIBILITY AND EXPENSE ALLOWABILITY

Grantee agrees to keep financial records necessary to fully disclose the complete financial status of the grant. Grantee must submit documentation supporting requests for reimbursement for review by Grantor or its agents, upon request. Financial records and other relevant documentation must be maintained for at least three years from the close of this grant.

The Grantee will immediately notify the Grantor of any credible evidence that a principal, employee, agent, contractor, subcontractor or other person has submitted a false claim in the course of this agreement.

SECTION 8 TERMINATION OF GRANT FOR CAUSE

The Grantor by written notice of default to the Grantee may terminate the whole or any part of this grant:

1. If the Grantee fails to provide services required by this grant within the time specified or any extension agreed to by the Grantor;
2. Or If the Grantee fails to perform any of the other provisions of this grant, or so fails to pursue the work as to endanger performance of this grant in accordance with its terms.

The rights and remedies of the Grantor provided in the above clause related to defaults by the Grantee are not exclusive and are in addition to any other rights and remedies provided by law or under this grant.

SECTION 9 TERMINATION FOR LACK OF FUNDING OR AUTHORITY

The Grantor may terminate this grant effective upon delivery of written notice to the Grantee, or on any later date stated in the notice, under any of the following conditions:

1. If funding from state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The grant may be modified by mutual consent of the parties in writing to accommodate a reduction in funds.
2. If state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this grant or are no longer eligible for the funding proposed for payments authorized by this grant.



3. If any license, permit or certificate required by law or rule, or by the terms of this grant, is for any reason denied, revoked, suspended or not renewed.
4. Termination of this grant under this section is without prejudice to any obligations or liabilities of either party already accrued prior to termination.

SECTION 10 INDEMNITY

The Grantor and the Grantee each agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorneys' fees which may in any manner result from or arise out of this agreement.

SECTION 11 INSURANCE

Grantee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverage:

1. Commercial general liability, including premises or operations, contractual, and products or completed operations coverage (if applicable), with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
2. Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
3. Workers compensation coverage meeting all statutory requirements. The insurance coverage listed above must meet the following additional requirements:
 1. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Grantee. The amount of any deductible or self retention is subject to approval by the State.
 2. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
 3. The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.
 4. The Grantee shall furnish a certificate of insurance to the undersigned State representative upon request.
 5. Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.



SECTION 12 INTEGRATION, MODIFICATION, AND SEVERABILITY

This grant constitutes the entire grant between the Grantee and the Grantor. No alteration, amendment, or modification of this grant shall be effective unless it is reduced to writing, signed by the parties and attached hereto. If any term of this grant is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms will not be affected and, if possible, the rights and obligations of the parties are to be construed and enforced as if the grant does not contain the illegal or unenforceable term.

SECTION 13 COLLATERAL CONTRACTS

Where there exists any inconsistency between this grant and other provisions of collateral contractual agreements that are made a part of this grant by reference or otherwise, the provisions of this grant shall control.

SECTION 14 APPLICABLE LAW

This grant is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this grant must be brought in the District Court of Burleigh County, North Dakota.

SECTION 15 COMPLIANCE WITH PUBLIC RECORDS LAWS

Grantee understands that the Grantor must disclose to the public upon request any records it receives from Grantee. Grantee further understands that any records which are obtained or generated by the Grantee under this grant may, under certain circumstances, be open to the public upon request under the North Dakota open records law. Grantee agrees to contact the Grantor immediately upon receiving a request for information under the open records law and to comply with the Grantor's instructions on how to respond to the request.

SECTION 16 ATTORNEY FEES

The Grantor and the Grantee each agree to assume responsibility for its own attorneys' fee which may in any manner result from or arise out of this agreement.



SECTION 17

ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL

The Grantor does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The Grantor does not waive any right to a jury trial.

SECTION 18

NECESSARY LICENSING/PERMITS

The Grantee is responsible for obtaining any necessary licenses and/or permits and for complying with applicable federal, state and municipal laws, codes, and regulations in connection with the execution of the work hereunder. The Grantee will take proper safety and health precautions to protect the workers, the public, the environment and the property.

Furthermore, the Grantee is required to employ appropriately licensed individuals on projects involving electrical, plumbing, boiler and sprinkler work in accordance with state laws and regulations. If hiring contractors to complete approved project activities, the contractors must be licensed through the State of North Dakota as required in Century Code 43-07-02. The Grantor will only reimburse payments to licensed contractors.

SECTION 19

REQUIREMENTS OF THE GRANTEE

- The Grantee understands that the Grantor may conduct site visits and file reviews to assure compliance with the terms and conditions of this agreement and will review technical performance after project completion to ensure that the agreement objectives have been accomplished.
- The Grantor reserves the right to request follow up energy records to review energy records to confirm energy savings.
- The Grantee must follow its own procurement policies when securing contractors and/or equipment.
- The Grantee is required to adhere to the North Dakota State Health Department's requirements for solid waste management and EPA's Renovation, Repair and Painting Rules.

SECTION 20

OTHER ARTICLES OF THE GRANT AGREEMENT

- The Grantee will be the sole owner of equipment and/or other approved purchases under this Grant Agreement and accepts sole responsibility of any further costs or liabilities associated with such equipment/purchases.
- The Grantee has completed the Section 106 Clearance Form with its application and will adhere to the requirements of the National Historic Preservation Act as it pertains to this



project.

- The Grantor shall not be responsible for any obligation to the Grantee for (1) decontamination and/or decommissioning (D&D) of any of the Grantee's facilities, or (2) any costs which may be incurred by the Grantee in connection with the D&D of any of its facilities due to the performance of the work performed under this agreement, whether said work was performed prior to or subsequent to the effective date of this agreement.
- The Grantor shall not be liable to or indemnify any third party with respect to any claim, debt, damage or demand arising during the implementation of this Grant Agreement and which may be made against the Grantor.
- The Grantor shall not accept liability for compensation for the death, disability or other hazards which may be suffered by the employees and/or clients of the Grantee as a result of their activities associated with the subject matter of this Grant Agreement.
- The Grantor shall not be liable for any expenditure incurred in excess of its contribution as specified in this Grant Agreement.
- The Grantee shall notify the Grantor immediately upon discovery of any financial and/or operational irregularities in connection with this grant award, and submit a written report as directed by the Grantor of the known details of the irregularities.

SECTION 21 SIGNATURES

The Grantor and Grantee shall each receive one signed copy of the Grant Agreement, which will serve as official documents in all legal and literal interpretations.

Grantor:

Bonnie Malo, Director, Division of Community Services

Date

Grantee:

Tim Mahoney, Mayor, City of Fargo

Date



August 9, 2021

18

Honorable Board of City Commissioners
City Hall, 225 4th St N
Fargo, ND 58102

Commissioners:

In October 2019, commissioners supported a motion to direct staff to amend the current Chapter 19 ordinance, and add language regarding stronger regulations for public tree preservation and protection. This included conducting an Urban Tree Canopy assessment, which has been completed. An Urban Forester Master Plan is also currently being developed.

Soon after that October meeting, the Tree Ordinance Task Force was organized. Task Force members included representatives from the public; Fargo Park District; City of Moorhead; City of Fargo Public Works, Planning, Engineering and Attorney; and NDSU.

Task Force findings:

1. Incorporate street tree protection/preservation requirements and specifications
2. Permitting requirements when working near public trees, and the consequences if not followed
3. Replacement requirements
4. Appraisal and penalty process
5. All commercial tree services – qualifications and licensing requirements
6. Review and appeal process

Recommendation:

Move to direct the city forester to work with the city attorney to revise the recommended ordinances to conform with the Task Force recommendations, and further to work with the city auditor to establish the proper licensing procedures and process.

Your approval of this request is appreciated.

Sincerely,



Scott Liudahl
City Forester

Cc: Ben Dow
Bruce Grubb
Kent Costin
Nancy Morris

commission2021 – Chapter 19 revisions.doc

(19)

MEMORANDUM

TO: City Commission
FROM: Terry Ludlum, Solid Waste Utility Director (TL)
RE: 2021 Paradigm Software/Time/Support Quote
Landfill Scale House – Bidirectional Unattended Lane
DATE: August 5, 2021

On September 21, 2020, the Commission approved bid awards for Solid Waste Division Project No. SW20-01, which included the construction of a maintenance facility and scale house at the East Landfill.

The design specifications for the scale house include an inbound lane, an outbound lane, and a bidirectional unattended lane. The unattended lane will be equipped with in/out kiosk enclosures (receipt printer, keypad, and intercom), cameras, and proximity card readers. The intent of the lane is to decrease the workload on the scale house operator by diverting continuous use trucks with registered tare weights, this will be mostly City of Fargo and West Fargo daily collection trucks.

Included within the project bid was the hardware for the bidirectional lane (Paradigm Software), but it did not include the program license, unattended module, training and implementation, and ongoing annual standard support. These were not included given that they required ongoing review and development, by the Solid Waste Division and City of Fargo Information Services as the project was underway. The development process with staff input took approximately 7-8 months.

The attached price quotes from Paradigm Software for the *Hardware* is \$35,421.58 and for the *Software/Time/Support* is \$64,459.96. The largest price portion of the software price quote is the *Training-Implementation* at \$29,720.00, and will only be invoiced for actual time used. Landfill staff have been using Paradigm software for a number of years and the only additional training needed will be with the kiosk hardware components, therefore, the actual cost should be less than shown in the line item.

Given that City of Fargo Information Services and landfill staff are comfortable with the current proposal and design of software components, and that the 2021 Solid Waste Capital Improvement budget does contain funds for Project SW20-01, it is recommended to approve the price quote from Paradigm Software in the amount of \$64,459.96. Please note that the Finance Committee approved this item at the August 4, 2021 meeting.

Your consideration in this matter is greatly appreciated.

Recommended Motion:

Approve the price quote from Paradigm Software in the amount of \$64,459.96 for Software/Time/Support for the East Landfill scale house.



Price Quote

To: Cooper Anderson, City of Fargo Solid Waste Department
From: Andrew Twigg, Paradigm Software, L.L.C.
Date: 01/04/2021
Re: Bidirectional Unattended Lane Quote - Hardware

The following price quote is presented for the requested items below as requested by City of Fargo Solid Waste Department.

Qty	UM	Item/Description	Rate	Total
2.00	EA	Kiosk Enclosure (w/heater, fan, exhaust & thermostat) - (Stainless Steel - NOTE: Customer will be responsible for all wiring, electrical, trenching, conduit, bollards and mounting unless otherwise noted in this quote. PSLLC will configure the hardware to work with the software.)	\$5,882.15	\$11,764.30
2.00	EA	Swing Away Canopy for Enclosures - (Requires 4" pole/bollard.)	\$1,660.19	\$3,320.38
2.00	FF	Miscellaneous - (Mounting Pole/Bollard. 12' Tall and 4" Diameter)	\$989.18	\$1,978.36
2.00	EA	Kiosk Thermal Receipt Printer	\$850.00	\$1,700.00
2.00	EA	Case Kiosk Thermal Receipt Paper (8 Rolls)	\$145.54	\$291.08
2.00	EA	LCD Display - (Color 1500 NIT High Brightness)	\$1,975.00	\$3,950.00
2.00	EA	Video Extender HDMI 4K (up to 300 ft) - (Includes HDMI cable for kiosk)	\$533.00	\$1,066.00
2.00	EA	Keypad (16-key) - (Will be affixed to each kiosk (left & right). Driver will use keypad to make on screen selections.)	\$375.00	\$750.00
2.00	EA	Camera (Dome) - (Camera to be affixed to each kiosk (left & right). P3227 LVE DN Dome, IK10 Out VF 3.5-10MM Built-In IR 5MP@30FPS WWDR NOTE: Customer will be responsible for all wiring, electrical, trenching, conduit, bollards and mounting unless otherwise noted in this quote. PSLLC will configure the hardware to work with the software.	\$1,069.81	\$2,139.62
1.00	EA	Customer must provide POE Switch) Intercom Master (IP) - (To be housed inside of scale house. This is the Master Station and Transformer - customer must provide POE Switch)	\$1,870.64	\$1,870.64
2.00	EA	Intercom Sub-Station with Horn (IP) - (This is the remote Sub-Station and Horn that will be affixed to each kiosk to communicate with the master station. Customer must provide POE Switch)	\$751.17	\$1,502.34
3.00	EA	Proximity Card Reader - (Will be affixed to each kiosk (left & right). One to be used to program)	\$425.00	\$1,275.00
250.00	EA	Proximity Card	\$5.00	\$1,250.00
2.00	EA	4-port Extended Temperature Serial Server (Perle) - (Housed inside of kiosks for connection to printer, keypad, and proximity card reader)	\$774.80	\$1,549.60
1.00	EA	2-port Extended Temperature Serial Server (Perle) - (Housed inside of scalehouse for scale indicator connection)	\$528.06	\$528.06
1.00	EA	1-port Serial Server (Perle) - (Housed in office to program proximity cards)	\$486.20	\$486.20
Project Total:				\$35,421.58
*Total Increase In Annual Support:				\$0.00
*Total Increase In Annual Service Fee:				\$0.00

Price Quote

To: Terry Ludlum, City of Fargo Solid Waste Department
From: Andrew Twigg, Paradigm Software, L.L.C.
Date: 07/13/2021
Re: Bidirectional Unattended Lane Project - Software/Time/Support Quote

The following price quote is presented for the requested items below as requested by City of Fargo Solid Waste Department.

Qty	UM	Item/Description	Rate	Total
2.00	LN	WeighStation Program License - (WeighStation Program License - (Customer will be responsible for providing desktop computer (which meets Paradigm's minimum system requirements) to operate each enclosure. Software does not control traffic flow.))	\$5,775.00	\$11,550.00*
2.00	LN	Video/Picture Module	\$1,575.00	\$3,150.00*
2.00	LN	Unattended Module - (Unattended Module - (Bidirectional lane - Two kiosks (left & right) on lane for commercial trucks - includes RF Module))	\$2,575.00	\$5,150.00*
5.00	DY	On-Site Install/Training - Implementation - (2 Specialists - During normal PSLLC business hours - hours exceeding 8 per day or after business hours work will be invoiced at time and a half / hour / specialist - customer will be invoiced for time used.)	\$5,944.00	\$29,720.00
40.00	HR	Remote Project Management - Implementation - (During normal PSLLC business hours - hours exceeding 8 per day or after business hours work will be invoiced at time and a half / hour / specialist - customer will be invoiced for time used.)	\$210.00	\$8,400.00
8.00	HR	On-Site Install/Training - Implementation (after hours) - (After normal PSLLC business hours or more than 8 hours in a day - customer will be invoiced for time used.)	\$315.00	\$2,520.00
12.00	MO	Pro-Rata Increase in Annual Standard Support - (Will be invoiced based on Go-Live date)	\$330.83	\$3,969.96
Project Total:				\$64,459.96
*Total Increase in Annual Support:				\$3,970.00
*Total Increase in Annual Service Fee:				\$0.00

All pricing and subsequent payments are in US Dollars

The hardware quote associated with this project has been sent to Prairie Scale Systems, Inc and is to be paid for by Prairie Scale Systems, Inc

Payment Terms (Does not include Taxes):

Description	Percent	Total
Due Upon Agreement/Price Quote Acceptance	50%	\$32,229.98
Due Upon Completion	50%	\$32,229.98

All duties and taxes regarding the shipment of the items above are the responsibility of the customer. To authorize and initiate this work, this expansion memo must be signed and dated on the appropriate line below by authorized personnel of City of Fargo Solid Waste Department below. Please e-mail a signed copy to info@paradigmsoftware.com or fax to (443) 275-2509. If you have any questions, please call us at (410) 329-1300, option 3. This quote is valid for thirty (30) days from the date listed above. The signature below authorizes Paradigm Software, L.L.C. to perform the modifications specified above.

City of Fargo Solid Waste Department

Paradigm Software, L.L.C.

Signature: _____

Signature: _____

By: _____
(Please Print)

Phil Weglein
Chief Executive Officer

Title: _____

Date: 07/13/2021

Date: _____

Please provide shipping address if applicable:

Street Address (no PO Box)

City, State/Province, Zip/Postal Code

(20)

July 22, 2021

Honorable Board of City Commissioners
City of Fargo
Fargo, North Dakota 58102

RE: Project SW 21-02

Dear Commissioners:

Bids were opened at 11:45 AM on Wednesday, July 21, 2021, for the Cell 20 Waste Excavation Project SW 21-02. A detailed bid tabulation sheet is attached for your review. Bid totals are as follow:

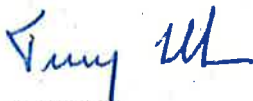
COMPANY	BID AMOUNT		COMPANY	BID AMOUNT
R.J. Zavoral & Sons Inc.	\$1,182,810.00		Kern & Tabery Inc.	\$1,262,870.00
Excavating Inc.	\$1,189,749.00		Jensen Brothers Const.	\$1,291,400.00
Burski Excavating, Inc.	\$1,227,400.00		Frattalone Co. Inc.	\$1,497,755.00
Northern Improvement Co.	\$1,230,932.00		Industrial Builders, Inc.	\$1,982,690.00

Along with Wenck Associates (now part of Stantec) this office recommends award of the contract to R.J. Zavoral & Sons Inc., in the amount of \$1,182,810.00 as the lowest and best bid. This project is in the process of being approved for financing through the North Dakota Clean Water state Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Program, with loan payments included within the Solid Waste Division Capital Improvement annual budget. Please note that the *Engineer's Estimate* (based on similar recent projects) for this project was \$1,589,060.00.

SUGGESTED MOTION:

Accept the bid from R.J. Zavoral & Sons Inc., in the amount of \$1,182,810.00 for the Cell 20 Waste Excavation Project SW 21-02.

Respectfully Submitted,



Terry Ludlum
Solid Waste Utility Director



Scott Olson
Solid Waste Utility Engineer

Attachment

cc: Bruce Grubb, City Administrator
Jill Pagel, Auditors Office
Scott Anderson, Landfill Supervisor
Randy Hanson, Wenck Associates (Stantec)



Stantec Consulting Services Inc.
3303 Fiechtner Drive Suite 100, Fargo, ND 58103

July 22, 2021
File: B00208-21-500

Terry Ludlum
Solid Waste Utility Director
2301 8th Avenue North
Fargo, North Dakota 58102

City of Fargo Landfill
Cell 20 Waste Excavation Recommendation for Award

Terry,

Bids were opened on Wednesday, July 21, 2021, for the Cell 20 Waste Excavation project SW 21-02. A summary of the bids received include the following:

Company	Bid Amount	Company	Bid Amount
RJ Zavoral & Sons	\$1,182,810	Jenson Brothers Construction Inc.	\$1,291,400
Excavating Inc.	\$1,189,749	Frattalone Companies, Inc.	\$1,497,755
Burski Excavating, Inc.	\$1,227,400	Industrial Builders, Inc.	\$1,982,690
Northern Improvement Co.	\$1,230,932	J.R. Ferche, Inc	Bid Not Opened Incomplete Bid
Kern & Tabery, Inc	\$1,262,870		

After completing a review of the detailed bid tabulation and discussions on items included in the bids, we recommend award of the project to RJ Zavoral and Sons, Inc. of East Grand Forks, Minnesota. RJ Zavoral provided the lowest and best bid on the project. We are familiar with RJ Zavoral and work they have completed in the past on landfill related and large excavation projects, we are confident they can complete the project as designed.

If you have any questions or need any additional information, please reach me at rhanson@wenck.com or 701.261.3828.

July 22, 2021

Terry Ludlum

Page 2 of 2

Reference: SW 21-02

Regards,

Stantec Consulting Services Inc.



Randy L. Hanson

Principal

Phone: 701.893.2313

Email: rhanson@wenck.com

Attachment: Bid Tabulation

CITY OF FARGO
DIVISION OF SOLID WASTE

Cell 20 Waste Excavation
PROJECT SW 21-02

Bids Opened: 11:30 AM
Date: 7/21/21

Engineers Estimate: \$1,589,060

Bid Item	Quantity	Contractor R.J. Zavoral & Sons Inc.		Contractor Excavating, Inc.		Contractor Burski Excavating, Inc.		Contractor Northern Improvement Co.		Contractor Kem & Tabery Inc.	
		Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1 Mobilization & Demobilization	1 LS	\$ 34,000.00	\$ 34,000.00	\$ 56,000.00	\$ 56,000.00	\$ 80,000.00	\$ 80,000.00	\$ 115,966.00	\$ 115,966.00	\$ 122,550.00	\$ 122,550.00
2 Field Engineering	1 LS	\$ 16,000.00	\$ 16,000.00	\$ 24,000.00	\$ 24,000.00	\$ 15,000.00	\$ 15,000.00	\$ 10,631.00	\$ 10,631.00	\$ 15,400.00	\$ 15,400.00
3 Soil Excavation	152,500 CY	\$ 2.80	\$ 427,000.00	\$ 2.58	\$ 393,450.00	\$ 2.50	\$ 381,250.00	\$ 2.85	\$ 434,625.00	\$ 3.31	\$ 504,775.00
4 Excavation and Relocation of Waste	188,900 CY	\$ 3.40	\$ 642,260.00	\$ 3.41	\$ 644,149.00	\$ 3.50	\$ 661,150.00	\$ 3.10	\$ 585,590.00	\$ 3.05	\$ 576,145.00
5 Leachate Handling	1 LS	\$ 21,300.00	\$ 21,300.00	\$ 24,900.00	\$ 24,900.00	\$ 25,000.00	\$ 25,000.00	\$ 25,116.00	\$ 25,116.00	\$ 10,000.00	\$ 10,000.00
6 Controlled Fill	5,000 CY	\$ 4.40	\$ 22,000.00	\$ 6.05	\$ 30,250.00	\$ 8.00	\$ 40,000.00	\$ 3.45	\$ 17,250.00	\$ 3.50	\$ 17,500.00
7 Erosion Control	1 LS	\$ 7,500.00	\$ 7,500.00	\$ 9,500.00	\$ 9,500.00	\$ 10,000.00	\$ 10,000.00	\$ 10,280.00	\$ 10,280.00	\$ 6,500.00	\$ 6,500.00
8 Site Restoration	1 LS	\$ 12,750.00	\$ 12,750.00	\$ 7,500.00	\$ 7,500.00	\$ 15,000.00	\$ 15,000.00	\$ 31,474.00	\$ 31,474.00	\$ 10,000.00	\$ 10,000.00
BID TOTAL			\$ 1,182,810.00		\$ 1,189,749.00		\$ 1,227,400.00		\$ 1,230,932.00		\$ 1,262,870.00

Bid Item	Quantity	Contractor Jensen Brothers Construction, Inc.		Contractor Fratallone Companies, Inc.		Contractor Industrial Builders, Inc.		Contractor J.R. Ferche, Inc.	
		Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1 Mobilization & Demobilization	1 LS	\$ 65,000.00	\$ 65,000.00	\$ 177,000.00	\$ 177,000.00	\$ 107,000.00	\$ 107,000.00		
2 Field Engineering	1 LS	\$ 25,000.00	\$ 25,000.00	\$ 16,700.00	\$ 16,700.00	\$ 20,470.00	\$ 20,470.00		
3 Soil Excavation	152,500 CY	\$ 3.20	\$ 488,000.00	\$ 2.50	\$ 381,250.00	\$ 5.80	\$ 884,500.00		
4 Excavation and Relocation of Waste	188,900 CY	\$ 3.50	\$ 661,150.00	\$ 4.15	\$ 783,935.00	\$ 4.80	\$ 906,720.00		
5 Leachate Handling	1 LS	\$ 15,000.00	\$ 15,000.00	\$ 41,570.00	\$ 41,570.00	\$ 10,000.00	\$ 10,000.00		
6 Controlled Fill	5,000 CY	\$ 2.95	\$ 14,750.00	\$ 3.50	\$ 17,500.00	\$ 6.00	\$ 30,000.00		
7 Erosion Control	1 LS	\$ 7,500.00	\$ 7,500.00	\$ 4,440.00	\$ 4,440.00	\$ 14,000.00	\$ 14,000.00		
8 Site Restoration	1 LS	\$ 15,000.00	\$ 15,000.00	\$ 75,360.00	\$ 75,360.00	\$ 10,000.00	\$ 10,000.00		
BID TOTAL			\$ 1,291,400.00		\$ 1,497,755.00		\$ 1,982,690.00		\$

BID NOT OPEN - INCOMPLETE BID
PACKET

REPORT OF ACTIONUTILITY COMMITTEE

(21)

Project No. WA2055

Type: Bid Award for Ozone System
Improvements – Phase 2Location: Water Treatment Plant Campus (435 14th Avenue South)

Date of Hearing: 8/5/2021

<u>Routing</u>	<u>Date</u>
City Commission	8/9/2021
Project File	

Troy Hall, Water Utility Director, presented the attached memo regarding the bid opening for Project WA2055. The bid opening took place on Wednesday, July 28, 2021. This project is titled, 'Ozone System Improvements – Lime Softening Water Treatment Plant'. Per the attached Apex Bid Award Recommendation, there were three (3) combined contract bids. One (1) Electrical Contract bid was opened but withdrawn by contractor. The PKG Contracting, Inc bid was the low bid at \$805,600 and below the Engineer's Estimate by 19.4%. The other two (2) bids were over the Engineer's estimate. Water Utility staff recommends bid award per the Apex recommendation. This project will be funded through a low-interest State Revolving Fund (SRF) loan that has already been approved by the State of North Dakota Public Finance Authority.

MOTION:

On a motion by Ben Dow, seconded by Jim Hausauer, the Utility Committee voted to approve the Bid Award to PKG Contracting, Inc for Project WA2055, Ozone System Improvements – Lime Softening Water Treatment Plant in the amount of \$805,600.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>

Anthony Gehrig, City Commissioner
 Kent Costin, Director of Finance
 Brian Ward, Water Plant Supt.
 Mark Miller, Wastewater Plant Supt.
 Bruce Grubb, City Administrator
 Scott Liudahl, City Forester
 Terry Ludlum, Solid Waste Utility Director
 James Hausauer, Wastewater Util. Director
 Troy Hall, Water Utility Director
 Ben Dow, Public Works Operations Director
 Brenda Derrig, City Engineer

X	
X	
X	
X	
X	
X	
X	

ATTEST:



Troy B. Hall
 Water Utility Director

C: Tim Mahoney, Mayor
 Commissioner Strand
 Commissioner Piepkorn
 Commissioner Preston

MEMORANDUM

July 30, 2021

To: Utility Committee

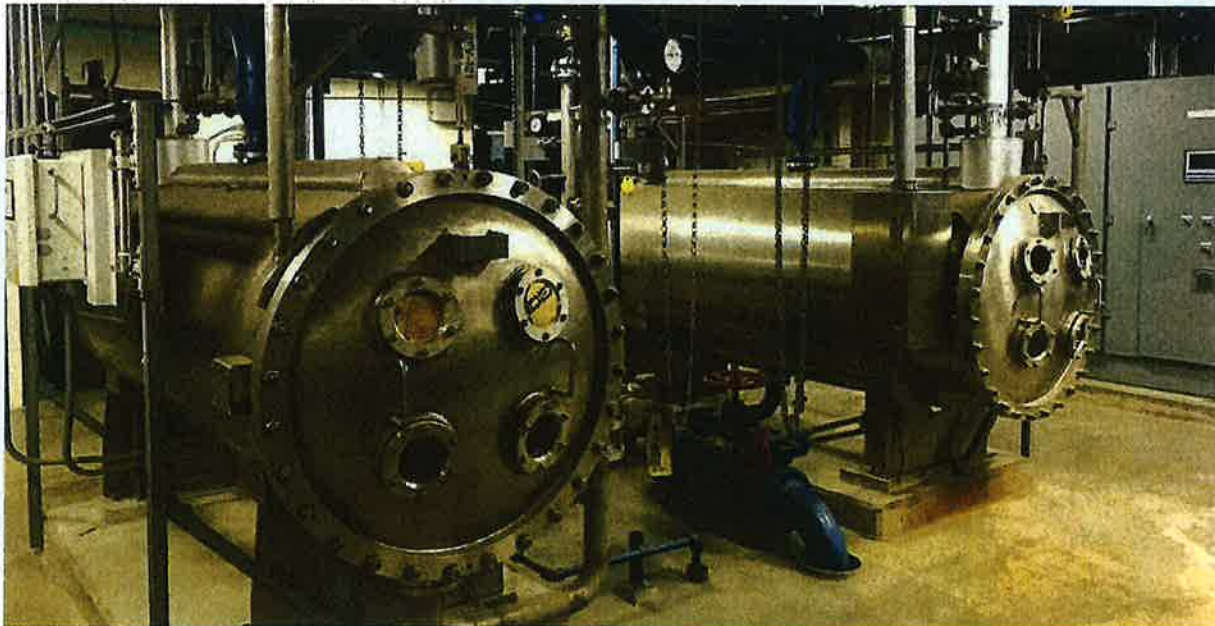
From: Troy B. Hall, Water Utility Director *TBH*

Re: Project WA2055 Bid Award – LSWTP Ozone Improvements – Phase 2

Introduction

Construction bids were opened at 11:45 AM, local time, on Wednesday, August 28, 2021, for Project WA2055, Ozone System Improvements – Lime Softening Water Treatment Plant (see Bid Tabulation). Four (4) bids were opened from contractors: three (3) for General Construction and one (1) for Electrical Construction. For Electrical Construction, Rickard Electric, Inc. withdrew their bid following the bid opening leaving only General Construction Bids. The Engineer's Letter Recommending Award is attached and Water Utility staff suggests following the Engineer's letter.

This project is funded through a low-interest State Revolving Fund (SRF) loan. PKG Contracting, Inc. was the low bid at \$805,600. This is 19.4% below the Engineer's estimate of \$1,000,000. As shown in the bid tabulation, the other two bidders were 9% or more over the Engineer's estimate.



Existing ozone generators in Fargo WTP. Phase 2 ozone improvements will include installation of a lower capacity ozone generator for winter operation.

This bid is for Ozone Improvements – Phase 2 and the result of several engineering studies. There are three major equipment components in this project:

- Installation of a low capacity ozone generator for winter operation
- Installation of a Vacuum Swing Adsorption (VSA) system (lower oxygen operations cost)
- Installation of electric Liquid Oxygen (LOX) vaporizers for winter operation.

The installation of the VSA will reduce annual operating costs for chemicals in the WTP. This was a factor in WTP personnel proposing a \$200,000 reduction in chemical costs for the 2022 budget.

Plan of Financing

It is recommended that the funding for this project come from an already approved State Revolving Fund (SRF) loan. Once finalized, the SRF loan payments will be funded by rate revenue or Infrastructure Sales Tax. This project was in the 20-year CIP for the Water Utility and in the Water Utility budget.

SUGGESTED MOTION:

Award bids for Project WA2055 to PKG Contracting, Inc. in the amount of \$805,600 for Ozone System Improvements – Lime Softening Water Treatment Plant.

Your consideration in this matter is greatly appreciated.



Water | Transportation | Municipal | Facilities

701.373.7980
4733 Amber Valley Parkway South
Fargo, ND 58104

July 29, 2021

Mr. Troy Hall
Water Utility Director
City of Fargo
435 14th Avenue South
Fargo, ND 58103

**RE: Ozone System Improvements – Lime Softening Water Treatment Plant
City of Fargo Project No. WA2055, DWSRF Project No. 0900336-04
Letter Recommending Award**

Troy:

Bids for the above reference project were received and opened on July 28, 2021. A tabulation of the bids received is attached.

We have reviewed the bids and recommend that the City of Fargo award a contract for this project to PKG Contracting for their Contract C bid in the amount of \$805,600.00. This award should be contingent upon final approval by the North Dakota Department of Environmental Quality.

If you have any questions or need further information, please do not hesitate to contact me.

Sincerely,

Apex Engineering Group, Inc.

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

Timothy J. Paustian, PE
Project Manager



Water | Transportation | Municipal | Facilities

Bid Tabulation

Ozone System Improvements

Lime Softening Water Treatment Plant

City of Fargo, ND – Project No. WA2055

July 28, 2021 | 11:45am | City Hall – Engineering Conference Room

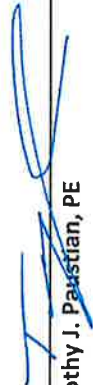
Apex Project No. 20.351.0127

Planholder	Contractors License	Bid Bond	Acknowledged Addendum	MBE/WBE Solicitations	Bid Contract A	Bid Contract B	Bid Contract C
CC Steel, LLC	x	x	x	x	No Bid	No Bid	\$1,090,000.00
Comstock Construction, Inc.	x	x	x	x	No Bid	No Bid	\$1,228,400.00
PKG Contracting, Inc.	x	x	x	x	\$739,956.00	\$120,000.00	\$805,600.00
Rickard Electric, Inc.	x	x	x	x	\$74,100.00*	No Bid	No Bid
Lowest Each Contract					\$739,956.00	\$120,000.00	\$805,600.00
Engineer's Opinion of Estimated Cost					-	-	\$1,000,000.00

* Bid Withdrawn after Bid Opening

Certification:

I certify that these bids were received and opened on Wednesday, July 28, 2021 at 11:45 AM at Fargo City Hall, Engineering Conference Room, 225 4th St N, Fargo, ND.


Timothy J. Paustian, PE

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No.: BR-23-A1 Type: Preliminary Engineering Reimbursement Agreement

Location: Main Avenue, Univ Dr – 25 St Date of Hearing: 8/2/2021

<u>Routing</u>	<u>Date</u>
City Commission	<u>8/9/2021</u>
PWPEC File	<u>X</u>
Project File	<u>Jeremy Gorden</u>

The Committee reviewed a communication from Division Engineer, Jeremy Gorden, regarding a Preliminary Engineering Reimbursement Agreement from the NDDOT for the Main Avenue street reconstruction project slated for 2023.

Main Avenue is on the National Highway System and the funding splits are typically 80% federal funds, 10% state funds, and 10% local funds, minus the water and sewer costs, those are 100% City funded.

The NDDOT interviews consulting engineers for each project, selects the most qualified firm, and then determines a maximum value for engineering fees for the work. The work is broken into 3 phases; scoping phase, environmental document and preliminary design phase, and final design phase. When the engineering work begins, the selected consultant puts a scope and fee together for phase 1 and that is the value of the contract. This allows the consultant to gather additional information and put together a more refined scope and fee for phase 2. The NDDOT follows the same process for phase 3.

Apex Engineering group was selected by the NDDOT Selection Committee in July and has the contract for the project with NDDOT through phase 1. The phase 1 contract value is around \$50,000.

The Preliminary Engineering Reimbursement Agreement confirms to the NDDOT that we agree to the project but, if for whatever reason the City unilaterally and voluntarily stops and terminates the project, we will reimburse the NDDOT for any and all costs that have been incurred for the project. Staff is recommending approval of the Preliminary Engineering Reimbursement Agreement with the NDDOT for the Main Avenue Street Reconstruction Project BR-23-A1 slated for 2023.

On a motion by Steve Sprague, seconded by Bruce Grubb, the Committee voted to recommend approval of the Preliminary Engineering Reimbursement Agreement with the NDDOT.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve the Preliminary Engineering Reimbursement Agreement with the NDDOT for the Main Avenue Street Reconstruction Project BR-23-A1 slated for 2023.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Federal, State, & Local

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

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

PWPEC ROA
BR-23-A1 Preliminary Engineering Reimbursement Agreement
8/2/2021 -- Page 2

COMMITTEE

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

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

ATTEST:

C: Kristi Olson

 on behalf of
Brenda E. Derrig, P.E.
City Engineer

Memorandum

To: Members of PWPEC
From: Jeremy Gorden, P.E., PTOE, Division Engineer - Transportation
Date: July 30, 2021
Re: Preliminary Engineering Reimbursement Agreement with NDDOT
City of Fargo Improvement District No. BR-23-A1
NDDOT Project No. NHU-8-010(046)938

I have attached a "Preliminary Engineering Reimbursement Agreement" from the NDDOT for the Main Avenue Street Reconstruction Project we have slated for 2023. For the reconstruction of Main Avenue, it is on the National Highway System and the funding splits are typically 80% federal funds, 10% state funds, and 10% local funds, minus the water and sewer costs, those are 100% City funded. The preliminary engineering for the project will fall under the same splits.

The NDDOT conducts interviews with consulting engineers for each project, selects the most qualified firm, and then determines a maximum value for engineering fees for the work, but does not enter into a contract for that amount. What they do is they break the work into 3 phases; the first is the scoping phase, the second is the environmental document and preliminary design phase, and the third is final design. When the engineering work begins, the selected consultant puts a scope and fee together for just phase 1, and that value is what the contract is worth. This phase allows the consultant to gather additional information, hold a scoping meeting, conduct a field review and conduct an initial preliminary survey. This information gathering allows the consultant to put together a more refined scope and fee together for phase 2. At that point, the NDDOT amends the contract and adds this fee to the phase 1 fee. They do this same concept for putting together the scope and fee for phase 3.

The Apex Engineering Group was selected by the NDDOT Selection Committee in July and has the contract for the project with the NDDOT through phase 1. The phase 1 contract value is around \$50,000. The maximum contract value set by the NDDOT has yet to be determined.

This agreement is basic in nature and what it does is state to the NDDOT that we are 100% on board with this project, that we are a partner with them on this important project, but if for whatever reason the City unilaterally and voluntarily stops and terminates the project, we will reimburse the NDDOT for any and all costs that have been incurred for the project. I don't foresee this ever occurring, so I'm confident that this agreement will be just a formality.

I have attached two copies of the "Preliminary Engineering Reimbursement Agreement" for review.

Recommended Motion:

Approval of the "Preliminary Engineering Reimbursement Agreement" with the NDDOT to be signed by Mayor Mahoney and returned to the NDDOT.

Attachments

MEMO TO: Ronald Henke
Deputy Director for Engineering

FROM: Ardin Striefel, 328-2559
Local Government Division

DATE: 07/14/2021

SUBJECT: Preliminary Engineering Reimbursement Agreement for Project
NHU-8-010(046)938 - PCN 23199

This contract is a Preliminary Engineering Reimbursement agreement with City of Fargo for the Main Avenue project from 25th Street to University Drive.

Contract # 38210860

- The type of work is a reconstruction of roadway and sidewalk project.
- Federal Funds will be used for Preliminary Engineering Services.
- City shall reimburse NDDOT for any costs it has incurred for the engineering services if City terminate this agreement.

- No One time changes on the standard agreement template.

38/as

Contract routing:

Ardin Striefel Contract Owner

Paul Benning

Steve Salwei

Shannon Sauer

Jeremy Gorden - Traffic Division Engineer

City of Fargo Officials

Ardin Striefel

Legal

Ronald Henke

NDDOT Contract No. 38210860
Project No. NHU-CPU-8-010(046)938

**North Dakota Department of Transportation
PRELIMINARY ENGINEERING REIMBURSEMENT AGREEMENT**

This agreement is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Fargo, North Dakota, hereinafter referred to as the City.

WHEREAS, the City agrees that NDDOT proceed with Preliminary Engineering for the above project; and;

WHEREAS, the City agrees that the project be developed in accordance with NDDOT policies and with the scope of work identified in Attachment A, attached hereto and incorporated by reference.

NOW, THEREFORE, it is agreed that NDDOT will take all necessary steps in project development to deliver an environmental document and set of design plans approved by the City, and construct the project by scheduling a bid opening at such time as funding and project completion allows.

The City agrees that should it unilaterally and voluntarily terminate this agreement by whatever means or action, it shall reimburse NDDOT for any and all costs it has incurred for engineering services under this agreement.

The City further agrees that should it request or otherwise cause a material alteration to, or a reduction of the scope of the project, it shall reimburse NDDOT for any and all costs it has incurred for engineering services under this agreement.

In the event the City fails to reimburse NDDOT, such failure shall constitute an assignment of funds, derived from the State Highway Tax Distribution Fund now or hereafter coming into the hands of the State Treasurer to the credit of the City, and that the State Treasurer is hereby directed to deliver and pay over to NDDOT all funds credited to the City until the total thereof equals the sum billed pursuant to this agreement.

Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

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



Executed by the city of Fargo, at Fargo North Dakota, the last date below signed.

APPROVED:Erik Johnson

CITY ATTORNEY (TYPE OR PRINT)

City of FargoTimothy J. Mahoney

NAME (TYPE OR PRINT)

SIGNATURE

DATE

SIGNATURE

*

Mayor

TITLE

DATE

ATTEST:Steve Sprague

CITY AUDITOR (TYPE OR PRINT)

SIGNATURE

DATE

Executed for the North Dakota Department of Transportation by the Director at Bismarck, North Dakota, the last date below signed.

APPROVED as to substance by:Paul Benning

LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

DocuSigned by:

Paul M. Benning

SIGNATURE

A411F817506247A...

7/17/2021

DATE

**NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

DS

SS

DS

SS

*Mayor or President City Commission

CLA 17057 (Div. 38)
L.D. Approved 7-17-89; 07-20



Project No. NHU-CPU-8-010(046)938

**North Dakota Department of Transportation
AUTHORIZATION**

At a _____ meeting held on the ____ day
of _____ 20____, it was moved by _____ and seconded by _____
that the attached agreement be approved and that the *
and city auditor be authorized to execute in behalf of the city of _____
and that two executed copies be returned to the North
Dakota Department of Transportation Director.

Adopted on a vote of _____ aye, _____ nay, _____ absent.

ATTEST:**APPROVED:**

Steve Sprague
CITY AUDITOR (TYPE OR PRINT)

City of _____
Fargo

SIGNATURE

Timothy J. Mahoney
NAME (TYPE OR PRINT)

DATE

SIGNATURE

* _____
Mayor

TITLE

DATE

*Mayor or President City Commission



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



NORTH DAKOTA DEPARTMENT OF TRANSPORTATION APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes nondiscrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

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

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

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

Governments – State and Government Entity, as defined above

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

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

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

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

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

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

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

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

RM Consulted 2007
Revised 11-19



Certificate Of Completion

Envelope Id: 2952586CC8354380A031E623370BBEA2

Status: Sent

Subject: Contract #38210860: Please DocuSign: Preliminary Engineering Reimbursement Agmt - Main Ave Project

Contract Number: 38210860

PCN: 23199

Source Envelope:

Document Pages: 7

Signatures: 2

Envelope Originator:

Certificate Pages: 3

Initials: 4

Ardin Striefel

AutoNav: Enabled

608 E Boulevard Ave

EnvelopeId Stamping: Enabled

Bismarck, ND 58505

Time Zone: (UTC-06:00) Central Time (US & Canada)

astriefe@nd.gov

IP Address: 165.234.92.5

Record Tracking

Status: Original

7/14/2021 10:56:45 AM

Holder: Ardin Striefel

astriefe@nd.gov

Location: DocuSign

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Carahsoft OBO North Dakota Department of
Transportation CLOUD

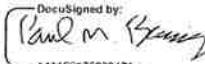
Location: DocuSign

Signer Events

Paul Benning

pbenning@nd.gov

Security Level: Email, Account Authentication
(None), Authentication**Signature**

DocuSigned by:

 A411F817506247A

Signature Adoption: Pre-selected Style

Using IP Address: 165.234.252.245

Timestamp

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Viewed: 7/17/2021 6:31:52 PM

Signed: 7/17/2021 6:32:12 PM

Authentication Details

SMS Auth:

Transaction: 65EADB3D82A805049191C6F0D9EA2E43

Result: passed

Vendor ID: TeleSign

Type: SMSAuth

Performed: 7/17/2021 6:31:36 PM

Phone: +1 701-214-2502

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Steve Salwei

ssalwei@nd.gov

Security Level: Email, Account Authentication
(None), Authentication

-DS


Signature Adoption: Pre-selected Style

Using IP Address: 165.234.253.8

Sent: 7/17/2021 6:32:15 PM

Viewed: 7/19/2021 9:28:41 AM

Signed: 7/19/2021 9:28:58 AM

Authentication Details

SMS Auth:

Transaction: 25EAFCABF2E803049190E46F06AAD6F2

Result: passed

Vendor ID: TeleSign

Type: SMSAuth

Performed: 7/19/2021 9:28:33 AM

Phone: +1 701-527-8980

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signer Events

Shannon Sauer
ssauer@nd.gov
Security Level: Email, Account Authentication
(None), Authentication

Signature

DS
SS

Signature Adoption: Pre-selected Style
Using IP Address: 165.234.253.12

Timestamp

Sent: 7/19/2021 9:29:01 AM
Viewed: 7/19/2021 10:57:07 AM
Signed: 7/19/2021 10:57:23 AM

Authentication Details

SMS Auth:
Transaction: 25EAFDEFE0A40804919091556DEA2052
Result: passed
Vendor ID: TeleSign
Type: SMSAuth
Performed: 7/19/2021 10:56:57 AM
Phone: +1 701-426-9825

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Ardin Striefel
astriefe@nd.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Clint Morgenstern
cdmorgenstern@nd.gov

Security Level: Email, Account Authentication
(None), Authentication

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Ronald Henke
rhenke@nd.gov

Security Level: Email, Account Authentication
(None), Authentication

Signer Events

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Signature**Timestamp****In Person Signer Events****Signature****Timestamp****Editor Delivery Events**

Ardin Striefel

astriefe@nd.gov

Carahsoft OBO North Dakota Department of

Transportation CLOUD

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Status

VIEWED

Using IP Address: 165.234.252.245

Timestamp

Sent: 7/14/2021 10:56:56 AM

Viewed: 7/14/2021 10:57:23 AM

Completed: 7/14/2021 11:11:07 AM

Agent Delivery Events**Status****Timestamp**

Jeremy Gorden

Jgorden@fargond.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sent: 7/19/2021 10:57:26 AM

Viewed: 7/19/2021 4:19:03 PM

Intermediary Delivery Events**Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

DOT Legal Admin

dotlegaladmin@nd.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Legal Admin

dotlegaladmin@nd.gov

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

Hashed/Encrypted

7/14/2021 10:56:56 AM

Payment Events**Status****Timestamps**

24

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. PR-21-G1

Type: Change Order #2

Location: CR 81 & 40th Ave N

Date of Hearing: 8/2/2021

RoutingDate

City Commission

8/9/2021

PWPEC File

X

Project File

Roger Kluck

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, for Change Order #2 in the amount of \$80,337.92, for repair of a failed gate valve.

Staff is recommending approval of Change Order #2 in the amount of \$80,337.92, bringing the total contract amount to \$532,835.65.

On a motion by Steve Sprague, seconded by Kent Costin, the Committee voted to recommend approval of Change Order #2 to Border States Paving.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Change Order #2 in the amount of \$80,337.92, bringing the total contract amount to \$532,835.65 to Border States Paving.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax & Special Assessments

Yes No

Developer meets City policy for payment of delinquent specials

N/A

Agreement for payment of specials required of developer

N/A

Letter of Credit required (per policy approved 5-28-13)

N/A

COMMITTEE

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

Tim Mahoney, Mayor

Nicole Crutchfield, Director of Planning

Steve Dirksen, Fire Chief

Bruce Grubb, City Administrator

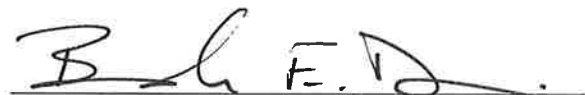
Ben Dow, Director of Operations

Steve Sprague, City Auditor

Brenda Derrig, City Engineer

Kent Costin, Finance Director

ATTEST:



Brenda E. Derrig, P.E.
City Engineer

C: Kristi Olson

Memorandum

To: Members of PWPEC

From: Roger E. Kluck, PE, CFM Civil Engineer II Storm Sewer & Floodplain

Date: July 29, 2021

Re: Improvement District No. PR-21-G1 – Change Order No. 2
40th Avenue North Widening at CR 81

Background:

Improvement District No. PR-21-G1 was bid May 12, 2021, was awarded to Border States Paving, May 17, 2021, and construction began June 2, 2021.

During construction on Improvement District #PR-21-G and #UN-21-A, in and around Amazon, we found that an existing water gate valve on the line feeding several warehouses and the new Amazon was not working. It was determined that Border States Paving on Improvement District No. PR-21-G, through their subcontractor, Key Contracting, could respond the quickest to repair the failed gate valve. We also felt that another gate valve to the west of the failed gate valve should be added to provide future latitude in water main operation and maintenance. The work was done on a time and material basis and the breakdown is included. The pavement was repaired using existing bid item pricing. The total cost of the work was \$80,337.92.

Funding for this project will come from Special Assessments and Sales Tax Funds. Engineering has used the existing bid items where feasible and the added bid items are reasonable given the difficulty and unknown condition of the existing water main system.

Recommended Motion:

Approve Change Order #2 in the amount of \$80,337.92 to Border States Paving.

REK/klb
Attachment

C: Tom Knakmuhs, Assistant City Engineer
Nathan Boerboom, Division Engineer

Key Contracting, Inc.

245 7th Ave NE
West Fargo, ND 58078

Invoice

Date	Invoice #
7/12/2021	7030

Bill To
Border States Paving PO Box 2586 Fargo, ND 58108



		P.O. Number	Terms	Project	
				PR-21-G1 40th Ave No	
Quantity	Description			Rate	Amount
0	Replace gate valves-install new ones			0.00	0.00
216	Yards-Class 5			38.00	8,208.00
4	Yards-Concrete			150.00	600.00
24	Ft-6" C900			68.00	1,632.00
2	12" valves			13,659.60	27,319.20
16	FT-12" C900 pipe			75.00	1,200.00
4	Hours-Semi			150.00	600.00
3	Hours-Tandem			100.00	300.00
6	Hours-Vac truck			500.00	3,000.00
6	Hours-Skid steer			100.00	600.00
8	Hours-Loader			150.00	1,200.00
20	Hours-160 backhoe			150.00	3,000.00
6	Hours-Dewatering			330.00	1,980.00
120	Hours-Labor			75.00	9,000.00
10	Hours-Foreman and pickup			150.00	1,500.00
				60,139.20	
				x 1.10	
				66,153.12	
The work is complete. Please pay from this invoice. Thank you for the business.				Total	\$60,139.20
Phone #		Fax #		Web Site	
701-238-8192		701-356-0166		www.keycontracting.com	

Haul Sheet

Date 7/17/2021 7:41 PM		Job Order # 44-21	
Project FR-21-G1		Pit Owner	
County		Address	
Contractor		City	
Subcontractor		State Zip Code	
Truck Number 4	3.53	0.00	0.00
		0.00	0.00
		0.00	0.00
Total	3.530		

CO 2

Product FAAA3 Superpave	Product Code FAAA3	Daily Total 3.53	To Date 700.6
The information above is true to the best of our knowledge. It reflects the totals accumulated on the date above.			
Contractor's Signature		Engineer's Signature	

Haul Sheet

Date 7/2/2021 11:33 AM		Job Order # 44-21	
Project PR-21-G1		Pit Owner	
County		Address	
Contractor		City	
Subcontractor		State Zip Code	
Truck Number 104	5.03	0.00	0.00
		0.00	0.00
		0.00	0.00
		0.00	0.00
		0.00	0.00
		0.00	0.00
Total	5.03		

THE STATE OF TEXAS

COMMISSIONER

JOHN M. PERRY

1001 N. BRASS

PO BOX 1001

HOUSTON, TEXAS 77255-1001

TEL: 713-251-7000

FAX: 713-251-7001

WWW.TXDOT.GOV

7/2/2021 11:33 AM

PR-21-G1

5.03

C02

8.56

Product FAAS Superpave	Product Code FAAS	Daily Total 5.03	To Date 7/2/2021
The information above is true to the best of our knowledge. It reflects the totals accumulated on the date above.			
Contractor's Signature		Engineer's Signature	



**CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT**

Improvement District No	PR-21-G1	Change Order No	2
Project Name	Asphalt Paving Rehab/Reconstruction		
Date Entered	7/29/2021	For	Border States Paving Inc

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

EXPLANATION OF CHANGE: Repair gate valve at 37th St N & 40th Ave N

Repair existing gate valve on water line going north and add gate valve on water line going west.

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Miscellaneous	1	Mobilization	LS	1.00	1.00	2.00	1.00	3.00	13,500.00	13,500.00
	39	F&I Gate Valve 12" Dia	EA	0.00	0.00	0.00	2.00	2.00	33,076.56	66,153.12
Miscellaneous Sub Total (\$)										79,653.12
Paving	20	F&I Asphalt Pavement FAA 43 w/ PG58H-34	TON	620.00	350.00	970.00	8.56	978.56	80.00	684.80
Paving Sub Total (\$)										684.80

Summary

Source Of Funding

Sales Tax Funds - Infrastructure - 420, Special Assessments

Net Amount Change Order # 2 (\$)

80,337.92

Previous Change Orders (\$)

105,831.58

Original Contract Amount (\$)

346,668.15

Total Contract Amount (\$)

532,835.65

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

CONTRACT TIME

Current Substantial Completion Date	08/01/2021	Current Final Completion Date		Additional Days Substantial Completion	0.00	Additional Days Final Completion	0.00	New Substantial Completion Date	08/01/2021	New Final Completion Date	
Description											

Report Generated : 07/29/2021 12:47:35 PM

Page 1 of 2

Improvement District No : PR-21-G1



CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

APPROVED

Carter

For Contractor

Title *pm*

APPROVED DATE

T. Col

Department Head

Mayor

Attest

8/4/21

BORDER STATES PAVING, INC

CITY OF FARGO PROJECTS

25a

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 Paving and Utility Construction

Improvement District No. BN-21-E

Call for Bids August 9, 2021

Advertise Dates August 18 & 25, 2021

Bid Opening Date September 1, 2021

Substantial Completion Date June 24, 2022

Final Completion Date July 24, 2022

N/A PWPEC Report (**Part of 2021 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)

Project Engineer Will Bayuk

Phone No. (701) 241-1554

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 PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-21-E

Nature & Scope

This project is for new construction of underground utilities, asphalt pavement and incidentals on 50th Street South, Chinook Drive South, Big Goose Lane South and 37th Avenue South.

Purpose

This project is to provide infrastructure for new residential housing in Valley View Estates Second Addition as requested by the Developer.

Feasibility

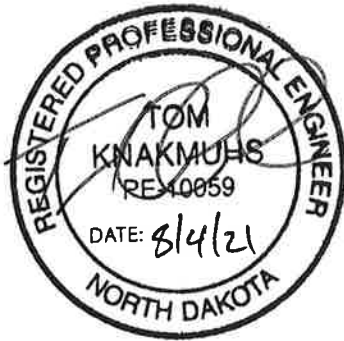
The estimated cost of construction is \$1,999,652.90. The costs for the improvement district are estimated as follows:

Raised Pedestrian Crossing	\$ 29,935.00
Plus 10% Engineering Fee:	\$ 2,993.50
Plus 4% Administration Fee:	\$ 1,197.40
Plus 3% Legal Fee:	\$ 898.05
Plus 4% Interest Fee:	\$ 1,197.40
Plus 5% Contingency:	\$ 1,496.75
Total Estimated Raised Pedestrian Crossing Cost:	\$ 37,718.10
 Amount City Funded - Infrastructure Sales Tax:	 \$ 37,718.10
Amount Special Assessed:	\$ -

Underground & Paving Costs	\$ 1,969,717.90
Plus 10% Engineering Fee:	\$ 196,971.79
Plus 4% Administration Fee:	\$ 78,788.72
Plus 3% Legal Fee:	\$ 59,091.54
Plus 4% Interest Fee:	\$ 78,788.72
Plus 5% Contingency:	\$ 98,485.90
Total Estimated Underground & Paving Cost:	\$ 2,481,844.55
 Amount City Funded - Infrastructure Sales Tax:	 \$ -
Amount Special Assessed:	\$ 2,481,844.55

Project Funding Summary		
City Funded - Infrastructure Sales Tax	1.50%	\$ 37,718.10
Special Assessments	98.50%	\$ 2,481,844.55
Total Estimated Project Cost		\$ 2,519,562.65

We believe this project to be cost effective.




Tom Knakmuhs, P.E.
Assistant City Engineer

**CITY OF FARGO
ENGINEERING DEPARTMENT**

**LOCATION & COMPRISING
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-21-E**

LOCATION:

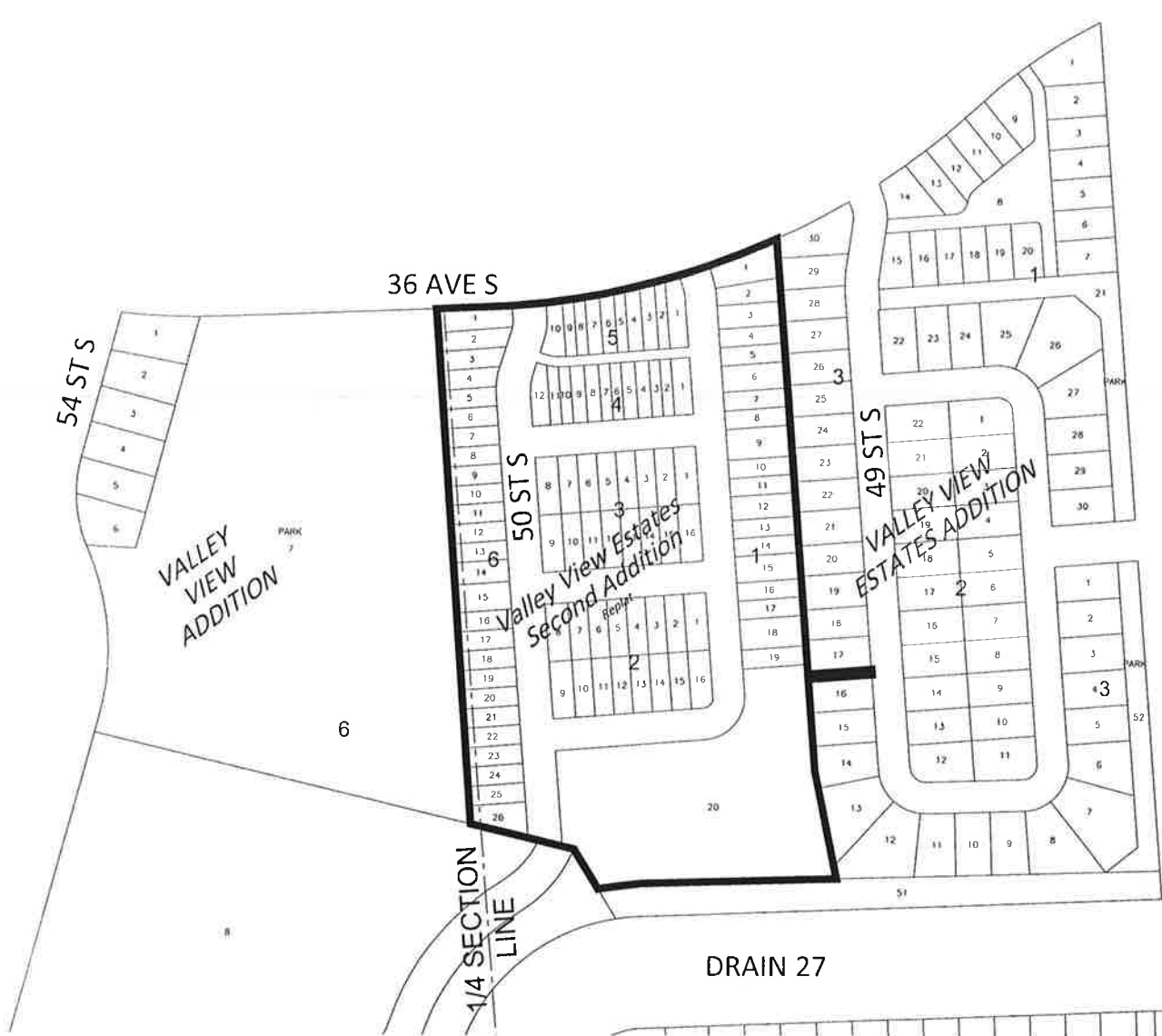
On 50th Street South from 36th Avenue South to the existing 50th Street South. On Chinook Drive South from 36th Avenue South to 50th Street South. On Big Goose Lane South from 50th Street South to Chinook Drive South. On 37th Avenue South from 50th Street South to Chinook Drive South.

COMPRISING:

Lots 1 through 30, Inclusive, Block 1.
Lots 1 through 16, Inclusive, Block 2.
Lots 1 through 16, Inclusive, Block 3.
Lots 1 through 12, Inclusive, Block 4.
Lots 1 through 10, Inclusive, Block 5.
Lots 1 through 26, Inclusive, Block 6.

All platted within Valley View Estates Second Addition.

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



CITY OF FARGO ENGINEERING
DEPARTMENT

LOCATION & ASSESSMENT AREA

NEW PAVING & UTILITY CONSTRUCTION

IMPROVEMENT DISTRICT NO. BN-21-E

CITY OF FARGO PROJECTS

256

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 Paving and Utility Construction

Improvement District No. BN-21-L

Call for Bids August 9, 2021

Advertise Dates August 18 & 25, 2021

Bid Opening Date September 15, 2021

Substantial Completion Date July 15, 2022

Final Completion Date August 14, 2022

X 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)

X Notice to Property Owners (Dan Eberhardt)

Project Engineer Jason Leonard

Phone No. (701) 241-1555

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)

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-21-L1

Type: Infrastructure Request

Location: Veteran's Boulevard & 53rd Avenue South
(Radio Addition)

Date of Hearing: 6/7/2021

RoutingDate

City Commission

8/9/2021

PWPEC File

X

Project File

Jason Leonard

The Committee reviewed a communication from Project Engineer, Jason Leonard, regarding an Infrastructure Request for Veteran's Boulevard and 53rd Avenue South, Radio Addition, requested by Nate Vollmuth and Mike Graham, Design and Developer.

Engineering staff has reviewed the requirements for infrastructure requests and the Developer has met four of the seven requirements. The three remaining items are as follows:

- Plat Recordation
- Execution of the Special Assessment Security Agreement
- Letter of Credit

Staff is recommending approval of the Infrastructure Request contingent upon plat recordation, execution of the Special Assessment Security Agreement and Letter of Credit.

On a motion by Bruce Grubb, seconded by Ben Dow, the Committee voted to recommend approval of the Infrastructure Request contingent upon plat recordation, execution of the Special Assessment Security Agreement and Letter of Credit and direct Engineering to design.

RECOMMENDED MOTION

Approve the Request for Infrastructure contingent upon plat recordation, execution of the Special Assessment Agreement and Letter of Credit and direct Engineering to start design.

PROJECT FINANCING INFORMATION:Recommended source of funding for project: Special Assessments

Developer meets City policy for payment of delinquent specials

Agreement for payment of specials required of developer

Letter of Credit required (per policy approved 5-28-13)

Yes No

N/AN/AN/ACOMMITTEE

Present Yes No Unanimous

17

Tim Mahoney, Mayor

☒☒☐

Nicole Crutchfield, Director of Planning

☒☒☐

Steve Dirksen, Fire Chief

☒☒☐

Bruce Grubb, City Administrator

☒☒☐

Ben Dow, Director of Operations

☒☒☐

Steve Sprague, City Auditor

☒☒☐

Brenda Derrig, City Engineer

☒☒☐

Kent Costin, Finance Director

☐☐☐

ATTEST:

C: Kristi Olson



Brenda E. Derrig, P.E.
City Engineer

ENGINEER'S REPORT
NEW PAVING AND UTILITY CONSTRUCTION
IMPROVEMENT DISTRICT NO. BN-21-L

Nature & Scope

This project is for new construction of underground utilities, concrete pavement, and incidentals on Veteran's Boulevard between 52nd Avenue South and 53rd Avenue South. 53rd Avenue South between Veteran's Boulevard and 485 feet west of Veteran's Boulevard.

Purpose

This project is to provide infrastructure for new general commercial lots in Radio Addition as requested by the Developer.

Feasibility


The estimated cost of construction is \$1,530,671.50. The costs for the improvement district are estimated as follows:

Sales Tax Fund 450 - Water	\$ 78,250.00
Plus 10% Engineering Fee:	\$ 7,825.00
Plus 4% Administration Fee:	\$ 3,130.00
Plus 3% Legal Fee:	\$ 2,347.50
Plus 4% Interest Fee:	\$ 3,130.00
Plus 5% Contingency:	\$ 3,912.50
Total Estimated Raised Pedestrian Crossing Cost:	\$ 98,595.00
Amount City Funded - Infrastructure Sales Tax:	\$ 98,595.00
Amount Special Assessed:	\$ -
CRWUD - Special Assessed	\$ 89,214.00
Plus 10% Engineering Fee:	\$ 8,921.40
Plus 4% Administration Fee:	\$ 3,568.56
Plus 3% Legal Fee:	\$ 2,676.42
Plus 4% Interest Fee:	\$ 3,568.56
Plus 5% Contingency:	\$ 4,460.70
Total Estimated Underground & Paving Cost:	\$ 112,409.64
Amount City Funded - Infrastructure Sales Tax:	\$ -
Amount Special Assessed - CRWUD:	\$ 112,409.64
Underground & Paving Costs	\$ 1,363,207.50
Plus 10% Engineering Fee:	\$ 136,320.75
Plus 4% Administration Fee:	\$ 54,528.30
Plus 3% Legal Fee:	\$ 40,896.23
Plus 4% Interest Fee:	\$ 54,528.30
Plus 5% Contingency:	\$ 68,160.38
Total Estimated Underground & Paving Cost:	\$ 1,717,641.45
Amount City Funded - Infrastructure Sales Tax:	\$ -
Amount Special Assessed:	\$ 1,717,641.45

Project Funding Summary		
Sales Tax Fund 450 - Water	5.11%	\$ 98,595.00
CRWUD - Special Assessed	5.83%	\$ 112,409.64
Special Assessments	89.06%	\$ 1,717,641.45
Total Estimated Project Cost		\$ 1,928,646.09

We believe this project to be cost effective.




Tom Knakmuhs, P.E.
Assistant City Engineer

CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION AND COMPRISING

NEW PAVING AND UTILITY CONSTRUCTION

IMPROVEMENT DISTRICT NO. BN-21-L

LOCATION:

This project is for new construction of underground utilities, concrete pavement, and incidentals on Veteran's Boulevard between 52nd Avenue South and 53rd Avenue South. 53rd Avenue South between Veteran's Boulevard and 485 feet west of Veteran's Boulevard (to be platted as Radio Addition).

COMPRISING:

North half of Section 5, Township 138 North, Range 49 West.

All of Richard Subdivision.

All of Richard 2nd Subdivision.

All of Richard 3rd Subdivision.

All of Dittmer Subdivision.

All of Ken's Subdivision.

All of Currier Trust Subdivision.

All of the unplatted land in the Northeast Quarter (NE $\frac{1}{4}$) of Section 5, Township 138 North, Range 49 West. All to be platted as Radio Addition.

All of the unplatted land in the Northwest Quarter (NW $\frac{1}{4}$) of Section 5, Township 138 North, Range 49 West.

All of the foregoing is located in the City of Fargo, Cass County, North Dakota and its Extra-Territorial Area.

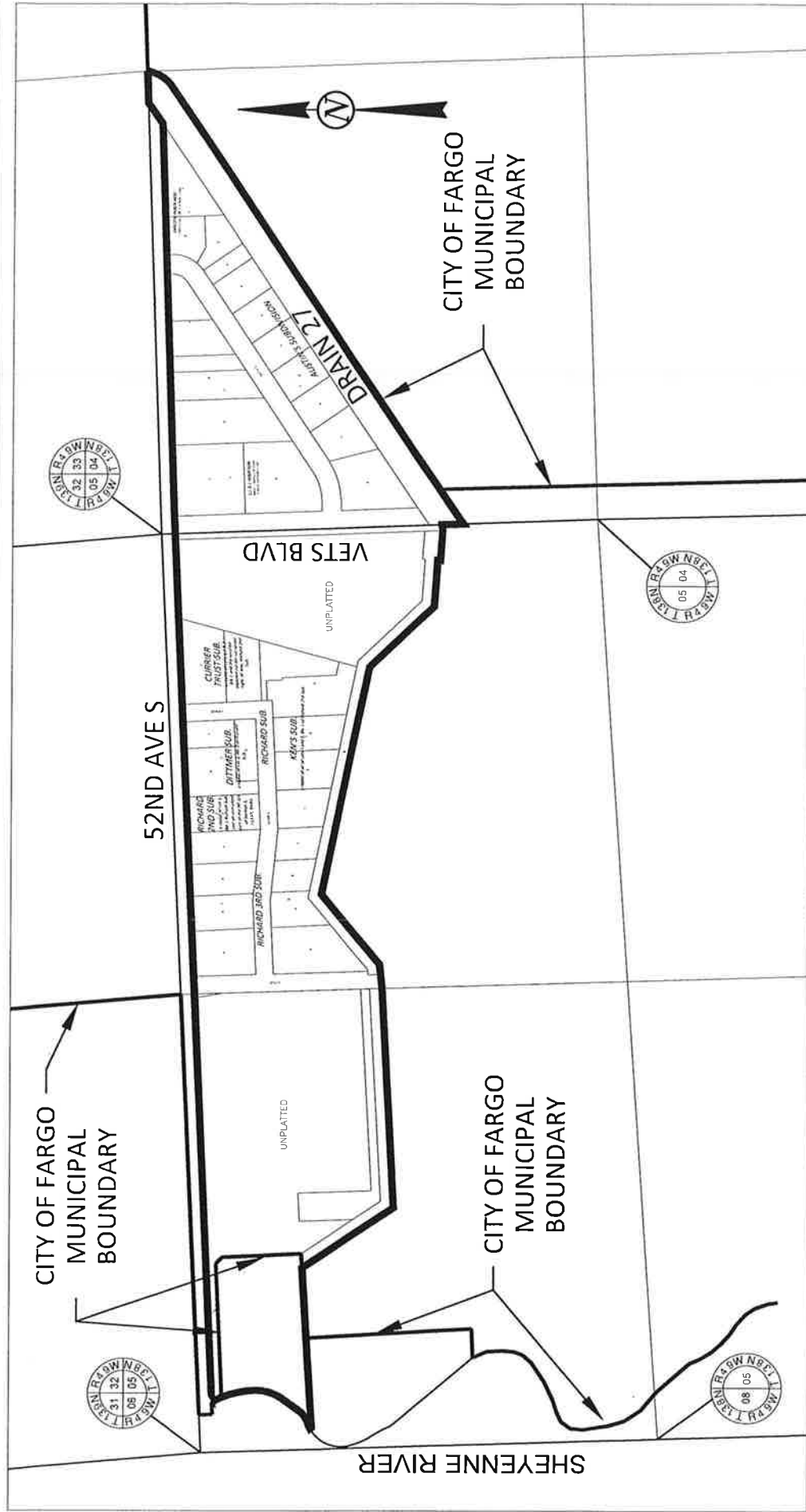
Northwest Quarter (NW $\frac{1}{4}$) of Section 4, Township 138 North, Range 49 West.

All of Austin's Subdivision.

All of Dakota Plaza Addition.

All of L, L & L Addition.

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



CITY OF FARGO
ENGINEERING DEPARTMENT

LOCATION & ASSESSMENT AREA
NEW PAVING AND
UTILITY CONSTRUCTION

IMPROVEMENT DISTRICT NO. BN-21-L

FUTURE
BENEFITING AREA
OUTSIDE CITY
LIMITS

