

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at [www.FargoND.gov/streaming](http://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](http://www.FargoND.gov/citycommission).

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, November 18, 2019).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. 1st reading of an Ordinance Relating to Classification of Ordinance Violations.
- 2. 2nd reading and final adoption of the following Ordinances; 1st reading 11/18/19:
  - a. Relating to Recreational Aquatic Facilities.
  - b. Rezoning a Certain Parcel of Land Lying in Harwood's First Addition.
- 3. Applications for Games of Chance:
  - a. NDSU Saddle and Sirloin Club for a raffle on 2/15/20.
  - b. Outdoor Adventure Foundation for a raffle and raffle board on 3/14/20.
  - c. Fargo Air Museum for a calendar raffle from 1/1/20 to 4/30/20.
  - d. F5 Project for a raffle on 1/12/20.
  - e. Knights of Columbus Council 11930 for a raffle on 5/21/20.
  - f. NDSU Livestock, Dairy and Meats Judging Club for a raffle on 2/19/20.
- 4. Reimbursement and Cost Share Agreements with Kilbourne Group, LLC.
- 5. Final Balancing Change Order No. 1 for an increase of \$4,973.68 for Project No. PR-19-A1.
- 6. Agreement Regarding Special Assessments with Kelmar Property 6, LLC.
- 7. Resolutions Authorizing the Issuance of Refunding Improvement Bonds, Series 2019C and 2019D and North Dakota State Revolving Fund Program Loan Agreement North Dakota Public Finance Authority.
- 8. Agreement for Services with Annie Wood.
- 9. Agreement for Services with Gia Rassier.
- 10. Agreement for Services with AE2S Communications.
- 11. Position Evaluation Committee Recommendations.
- 12. Employment Definitions Policy (200-004), Military Leave Policy (500-007) and the Holidays Policy (500-009) to be effective 12/2/19.

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13. Interstate Parking to lease parking spaces in the old Police and Health buildings for \$70/month per parking space and install the necessary signage.
  14. Bid award for Consulting Services for Core Neighborhoods Master Plan (RFP19130).
  15. Parking rates for 2020 and 2021 as recommended by the Parking Commission.
  16. Change of the parking time zone along 5th Avenue North between 11th and 12th Streets North and along 11th Street North between 4th and 5th Avenues North from 90 minute to 4-hour parking.
  17. Bid award for ballistic helmets and headsets (RFP19180).
  18. Exercising the option to piggyback on the contract with Northern Truck Equipment Corporation for the purchase of one snowplow, box and wing (PBCRFP19171).
  19. Resolution Prescribing Rates and Charges for Solid Waste Services.
  20. Amendment to Recycling Agreement with Minnkota Enviroservices, Inc. d/b/a Minnkota Recycling.
  21. Chemical bid awards for the Water Treatment Plant for 2020, as presented (AFB19175).
  22. Chemical bid awards for the Wastewater Treatment Plant for 2020, as presented (AFB19176).
  23. Bills.
  24. Change Order No. 3 for an increase of \$4,325.40 for Improvement District No. BN-18-F2.
  25. Change Order No. 8 for an increase of \$28,461.00 for Improvement District No. BN-17-A1.
  26. Change Order No. 5 for an increase of \$10,100.00 and time extension to 12/7/19 for Improvement District No. DN-18-A1.
  27. Change Order No. 1 for a time extension to 6/15/20 for Improvement District No. PN-18-B1.
  28. Final Balancing Change Order No. 4 for an increase of \$77,345.57 for Improvement District No. FM-17-C1.
  29. Negative Final Balancing Change Order No. 2 in the amount of -\$12,136.24 for Improvement District No. BN-19-E1.
  30. Negative Final Balancing Change Order No. 4 in the amount of -\$3,706.96 for Improvement District No. NN-18-A1.

#### **REGULAR AGENDA:**

31. Follow-up on the use of the LinkFM for special events.
32. Public Hearings - 5:15 pm:
  - a. Plat of BLU Water Creek 5th Addition a replat of Lot 2, Block 1, BLU Water Creek 4th Addition, including a Vacation of Right of Way at the Northeast corner of the intersection of 47th Street South and 33rd Avenue South (4609 33rd Avenue South);

approval recommended by the Planning Commission on 7/2/19; continued from the 11/18/19 Regular Meeting.

- b. Application filed by Pixeled Brewing Company d/b/a Pixeled Brewing Company to change from their Class "Y" Alcoholic Beverage License to a Class "C-M" Alcoholic Beverage License at 100 NP Avenue, Suite 101.
  - c. Transfer of the Class "H" Alcoholic Beverage License from Mars Restaurant Group, LLC d/b/a Pancheros Mexican Grill currently located at 4761 13th Avenue South to a new location at 4360 13th Avenue South, Suite C.
  - d. Transfer of a Class "B" Alcoholic Beverage License from Steve's Package Store, Inc. d/b/a Steve's Package Store at 524 4th Street North to Steve's Package Store, Inc. d/b/a Royal Liquors Village West at 4101 13th Avenue South.
  - e. Transfer of a Class "FA" Alcoholic Beverage License from Grazies Pasta Company ND LLC d/b/a Grazies Pasta Company at 2400 44th Street South to Plaza Aztec Fargo, Inc. d/b/a Plaza Azteca Restaurantes Mexicanos at 5505 28th Avenue South.
  - f. Transfer of a Class "F" Alcoholic Beverage License from Osaka Fargo ND Inc. d/b/a Osaka Sushi and Hibachi at 1111 38th Street South (ownership change).
33. Applications for property tax exemptions for improvements made to buildings:
- a. Jagila M. Wesley, 3017 37th Avenue South (3 year).
  - b. Daniel R. and Jaclyn B. Shultis, 157 35th Avenue Northeast (5 year).
  - c. Megan J. and Sean M. Dunlap, 1646 2nd Street North (5 year).
  - d. Rodney D. Dahl, 92 16th Avenue North (5 year).
  - e. Alan L. and Tara M. Kohn, 830-832 11th Avenue North (5 year).
  - f. Dakota J. and Vicki L. Draper, 1021 2nd Street North (5 year).
  - g. David C. and Christine A. Maxfield, 1026 27th Street North (5 year).
  - h. Matthew and Julie F. Jacques, 2507 9th Street South (5 year).
  - i. Kathryn J. Peterson, 1446 Broadway North (5 year).
34. Receive and file the proposed 4-year Capital Improvement Plan (CIP) along with the Comprehensive 2020 CIP Report.

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

Minutes are available on the City of Fargo website at [www.FargoND.gov/citycommission](http://www.FargoND.gov/citycommission).

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

①

AN ORDINANCE AMENDING SECTION 01-0305, OF ARTICLE 01-  
03 OF CHAPTER 01 OF THE FARGO MUNICIPAL CODE RELATING  
TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 01-0305 of Article 01-03 of Chapter 01 of the Fargo Municipal Code is hereby amended to read as follows:

\* \* \*

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

1. For a violation of the following ordinances, a fee of \$5.00.  
Section 8-1412 (riders/passengers restricted), section 8-1413 (riding on roadway/bike paths—restrictions), section 8-1414 (operate bicycle too fast for conditions), section 8-1416 (carrying packages—restrictions), section 8-1419 (equipment on bicycles), section 8-1420 (bicycles—age restrictions).
2. For a violation of the following ordinances, a fee of \$20.00.  
~~Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey~~



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temporary traffic sign/barrier), section 8-0113 (unlawful use of skates/coasters),  
~~section 8-0303(B) (parent/guardian allow unlicensed/under 16 to drive), section 8-~~  
~~0303(C) (owner allowing unlicensed/under 16 to drive), section 8-0304~~  
~~(registration card to be carried in the driver's compartment— inspection of card),~~  
~~section 8-0305(a)(1), section 8-0305(A)(4) (current registration required), section~~  
~~8-0305(B) (current license required), section 8-0306 (violation of restricted~~  
~~license), section 8-0316 (permit unauthorized person to drive), section 8-0318~~  
~~(operating motor vehicle on bicycle trail), section 8-0323 (license to be carried and~~  
~~exhibited on demand), section 8-0403 (disobey traffic control device (barriade)),~~  
~~section 8-0405 (traffic control signals), section 8-0406 (pedestrian-control signal),~~  
~~section 8-0407 (flashing signals), section 8-0411 (alter traffic or railroad sign),~~  
~~section 8-0412 (display unauthorized signs, signals or marking), section 8-0506~~  
~~(impeding traffic), article 8-06 (regulating turning movements), section 8-0707~~  
~~(pedestrian crossing street where prohibited), section 8-0709(A) (pedestrian~~  
~~walking in roadway), section 8-0710 (pedestrian soliciting rides or business),~~  
~~section 8-0712 (pedestrian obstructing traffic), section 8-0901 (fail to display~~  
~~flag/light rear of load), section 8-0902 (improper tires), section 8-0903 (improper~~  
~~horn), section 8-0904 (brakes required), section 8-0905 (mirrors required), section~~  
~~8-0906 (obstructed vehicle windshield/windows), section 8-0907 (windshield~~  
~~wipers required), 8-0908 (mufflers/exhaust system required), section 8-0909~~  
~~(leaking or loose load), section 8-0910 (lights/lamps fail to conform to state law),~~  
~~section 8-0911 (fail to display lighted lamps), section 8-0913 (illegal spotlights),~~  
~~section 8-0914 (improper towing connection), section 8-0915 (reflectors/taillight~~  
~~required on trailer), section 8-0916 (flashing lights prohibited), section 8-0917~~  
~~(illegal light on vehicle), section 8-0919(A) (riding on exterior of vehicle), section~~  
~~8-0919(B) (more passengers than capacity), section 8-0919 (C) (allow body to~~  
~~protrude from moving vehicle), section 8-0928 (modified suspension system),~~  
~~section 8-0929 (driving of vehicle in unsafe condition unlawful), section 8-1003~~  
~~(A) thru (J) and (L) thru (S) (stopping, standing, parking prohibited in specific~~  
~~places), section 8-1010 (motor vehicle left unattended—brakes to be set, engine~~  
~~stopped, and keys removed), section 8-1011 (drive or park on private property),~~  
~~section 8-1013 (improper parking/obstructing traffic), section 8-1111 (vehicle~~  
~~required to stop at railroad crossing), section 8-1201 (following too closely),~~  
~~sections 8-1202 thru 8-1218(D) (general rules of the road), section 8-1301(A)~~  
~~(following fire apparatus), section 8-1301(B) (driving vehicle within block of fire~~  
~~apparatus), section 8-1301(C) (driving over fire hose), section 8-1301(D) (driving~~  
~~through/around barricade), section 8-1302 (driving through parade/funeral~~  
~~procession), section 8-1304 (failure to obtain parade permit), section 8-1305~~

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(driving vehicle on sidewalk), section 8-1306 (improper backing), section 8-1307 (opening and closing vehicle doors), 8-1308 (helmet required operator/passenger), section 8-1309 (number of riders on motorcycle limited), section 8-1310 (clinging to a vehicle or allowing same), section 8-1311 (improper start of parked vehicle), section 8-1313 (unlawful riding on vehicle), section 8-1315 (unlawful towing), section 8-1316(A) (operating motor vehicle with view obstructed by load/passengers), section 8-1316(B) (passenger obstructing driver's view), section 8-1317 (coasting vehicle on downgrade prohibited), section 8-1318 (littering), section 8-1319 (unlawful operation of motor vehicle private property), section 8-1320(A) (operating snowmobile under 16 or allowing when prohibited), section 8-1320(B) (operating snowmobile in restricted area), section 8-1321 (use of seat belts required), section 8-1410 (traffic laws apply to persons riding bicycles), section 8-1411 (bicyclist to obey traffic control devices), section 8-1418 (riding bicycle on sidewalks-restrictions), section 8-1422 (bicycle accidents), section 8-1804 (driving through school patrols), section 8-1902 (cruising prohibited), article 8-20 (motorized scooters).

3. For a violation of the following ordinance, a fee of \$25.00. ~~Section 8-0931 (child restraint devices required)~~, s Section 10-0103(B) (tobacco possession by minors prohibited).

4. ~~For a violation of the following ordinances, a fee of \$30.00. Section 8-0301 (failure to have vehicle under control), section 8-03013 (careless driving), section 8-0501 (speed care required).~~

45. For a violation of the following ordinances a fee of \$40.00. Section 8-0105 (driving wrong way on one-way street), section 8-0106 (obey temporary traffic sign/barrier), section 8-0303(B) (parent/guardian allow unlicensed/under 16 to drive), section 8-0303(C) (owner allowing unlicensed/under 16 to drive), section 8-0305(B) (current license required), section 8-0306 (violation of restricted license), section 8-0316 (permit unauthorized person to drive), section 8-0403 (disobey traffic control device (barricade)), section 8-0405 (traffic control signals), section 8-0407 (flashing signals), section 8-0506 (impeding traffic), article 8-06 (regulating turning movements), section 8-1010 (motor vehicle left unattended—brakes to be set, engine stopped, and keys removed), section 8-1011 (drive or park on private property), s section 8-1018 (taking on or discharging passengers), section 8-1111 (vehicle required to stop at railroad crossing), section 8-1201 (following too closely), sections 8-1202 thru 8-1218(D) (general rules of the road), section 8-1301(C) (driving over fire hose), section 8-1301(D) (driving through/around barricade), section 8-1305 (driving vehicle on sidewalk), section 8-

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1306 (improper backing), 8-1308 (helmet required— operator/passenger), section 8-1309 (number of riders on motorcycle limited), section 8-1310 (clinging to a vehicle or allowing same), section 8-1313 (unlawful riding on vehicle), section 8-1315 (unlawful towing), section 8-1316(A) (operating motor vehicle with view obstructed by load/passengers), section 8-1316(B) (passenger obstructing driver's view), section 8-1319 (unlawful operation of motor vehicle private property), section 8-1321 (use of seat belts required), section 8-1804 (driving through school patrols), section 8-1415 (right-of-way emerging from alley or driveway), section 8-1417 (parking restriction).

56. For a violation of the following ordinances, a fee of \$50.00. Section 8-0116 (failure to yield to emergency vehicle), section 8-0311 (open container), section 8-0317(B)(2) (exhibition driving), section 8-0702 (fail yield right-of-way pedestrian), section 8-0801 (immediate notice of accident), section 8-0931 (child restraint devices required), section 8-1108(A) (disobey signal of approaching train), section 8-1108(B) (driving thru/around railroad crossing gate), section 8-1110 (disobey railroad stop sign), section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane), 8-1219 (use of motor vehicle), section 10-0311(C) (panhandling within the city of Fargo).

67. For a violation of the following ordinances, a fee of \$60.00. Section 8-0301 (failure to have vehicle under control), section 8-0313 (careless driving), section 8-0501 (speed-care required), sSection 8-0505 (special speed limitation on bridges), section 8-0409 (traffic engineer to establish ad design public carrier stops and stands).

78. For a violation of the following ordinances, a fee of \$100.00. Section 8-0321 (use of a wireless communication device prohibited), section 8-1003(K) (parking in areas reserved handicap), section 8-0322 (Distracted Driving), section 8-0702 (fail yield right-of-way pedestrian), section 8-1108(A) (disobey signal of approaching train), section 8-1108(B) (driving thru/around railroad crossing gate), section 8-1110 (disobey railroad stop sign), section 8-1218(F) (unlawful passing of school bus), section 8-1218(G) (unlawful proceeding past bus in oncoming lane), section 10-0326 (urinating in public), section 25-1513(A) (selling/consuming alcohol in public), section 25-1513(B) (possessing/consuming alcohol in public building).

89. For a violation of the following ordinances, a fee of \$120.00. Section 11-0202 (unnecessary noise prohibited), section 11-0204 (projection of

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sound unlawful), section 11-0205 (motorized vehicles— excessive noise), section 11-0205 Table 2(D) (motorized vehicles - compression brakes prohibited).

910. For a violation of the following ordinance, a fee of \$150.00.  
Section 11-0814 (littering on private property).

10. For a violation of the following ordinance, a fee of \$200.00.  
Section 8-0321 (use of a wireless communication device prohibited), section 8-0322 (Distracted Driving).

11. For a violation of 08-0502, a fee established as follows:

SPEED ZONES 55 mph or LESS:	
1—5 miles over limit	\$105.00
6—10 miles over limit	\$105.00 plus \$24.00/each mph over 5 mph over limit
11—15 miles over limit	\$240.00 plus \$24.00/each mph over 10 mph over limit
16—20 miles over limit	\$304.50 plus \$42.00/each mph over 15 mph over limit
21—25 miles over limit	\$502.50 plus \$63.00/each mph over 20 mph over limit
26—35 miles over limit	\$840.00 plus \$63.00/each mph over 25 mph over limit
36—45 miles over limit	\$1470.00 plus \$63.00/each mph over 35 mph over limit
46+ miles over limit	\$2400.00 plus \$105.00/each mph over 45 mph over limit
SPEED ZONES greater than 55 mph:	
1-10 miles over limit	\$42.00/each mph over limit
11 + miles over limit	\$240.00 plus \$10.00/each mph over 10 mph over limit
SPEED ZONES greater than 65 mph: a fee of ten five dollars (\$105.00) for each mile per hour over the limit.	
SPEEDING IN SCHOOL ZONE with children present:	
1-10 miles over limit	\$840.00
11+ miles over limit	\$840.00 plus \$24.00/each mph over 10 mph over limit
SPEEDING IN CONSTRUCTION ZONE - workers present and posted "Minimum fee \$80.00"	
1-10 miles over limit	\$80.00
11+ miles over limit	\$80.00 plus \$2.00/each mph over 10 mph over limit

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\* \* \*

Section 2. Penalty.

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

Section 3. Effective Date.

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

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

Attest:

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

First Reading:  
Second Reading:  
Final Passage:  
Publication:

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

2a

AN ORDINANCE AMENDING SECTIONS 13-1002 AND 13-1008  
OF ARTICLE 13-10 OF CHAPTER 13 OF THE FARGO MUNICIPAL CODE  
RELATING TO RECREATIONAL AQUATIC FACILITIES

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

Section 13-1002 of Article 13-10 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

13-1002. Regulation by health department. —

1. The health department, and agents and employees thereof, shall have authority to regulate the public health and safety in the city of Fargo concerning use, design, operation, and maintenance of Aquatic Venues. The health department shall have such authority to adopt regulations, rules, standards and practices. Such regulations, rules, standards, and practices shall be approved by the board of city commissioners, are hereby adopted by reference and fully incorporated herein, including any amendments hereinafter adopted, and shall be controlling within the jurisdiction of the health department.



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2. No person shall own, operate or allow to be occupied an Aquatic Venue, except a private residential pool, without a license for such issued by the health department pursuant to this article.

~~3. No person shall own, operate or allow to be occupied a private residential pool unless said pool is completely encircled by a fence or other barrier at least five (5) feet in height and with respect to any gates or doors for such fence or other barriers, said gates or doors are equipped with latches that allow them to be opened from the inside and the latches must be capable of being locked to prevent access when the pool is unattended.~~

4.3. No person shall occupy an Aquatic Venue that has been closed and placarded for closure by the health department, as provided in section 6.6.4 of the Model Aquatic Health Code adopted herein, and no licensee shall allow such Aquatic Venue to be occupied after such closure and placarding other than for the limited purposes of repairs, maintenance or other activities needed to correct an imminent health hazard.

Section 2. Amendment.

Section 13-1008 of Article 13-10 of Chapter 13 of the Fargo Municipal Code is hereby amended to read as follows:

13-1008. Inspection by health department.—

The health department may inspect or cause to be inspected, all recreational aquatic facilities, ~~including private residential pools,~~ within the city at such times as it may deem necessary to carry out the intent of this ordinance. The health department is hereby authorized to enter upon any premises, ~~private or public,~~ to take such samples of water from such pools at such times as it may deem necessary and to require the owner, proprietor or operator to comply with rules and regulations pertaining to Aquatic Venues promulgated by the health department in accordance with this ordinance, and as approved by the board of city commissioners. In the event of the failure of compliance after due notice with the rules and regulations and requirements of the health department or the requirements of this ordinance, the health department shall have the power to abate or cause a suspension of the use of such Aquatic Venue ~~or private residential pool~~ until such time as the same is, in the opinion of the health department, no longer a menace or a hazard to health, safety or morals.

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Section 3. Penalty.

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

4 Section 4. Effective Date.

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

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13 Attest:

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

14  
15 \_\_\_\_\_  
Steven Sprague, City Auditor

16 First Reading:  
17 Second Reading:  
18 Final Passage:  
19 Publication:  
20  
21  
22  
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OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

26

AN ORDINANCE REZONING A CERTAIN PARCEL  
OF LAND LYING IN HARWOOD'S FIRST ADDITION  
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on October 1, 2019; and,

WHEREAS, the rezoning changes were approved by the City Commission on October 7, 2019,

NOW, THEREFORE,

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

Section 1. The following described property:

Lot One (1), Block Seven (7) of Harwood's First Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "DMU", Downtown Mixed Use with a "C-O", Conditional Overlay, District to "DMU", Downtown Mixed Use, District with the "C-O", Conditional Overlay being thereby repealed in its entirety;

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

OFFICE OF THE CITY ATTORNEY  
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ORDINANCE NO. \_\_\_\_\_

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2  
3 Section 3. This ordinance shall be in full force and effect from and after its passage and  
4 approval.  
5  
6

7 (SEAL)

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

8 Attest:  
9

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

First Reading:  
Second Reading:  
Final Passage:

## SFN 9338 (08/2019)

\* ☐ Restricted Event Permit (one event per year)

**DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED**[illegible]

Intended uses of gaming proceeds: fundraising for club activities

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	Title	Business Phone Number
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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 <b>Outdoor Adventure Foundation</b>		Date(s) of Activity <b>2020</b> <b>3-14 to 3-14</b>		For a raffle, provide drawing date(s): <b>3-14-2020</b>	
Person Responsible for the Gaming Operation and Disbursement of Net Income <b>BRIAN SOLUM</b>		Title <b>President</b>		Business Phone Number <b>701 361-1888</b>	
Business Address <b>415 38<sup>th</sup> St. S. Suite E</b>		City <b>FARGO</b>		State <b>ND</b>	Zip Code <b>58103</b>
Mailing Address (if different)		City		State	Zip Code
Name of Site Where Game(s) will be Conducted <b>HILTON GARDEN INN CONVENTION CENTER</b>		Site Address <b>4351 17<sup>th</sup> Ave. S.</b>			
City <b>FARGO</b>		State <b>ND</b>	Zip Code <b>58103</b>	County <b>CASS</b>	
Check the Game(s) to be Conducted: * Poker, Twenty-one, and Paddlewheels may be Conducted only by a Restricted Event Permit.					
<input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input checked="" 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 *					

Game Type	Description of Prize	Retail Value of Prize
General Raffle	Sporting Goods	3,400.00
Raffle	Hunting Blind + Gun	1,200.00
Raffle	Ice House Package	950.00
Raffle Board	GUNS	800.00
Raffle	Youth RANGER	7,600.00
Raffle Board	Shotgun	750.00
Raffle Board	PF Forever Print	350.00
Raffle	Gun Cabinet	675.00
Raffle	Rifle	900.00

Game Type	Description of Prize	Retail Value of Prize
RAFFLE	Rifle	1,200.00
RAFFLE	Mini ATV	850.00
RAFFLE BOARD	GUN SAFE	700.00
RAFFLE	Wildlife Prints	900.00
Total:		(Limit \$40,000 per year) \$ 20,275.00

Intended uses of gaming proceeds: Provide hunting, fishing, Disneyworld, & more for Youth's diagnosed with Cancer & other life threatening illness. Also provide for Combat disabled Veterans.

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 <i>Brian Solum</i>	Date <i>11-20-19</i>	Title <i>President</i>	Business Phone Number <i>701 361-1888</i>
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Name of Nonprofit Organization or group of people permit is issued to <b>Fargo Air Museum</b>		Date(s) of Activity 1-1-20 to 4-30-20		For a raffle, provide drawing date(s): 213, 312, 416 514 2020	
Person Responsible for the Gaming Operation and Disbursement of Net Income <b>Jackie Williams</b>		Title <b>Ex. Dir</b>		Business Phone Number <b>701 293-8043</b>	
Business Address <b>1609 19th Ave</b>		City <b>Fargo</b>		State <b>ND</b>	Zip Code <b>58102</b>
Mailing Address (if different)		City		State	Zip Code
Name of Site Where Game(s) will be Conducted <b>Fargo Air Museum</b>		Site Address <b>1609 19th Ave</b>			
City <b>Fargo</b>		State <b>ND</b>	Zip Code <b>58102</b>	County <b>Cass</b>	
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 type="checkbox"/> Raffle	<input type="checkbox"/> Raffle Board	<input checked="" type="checkbox"/> Calendar Raffle	<input type="checkbox"/> Sports Pool	<input type="checkbox"/> Poker *
			<input type="checkbox"/> Twenty-one *	<input type="checkbox"/> Paddlewheels *	

**DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED**[illegible]

Intended uses of gaming proceeds: Free camp for kids each month except December 2020

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 award 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: \$ 6400. This amount is part of the total prize limit of \$40,000 per year.

Signature of Organization or Group's Top Official <i>J. J. J. J.</i>	Date 11-27-19	Title Executive Director	Business Phone Number 701 293-8043
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## OFFICE OF ATTORNEY GENERAL

SFN 9338 (08/2019)

☐ Local Permit

\* ☐ Restricted Event Permit (one event per year)

Name of Nonprofit Organization or group of people permit is issued to

## F5 Project

Date(s) of Activity	to
---------------------	----

For a raffle, provide drawing date(s):  
January 12th, 2020

Person Responsible for the Gaming Operation and Disbursement of Net Income  
Adam Martin

Title	Executive Dir
-------	---------------

Business Phone Number  
(701) 210-2491

Business Address  
1425 4th Avenue North

City  
Fargo

State	Zip Code
ND	58102-4233

Mailing Address (if different)

City

State	Zip Code
-------	----------

Name of Site Where Game(s) will be Conducted  
Avalon Event Center

Site Address  
2525 9th Ave S

City  
Fargo

State	Zip Code	County
ND	58103-8754	Cass

Check the Game(s) to be Conducted: \* Poker, Twenty-one, and Paddlewheels may be Conducted only by a Restricted Event Permit.

☐ Bingo ☒ Raffle ☐ Raffle Board ☐ Calendar Raffle ☐ Sports Pool ☐ Poker \* ☐ Twenty-one \* ☐ Paddlewheels \*

### DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED

Game Type	Description of Prize	Retail Value of Prize
<del>Raffle Drawings</del>	<del>Donated Prizes</del>	<del>\$500.00</del>
Raffle	Game tickets → FARGO FORCE	\$100.00
Raffle	Gift CARDS / movies / basket	\$25.00
Raffle	Dinner for 2 at Comm. Cafe	\$50.00
Raffle	50/50 raffle	\$500.00
Raffle	Dinner for 2 1+2 D	\$100.00

[illegible]

	(Limit \$40,000 per year)
Total:	\$ 775.00

Intended uses of gaming proceeds: All proceeds will be returned to F5 Project fund - this will be for our Defy Class - teaching job skills. Would like to offer course again. (7 month course)

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  
11/6/2019

Title  
Executive Director

Business Phone Number  
(701) 210-2491







OFFICE OF ATTORNEY GENERAL  
SFN 9338 (08/2019)

Cash  
11/26/19  
25.00

**DESCRIPTION AND RETAIL VALUE OF PRIZES TO BE AWARDED**


Game Type	Description of Prize	Retail Value of Prize
Total:		(Limit \$40,000 per year) \$ 1,000.00

**Intended uses of gaming proceeds:** Proceeds will go towards travel expenses for judging teams.

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 11/25/2019	Title Club President	Business Phone Number (701) 320-0390
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REPORT OF ACTION  
**FINANCE COMMITTEE**

④

**Project:** Roberts Alley bury Overhead Lines**Type:** Cost Share and Reimbursement Agreement**Location:** Roberts Alley from 1<sup>st</sup> to 4<sup>th</sup> Avenue North**Date of Hearing:** November 13, 2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>12/2/2019</u>
Project File	<u>                    </u>

A Cost Share Agreement for the burying of the Overhead lines in Roberts Alley was presented to the Committee. This agreement memorializes the previously approved funding by the City and Kilbourne Group.

A Reimbursement Agreement was also presented for the burying of a secondary line at 120 Broadway North. The Cost Share Agreement states that the City will undertake the secondary costs associated with the Project with the exception of the Kilbourne properties. On Roberts Alley from 1<sup>st</sup> to 2<sup>nd</sup> Avenue North, Kilbourne owns all the property with the exception of one. They are taking the lead in this section of the project and the City will reimburse them the Electrical costs for the one building that they do not own at 120 Broadway North. The Committee discussed the reimbursement of oversight markups and determined that no markups will be charged from either entity.

**MOTION:**

On a motion by Bruce Grubb, seconded by Steve Sprague, the Finance Committee voted to approve the Cost Share and Reimbursement Agreement to be forwarded on to the City Commission with a recommendation for approval.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Tim Mahoney, Mayor	<u>X</u>			
Dave Piepkorn, City Commissioner	<u>X</u>			
Bruce Grubb, City Administrator	<u>X</u>			
Mike Redlinger, Assistant City Administrator	<u>X</u>			
Kent Costin, Director of Finance	<u>X</u>			
Steve Sprague, City Auditor	<u>X</u>			

  
\_\_\_\_\_  
Kent Costin, Finance Director

## **REIMBURSEMENT AGREEMENT**

This Reimbursement Agreement ("Agreement") is made and entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Fargo, a North Dakota municipal corporation, ("Fargo" or "City") and Kilbourne Group, LLC, a North Dakota Limited Liability Company (collectively "Parties").

### **WITNESSETH:**

**WHEREAS**, City and Kilbourne have entered into a Cost Share Agreement, to share the costs of the work to be completed to accomplish the Pilot project objective of burying the overhead power lines and telecommunication facilities in Robert's Alley;

**WHEREAS**, City has approved the formation of the Renewal District for the purpose of financing the City share of the work to be completed in accordance with the Cost Share Agreement; and

**WHEREAS**, Kilbourne has contracted with Fusion Electric to complete the secondary electrical work; and

**WHEREAS**, All of the properties adjacent to the alley except one are owned by Kilbourne Group or its affiliates, and thus are not eligible for cost share participation by the City; and

**WHEREAS**, Fargo will agree to reimburse Kilbourne for the electrical work necessary to make the secondary connection for the property located at 120 Broadway North, Fargo, North Dakota, owned by Walton Chiropractic Clinic, P.C.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained in this Agreement, Fargo and Kilbourne agree as follows:

1. **Scope of Work.**

Kilbourne agrees to contract for the Work. The City shall have no contractual relationship or obligation to the Contractor selected by Kilbourne, nor shall City have any obligation or relationship with the property owner for whom the services are performed.

2. **Payment Obligation.**

The obligation created pursuant to this agreement is payment only, for the actual cost of the services as provided. The estimated cost is \$24,600. Kilbourne shall present the Contractor invoice for payment upon completion of the Work. City shall reimburse for the Electrical Work only, and shall have no obligation for costs associated with the preparation of the Contract, Engineering or legal fees.

3. **Entire Agreement.**

This Agreement, including its exhibits, constitutes the entire agreement of the Parties with respect to the subject matter hereof, replacing and superseding all oral and/or written prior discussions, representations and agreements.

4. **Severability.**

If any term or other provision of this Agreement is deemed invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall remain in full force and effect. Upon such determination, the Parties shall negotiate in good faith to modify this Agreement so as to give effect the original intent of the parties, as closely as possible and in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

5. **Amendment.**

This Agreement shall not be amended or modified in any manner, including the conduct of the Parties, except in writing and duly signed by the Parties hereto.

6. **Headings.**

The paragraph headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement.

7. **Drafting.**

This Agreement was fully-negotiated by the Parties, with each having been afforded the right to legal counsel, and shall be deemed to have been drafted by both of the Parties.

8. **Assignment.**

Kilbourne may assign this Agreement to Kilbourne Construction Management without the prior written consent of Fargo. Any assignment in conflict with the previous sentence shall be void. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

9. **Governing Law.**

This Agreement shall be governed by and enforced in accordance with the laws of the State of North Dakota.

**KILBOURNE GROUP, LLC, a North Dakota  
Limited Liability Company**

Date: 11/27/19

By: *Minny*

Its: PRESIDENT

**CITY OF FARGO, a North Dakota Municipal  
Corporation**

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

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

Timothy J. Mahoney, M.D., Mayor

ATTEST:

\_\_\_\_\_  
Steve Sprague, City Auditor

## COST SHARE AGREEMENT

**THIS AGREEMENT**, made effective the \_\_\_\_ day of \_\_\_\_\_, 2019, between the Kilbourne Group, LLC, a North Dakota Limited Liability Company (Kilbourne), and the City of Fargo, a North Dakota Municipal Corporation (City) is for cost sharing for expenses related to the burying of the overhead lines and the necessary secondary connections (the "Pilot Project") and the necessary Telecommunication work in Roberts Alley from 1<sup>st</sup> to 4<sup>th</sup> Avenue North (the "Alley").

**WHEREAS**, Kilbourne and the City desire to have the overhead lines on Roberts Alley buried; and

**WHEREAS**, Xcel has agreed to undertake the burying of the primary electrical line in said Alley; and

**WHEREAS**, Kilbourne and the City desire to cost share in the secondary portion of the electrical work necessary to reconnect the power and telecommunication services after burying the overhead lines on Roberts Alley; and

**WHEREAS**, Kilbourne and City desire to cost share in the work necessary to bury the telecommunication lines; and

**WHEREAS**, the Finance Committee recommended approval of the cost share agreement ("Agreement") as shown below for the Project in furtherance of the public interest of completing the Pilot Project intended to revitalize the downtown corridor and provide walkability in Roberts Alley; and

### Cost-Share - Roberts Alley

1st Avenue North to 2nd Avenue North			
Power (Xcel)		Telecommunications (Varies)	
Xcel	\$ 250,000	Telcos	\$ -
Kilbourne	\$ 342,882	Kilbourne	\$ 115,500
City	\$ 112,948	City	\$ 115,500
<b>Total</b>	<b>\$ 705,830</b>	<b>Total</b>	<b>\$ 231,000</b>
2nd Avenue North to 4th Avenue North			
Power (Xcel)		Telecommunications (Varies)	
Xcel	\$ 250,000	Telcos	
Kilbourne	\$ 293,970	Kilbourne	\$ 91,857
City	\$ 438,265	City	\$ 244,952
<b>Total</b>	<b>\$ 982,235</b>	<b>Total</b>	<b>\$ 336,809</b>
<b>Total Cost Share</b>		<b>\$ 2,255,865</b>	

Cost Share Allocations	
Xcel	\$ 500,000
Kilbourne	\$ 844,209
City	\$ 911,665
<b>Total</b>	<b>\$ 2,255,874</b>

**WHEREAS**, the City Commission approved the creation of a renewal district and the expenditure of funds for this Pilot Project.

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

1. Kibourne will be responsible for communication regarding the potential interruption of electric service to DFI Property customers on both sides of Roberts Alley impacted by the Pilot Project, and shall assist the City with communication with all other property owners impacted by the Pilot Project.
2. City will design and contract for the completion of the secondary connections to the newly buried Xcel main line in Roberts Alley from 2<sup>nd</sup> to 4<sup>th</sup> Avenue. The City and Kilbourne will coordinate the secondary connection construction in Roberts Alley from 1<sup>st</sup> to 2<sup>nd</sup> Avenue.
3. Kilbourne shall assist the City and/or the City's consultants when needed in securing access for the City contractor from all of the affected property owners, and will provide such written access permissions prior to the bid for the Pilot Project being let.
4. The respective DFI property shall reimburse City the full amount of the secondary line connections to all DFI owned properties adjacent to the Pilot Project that the City contracts for.
5. The respective DFI property shall reimburse City or pay directly for any and all costs associated with the telecommunication lines that benefit its properties.
6. This Agreement shall be several, and each party shall be responsible for its respective share of the cost of the Project. No party shall have responsibility beyond the amounts identified herein.
7. City shall not be responsible for damages, if any, asserted by impacted property owners as a result of the Pilot Project.
8. All notices, requests, consents, or other communications required under this Agreement shall be in writing and shall be deemed to have been properly given if served personally or if sent by United States registered or certified mail.

9. If any court of competent jurisdiction declares any provision or part of this Agreement invalid or unenforceable, all remaining terms and provisions of this Agreement will remain binding and enforceable; however, the parties will reconvene negotiations and will reform or replace any invalid, illegal, or unenforceable provision or portion of this Agreement with an alternative provision that is enforceable and bears as close resemblance as possible to any provision determined invalid, illegal, or unenforceable.
10. The covenants, terms, conditions, provisions, and undertakings in this Agreement, or in any amendment, will be binding upon the parties' successors and assigns.
11. This Agreement will be construed in accordance with and governed by North Dakota law.
12. None of the parties may transfer or assign this Agreement or any rights or obligations under this Agreement without the express written consent of the other parties.
13. Any modifications or amendments of this Agreement must be in writing and signed by all parties to this Agreement.
14. This Agreement will be construed as if prepared by both parties.
15. The parties agree to cooperate fully, to execute any and all additional documents, and to take any and all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement and to accomplish the purposes of this Agreement.
16. This Agreement will become effective on the date of execution by the last party to sign.

(The remainder of this page intentionally left blank).

**KILBOURNE GROUP, LLC, a North Dakota  
Limited Liability Company**

Date: 11/27/17

By: *Minor*

Its: PRESIDENT



**CITY OF FARGO, a North Dakota Municipal Corporation**

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

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

Timothy J. Mahoney, M.D., Mayor

ATTEST:

\_\_\_\_\_  
Steve Sprague, City Auditor

(5)

## REPORT OF ACTION

### PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. PR-19-A1

Type: Final Balancing Change Order #1

Location: Citywide

Date of Hearing: 10/28/2019

RoutingDate

City Commission

12/2/2019

PWPEC File

X

Project File

Jason Hoogland

The Committee reviewed the accompanying correspondence from Project Manager, Jason Hoogland, for Final Balancing Change Order #1 in the amount of \$4,973.68, bringing the total contract amount to \$75,858.68.

Staff is recommending approval of Final Balancing Change Order #1 in the amount of \$4,973.68.

On a motion by Steve Sprague, seconded by Kent Costin, the Committee voted to recommend approval of Final Balancing Change Order #1 to Asphalt Surface Tech Corp.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Final Balancing Change Order #1 in the amount of \$4,973.68, bringing the total contract amount to \$75,858.68 to Asphalt Surface Tech Corp.

PROJECT FINANCING INFORMATION:Recommended source of funding for project: Street Rehab Funds

Developer meets City policy for payment of delinquent specials

Agreement for payment of specials required of developer

50% escrow deposit required

Yes No

N/AN/AN/ACOMMITTEE

Present Yes No Unanimous

✓

Tim Mahoney, Mayor

☐☐☐

Nicole Crutchfield, Director of Planning

☒☒☐

Mark Williams

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



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

<b>Project No</b>	PR-19-A1	<b>Change Order No</b>	1
<b>Project Name</b>	Street Rehabilitation & Incidentals		
<b>Date Entered</b>	10/22/2019	<b>For</b>	Asphalt Surface Tech Corp

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

**EXPLANATION OF CHANGE:**

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

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Paving	2	Repair Crack - Fill	LB	24,000.00	0.00	24,000.00	5,775.00	29,775.00	1.78	10,279.50
	3	Repair Crack - Rout and Fill	LF	5,000.00	0.00	5,000.00	-5,000.00	0.00	0.61	-3,050.00
	4	Repair Crack - Level	LF	5,500.00	0.00	5,500.00	-574.00	4,926.00	3.93	-2,255.62
<b>Paving Sub Total (\$)</b>										<b>4,973.68</b>

**Summary**

**Source Of Funding**

**Net Amount Change Order # 1 (\$)**

**Previous Change Orders (\$)** 4,973.68

**Original Contract Amount (\$)** 0.00

**Total Contract Amount (\$)** 70,885.00

**Total Contract Amount (\$)** 75,858.68

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

**CONTRACT TIME**

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
06/08/2019		0.00	0.00	06/08/2019	
<b>Description</b>					

REPORT OF ACTION  
**FINANCE COMMITTEE**


**Project:** BN-17-A1 & BN-17-B1**Type:** Deferral**Location:** 1810, 1820, 1840, 1821 & 1841 Sheyenne Loop North**Date of Hearing:** November 13, 2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>12/2/2019</u>
Project File	<u>                    </u>

A request for a deferral from Nathan Everson was presented to the Committee. The deferral request is for 1810, 1820, 1840, 1821, and 1841 Sheyenne Loop North. The legal description being Lots 5, 6, and 7 Block 1 and Lots 2 and 3, Block 2 Northern Sheyenne Land 2<sup>nd</sup> Addition. The Committee approved a 3-year interest bearing deferral of the costs associated with the construction of 19<sup>th</sup> Avenue North (BN-17-A1) and 45<sup>th</sup> Street (BN-17-B1). The deferral will be removed per parcel if sold prior to 3 years.

**MOTION:**

On a motion by Dave Piepkorn, seconded by Steve Sprague, the Finance Committee voted to approve a 3-year interest bearing deferral for Lots 5, 6, and 7 Block 1 and Lots 2 and 3 Block 2 Northern Sheyenne Land 2<sup>nd</sup> Addition for the arterial costs associated with BN-17-A1 and BN-17-B1 and to be forwarded on to the City Commission with a recommendation for approval.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
				<u>X</u>
				<u>Proxy</u>
Tim Mahoney, Mayor	<u>X</u>			
Dave Piepkorn, City Commissioner	<u>X</u>			
Bruce Grubb, City Administrator	<u>X</u>			
Mike Redlinger, Assistant City Administrator	<u>X</u>			
Kent Costin, Director of Finance	<u>X</u>			
Steve Sprague, City Auditor	<u>X</u>			

  
\_\_\_\_\_  
Kent Costin, Finance Director

**AGREEMENT REGARDING SPECIAL ASSESSMENTS**

**THIS AGREEMENT** is between Kelmar Property 6, LLC, "Owner", and the **City of Fargo, North Dakota**, a municipal corporation ("City").

- A. The undersigned is the owner of Property defined below.
- B. City has made improvements as described in Exhibit "A".
- C. Owner wants, and City agrees, to defer assessment of the improvements.

**NOW, THEREFORE**, it is hereby agreed as follows:

**1. Definitions.**

1.1 **"Property"** is that certain property situate in the County of Cass and State of North Dakota, more fully described in Exhibit "B" with the following property addresses:

1840 Sheyenne Loop North, 1820 Sheyenne Loop North, 1810 Sheyenne Loop North, 1841 Sheyenne Loop North, 1821 Sheyenne Loop North.

1.2 **"Arterial Public Improvements"** shall be those public municipal infrastructure improvements including streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified as "arterial roadways" under the functional classification system. Arterial Public Improvements includes, without limitations, the streets, sewers, water and lighting improvements included in the Projects identified in Exhibit "A."

1.3 **“Local Public Improvements”** shall be those public municipal infrastructure improvements including streets, sewers, water, lighting, and other miscellaneous improvements along roadways classified other than “arterial roadways” under the functional classification system. Local Public Improvements include all public infrastructure on local and collector roads. Local Public Improvements adjacent to the Property shall be deferred for the same period as outlined under Paragraph 4, Arterial Public Improvements.

1.4 **“Triggering Event”** shall be an event that results in the removal of the deferral of special assessments for the Property. A triggering event shall apply to all deferred special assessments.

1.5 **“Public Improvements”** encompasses Arterial Public Improvements and Local Public Improvements.

2. Owner’s Property has been annexed to the City of Fargo.

3. Public Improvements, including water mains, sewers, storm sewers, paving, curb and gutter and other Public Improvements enumerated in N.D. Cent. Code Section 40-22-01 have been constructed to serve the Property. Special assessments will be levied and assessed against the Property for such improvements. Owner waives the right to protest the resolution of necessity for any Public Improvements in accordance with N.D. Cent. Code § 40-22-17. Owner consents to the construction of the Public Improvements and to the assessment of the costs against the Property.

4. City agrees to defer the certification of annual installments of special assessments levied against the Property for any Public Improvements constructed and installed until the earliest of one of three triggering events occurs.

#### 4.1 **Triggering Events.**

(1) Three (3) years:

BN-17-A – October 31, 2021

BN-17-B – October 31, 2022

(2) The application for a building permit, on a parcel per parcel basis.

#### 4.2 **Annual Review.**

On or before certification of the special assessments of each year of pendency of the deferral agreement (three (3) year period of deferral) the City will determine which parcel(s) have met a “triggering event”, and the special assessment deferral will terminate. Each parcel that has met “triggering event” criteria during the previous 12 month period shall have all such deferrals removed for all applicable Public Improvements. Terminated special assessment deferrals shall be certified for collection beginning the next tax year.

5. **Assessment Period – Interest During Period of Deferral.** The total amount to be assessed shall be spread over a period time of not to exceed twenty-five (25) years, and the annual installments shall be determined in accordance with N.D. Cent. Code §§ 40-24-04 through 40-24-08.

The total assessed amount has been determined by the Special Assessment Commission and confirmed by the Board of City Commissioners. Owner shall be responsible for the interest on the Public Improvements.

6. The date of installation of Public Improvements is the date that Public Improvements are functionally complete and assessed costs have been certified and confirmed by the Board of City Commissioners.

7. This agreement is be binding upon the parties hereto, and their heirs, administrators, successors and assigns. Owner, its heirs, successors and assigns, may assign any or all of their rights and responsibilities under this agreement at such times and as often as the Owner, its heirs, successors and assigns may elect.

8. The parties understand and agree that this agreement or a memorandum of this agreement will be recorded in the office of the Cass County Recorder.

Dated this 26 day of Nov, 2019.

**Owner Kelmar Property 6, LLC**

By: [Signature]  
Its: President

STATE OF NORTH DAKOTA

)

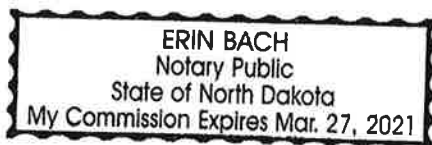
) ss.

COUNTY OF CASS

)

On this 26 day of November, 2019, before me, a notary public in and for said county and state, personally appeared Nathan Everson, \_\_\_\_\_ of Kelmar Property 6, LLC, to me known to be the person described in and that executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.

(SEAL)



[Signature]  
Notary Public  
Cass County, ND

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CITY OF FARGO, NORTH DAKOTA, a  
municipal corporation

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

ATTEST:

Steven Sprague, City Auditor

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

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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

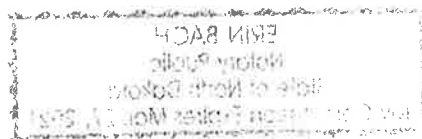




EXHIBIT "A"

BN-17-A1 and BN-17-  
B1

Sanitary Sewer, Water Main, Storm  
Sewer,  
Paving, Street Lights & Incidentals

BN-17-A  
19<sup>TH</sup> AVENUE NORTH ARTERIAL  
KELMAR DEFERRAL LEGAL DESCRIPTIONS

01-8612-00500-000                      KELMAR PROPERTY 6 LLC                      1840 SHEYENNE LOOP N

Lot Five, in Block One, of Northern Sheyenne Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

The legal description was obtained from a previously recorded instrument.

01-8612-00600-000                      KELMAR PROPERTY 6 LLC                      1820 SHEYENNE LOOP N

Lot Six, in Block One, of Northern Sheyenne Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

The legal description was obtained from a previously recorded instrument.

01-8612-00700-000                      KELMAR PROPERTY 6 LLC                      1810 SHEYENNE LOOP N

Lot Seven, in Block One, of Northern Sheyenne Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

The legal description was obtained from a previously recorded instrument.

01-8612-00900-000                      KELMAR PROPERTY 6 LLC                      1841 SHEYENNE LOOP N

Lot Two, in Block Two, of Northern Sheyenne Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

The legal description was obtained from a previously recorded instrument.

01-8612-01000-000                      KELMAR PROPERTY 6 LLC                      1821 SHEYENNE LOOP N

Lot Three, in Block Two, of Northern Sheyenne Land Second Addition to the City of Fargo, situate in the County of Cass and the State of North Dakota

The legal description was obtained from a previously recorded instrument.

7

**TO: BOARD OF CITY COMMISSIONERS**  
**FROM: KENT COSTIN, DIRECTOR OF FINANCE** *KC*  
**RE: RESOLUTION AUTHORIZING THE ISSUANCE OF REFUNDING IMPROVEMENT BONDS,  
AND LOAN AGREEMENTS FOR SERIES 2019C AND 2019D**  
**DATE: NOVEMBER 26, 2019**

The City Commission approved a regional storm sewer project earlier this year and will utilize State Revolving Loan Funds to finance this project. The State Industrial Commission has approved our loan application and therefore, we are proceeding with this issuance of Refunding Improvement Bonds to finance the first phase of this project.

The SRF loans are amortized over a thirty-year period at an interest rate of 1.5%. It will be repaid with infrastructure sales tax or storm sewer revenues initially, and once developed will be repaid by special assessments.

Your review and approval of the resolutions authorizing the issuance of these loans and the loan agreements is requested.

**Suggested Motion:**

Approve resolutions authorizing the issuance of Refunding Improvement Bonds and loan agreements for bond series 2019C and 2019D.

**RESOLUTION AUTHORIZING THE ISSUANCE OF \$10,500,000 CITY OF FARGO,  
NORTH DAKOTA REFUNDING IMPROVEMENT BONDS, SERIES 2019D,  
PRESCRIBING THE TERMS AND COVENANTS THEREOF, AND  
CREATING A FUND FOR THE PAYMENT THEREOF**

WHEREAS, the City Commission (the "Commission"), of the City of Fargo, Cass County, North Dakota (the "City") has heretofore duly created the improvement district set forth in **Attachment A** hereto (the "Improvement District"), authorized the issuance of certain definitive warrants of the City (the "Warrants") for the Improvement District in the amount set forth in **Attachment A** hereto for the construction of improvements in the Improvement District (the "Improvements;" and established a special fund for the Improvement District (the "Special Fund");

WHEREAS, the City desires to issue a series of its refunding improvement bonds (as further described herein, the "Municipal Securities") to finance a portion of the costs of the Improvements;

WHEREAS, by separate resolution, the City also expects to issue a further series of refunding improvement bonds to finance engineering costs with respect to the Improvements;

WHEREAS, the City is authorized by North Dakota Century Code Chapter 40-27 (the "Act") to issue such Municipal Securities;

WHEREAS, the City desires to provide for the payment of such refunding improvement bonds through a pledge of the Warrants;

WHEREAS, such Municipal Securities shall be payable solely out of moneys in the Special Fund from which the Warrants are payable;

WHEREAS, pursuant to North Dakota Century Code Section 40-26-08, whenever all special assessments for an Improvement are insufficient to pay principal or interest then due on the Warrants, the City shall levy a tax upon all of the taxable property in the City for the payment of such deficiency;

WHEREAS, the City has applied to the North Dakota Department of Environmental Quality, Division of Municipal Facilities (the "Department") and the North Dakota Public Finance Authority (the "Public Finance Authority") for financial assistance to finance a portion of the cost of the Improvements, which application has been approved.

WHEREAS, in and by the resolution adopted by the City on this date, entitled "RESOLUTION CREATING THE FUNDS OF IMPROVEMENT DISTRICT, PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE ISSUANCE \$10,500,000 IMPROVEMENT WARRANTS (SERIES 2019D) THEREON" the City has authorized the issuance of the Warrants in the aggregate principal amount of \$10,500,000 payable from the Special Fund of the Improvement District, subject to the terms, provisions and covenants set forth in the resolution, which resolution is incorporated herein and made a part hereof;

BE IT RESOLVED by the Commission of the City, as follows:

SECTION 1. Authorization and Sale.

1.01 Ratification of Prior Acts. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the construction and financing of the Improvements, whether or not reflected in the official minutes and records of the City, are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City which are in any way inconsistent with this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

1.02 Authorization. It is hereby found, determined, and declared that said Warrants were duly and legally authorized under authority of and in accordance with the provisions of Title 40 of the North Dakota Century Code, as amended; that there is not at the present time in the Special Fund sufficient money to pay the Warrants drawn thereon with interest, and by the exchange of said Warrants for the Municipal Securities the interest rate and interest costs thereon will be reduced, and the general tax which the City may become obligated to levy for any deficiencies in said funds can be reduced and equalized, and the burden on the taxpayers and property owners will be reduced; that said Warrants are subject to exchange at the option of the City for the purpose of issuing refunding improvement bonds or warrants of the City in accordance with the provisions of Chapter 40-27, North Dakota Century Code; that all acts, conditions, and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen, and to be performed precedent to the issuance of the Municipal Securities hereinafter described have been done, do exist, have happened, and have been performed in due form, time and manner as so required; and that the issuance of the Municipal Securities is necessary and expedient and for the best interest of the City and its inhabitants, taxpayers, and the owners of property liable to be assessed for said Improvements.

SECTION 2. Offer and Acceptance. The governing body of the City, in response to its application for financial assistance from the Department and the Public Finance Authority, has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Municipal Securities at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Municipal Securities is reasonable and advantageous to the City and is hereby accepted, and the Loan Agreement, in substantially the form presented to the City at this meeting, is hereby accepted and authorized to be executed on behalf of the City by its Mayor and City Auditor (the "Authorized Officers"), with such modifications as may be approved by the Authorized Officers. The Authorized Officers are authorized and directed to execute the Loan Agreement and to deliver it to the Public Finance Authority, which execution and delivery shall be conclusive evidence of the approval of any modifications with respect to the Loan Agreement. The City agrees to pay to the Public Finance Authority the Administrative Fee as defined in the Loan Agreement.

SECTION 3. Term of Municipal Securities.

3.01 Form. The Municipal Securities issued under this Resolution shall be designated CITY OF FARGO REFUNDING IMPROVEMENT BONDS, SERIES 2019D (or such other series designation as is appropriate at the time of issuance thereof), and shall be issued to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as **Attachment B**.

3.02 Terms. The City authorizes the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$10,500,000, dated the date of issuance and delivery to the Public Finance Authority. The Municipal Securities shall bear interest commencing on the date of delivery thereof at the rate of 1.50% per year (plus an administrative fee as set out in the Loan Agreement), with principal payable in installments on September 1 of each of the years and in the amounts set forth below. Interest shall be payable semiannually on each March 1 and September 1 commencing March 1, 2020. Interest will be payable only on funds actually advanced to the City by the Public Finance Authority as a draw on the Municipal Securities. The schedule below and attached to the Municipal Securities will be revised to reflect the actual principal amount loaned to the City at the completion of the Improvements. The Municipal Security is subject to mandatory sinking fund redemption together with accrued interest to the Redemption Date on September 1 of the following years and in the following principal amounts:

<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>	<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>
2021	\$260,000	2036	\$350,000
2022	265,000	2037	355,000
2023	270,000	2038	360,000
2024	275,000	2039	370,000
2025	280,000	2040	375,000
2026	285,000	2041	385,000
2027	290,000	2042	390,000
2028	295,000	2043	400,000
2029	305,000	2044	410,000
2030	310,000	2045	415,000
3031	315,000	2046	425,000
2032	320,000	2047	435,000
2033	330,000	2048	440,000
2034	335,000	2049	450,000
2035	340,000	2050*	465,000

\*maturity

3.03 Payment to Registered Holders. The principal of and interest on the Municipal Securities shall be payable to the registered holder thereof at the address appearing on the registration books of the registrar in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for the payment of public or private debts or by check or draft delivered to the registered holder thereof at the address appearing on the registration books of the registrar.

3.04 Registration. The Municipal Securities shall be registered as to both principal and interest and shall be initially registered in the name of and payable to the Public Finance Authority. While so registered, principal of and interest on the Municipal Securities shall be payable at the office of the Bank of North Dakota, in Bismarck, North Dakota (the "Bank"), or such other place as may be designated by the Public Finance Authority in writing, delivered to the Registrar. The Bank shall act as Registrar and as such shall establish and maintain a register for the purpose of recording the names and addresses of the registered holders or assigns, and the date of such registration.

3.05 Transfer and Exchange. The Municipal Securities are transferable upon the books of the City at the principal office of the Bank of North Dakota, as bond registrar, or a successor bond registrar appointed by the Bank of North Dakota (the "Bond Registrar"), by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Municipal Securities of other authorized denominations. Upon such transfer or exchange, the City will cause new Municipal Securities to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Municipal Securities shall be required to be made during the 15 days next preceding an interest payment date, nor during the 45 days next preceding the date fixed for redemption of such Municipal Securities.

3.06 Registered Owner Deemed Owner. The City, the Bond Registrar and the paying agent may deem and treat the person in whose name any Municipal Securities are registered as the absolute owner thereof, whether the Municipal Securities are overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the paying agent shall be affected by any notice to the contrary. The City shall pay the fees and expenses of the Bond Registrar and the paying agent.

3.07 Execution and Delivery. The Municipal Securities shall forthwith be prepared under the direction of the City Auditor and when so prepared shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Auditor and shall be authenticated by the manual signature of the Registrar. When the Municipal Securities have been so executed and authenticated, they shall be delivered by the City to the Public Finance Authority.

3.08 Redemption. The Municipal Securities shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Public Finance Authority, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

3.09 Authorization of Related Documents. The Mayor, City Auditor, and other authorized officers of the City are hereby authorized to execute such additional agreements, certificates, and documents required or appropriate in connection with the issuance of the Municipal Securities and the transactions contemplated by the issuance thereof.

3.10 Draws of Municipal Security Proceeds. The proceeds of the Municipal Securities are irrevocably appropriated to pay expenses necessarily incurred in the construction and completion of the Improvements and to pay costs associated with the issuance of the Municipal Securities. Draws on the Municipal Securities, in the form of Requisitions for Payment, shall be submitted by the City to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Public Finance Authority for approval and funding.

SECTION 4. Establishment of Bond Fund. There shall be and is hereby created a special fund to be maintained by the City Auditor separate and apart from all other funds of the City, to be designated as the SERIES 2019D REFUNDING IMPROVEMENT BONDS BOND FUND (herein referred to as the "Bond Fund"). To the Bond Fund shall be credited the Warrants when received by the City Auditor, which Warrants shall thereupon become and shall thereafter be held as an asset of said fund, and the proceeds of all collections on said Warrants so acquired shall be held by the City in trust for the use and benefit of the holders from time to time of the Municipal Securities. The Special Fund of the Improvement District described in the resolution referred to in paragraph 1 hereof shall be continued and payments shall be made therefrom on the Warrants drawn thereon in the same manner as though said Warrants had not been exchanged. All payments of principal and interest made on said Warrants shall be credited to the Bond Fund and shall be used and applied, together with other amounts available therefor, including available sales tax revenues and storm sewer utility revenues, in payment of the principal of and interest on the Municipal Securities as such principal and interest become due.

4.01 Covenants. The City hereby covenants and agrees with the holders from time to time of the Municipal Securities issued pursuant hereto:

(a) That it will use due diligence to collect all amounts due on the Warrants and to levy and collect the special assessments appropriated for their payment.

(b) That it will preserve and enforce for the benefit of the holders from time to time of the Municipal Securities all of the rights, powers, and privileges reserved, to the holders of the Warrants, and all of the covenants of the City as provided in the resolution authorizing the issuance of the improvement warrants.

(c) That at the time and in the manner prescribed by § 40-26-08, North Dakota Century Code, as amended, this governing body will levy general taxes on all taxable property in the corporate limits of the Municipal Securities for the payment of any deficiency in any Special Fund and will cause the proceeds thereof to be applied in payment of the principal of and interest on the then unpaid Warrants drawn on said Special Fund; provided that the City reserves the right to levy taxes in the manner and to the extent permitted by law for payment and discharge of any deficiency in said Special Fund prior to the date upon which it may become obligatory to levy such deficiency taxes, and the amounts thereof shall be credited against the levies which the City might otherwise have been obligated to make.

(d) That in the event the moneys in the Bond Fund should at any time be insufficient to meet all payments of principal and interest then due on the Municipal Securities, said moneys shall be first used to pay the interest accrued on all outstanding Municipal Securities, and the



balance shall be applied in payment of the principal of said Municipal Securities in order of their principal payment dates, earliest first. The City reserves the right and privilege of refunding any of such Municipal Securities for the payment of which moneys are not at the time available by issuing new bonds payable from said Bond Fund, which bonds shall be on a parity with those theretofore issued, provided that no holder of Municipal Securities herein authorized to be issued shall be obligated to accept any such bond in exchange for any of such matured Municipal Security.

(e) The City hereby pledges all special assessments for improvements funded in whole or in part from the proceeds of the Municipal Securities, all Warrants and the payments thereon, and all amounts on deposit from time to time in the Special Fund and the Bond Fund to the payment of the principal of, and interest on, the Municipal Securities.

(f) The City will maintain complete books and records relating to the operation of the Bond Fund in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of owners of the Municipal Securities.

**SECTION 5. Payment and Discharge; Defeasance.** When all of the Municipal Securities have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution shall cease. The City may discharge its obligations with respect to all or a portion of the Municipal Securities which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment of the principal thereof, and interest accruing thereon to such duty in full. If any Municipal Securities shall not have been paid when due, the same may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment of the principal thereof in full with interest accrued thereon from the date to which interest has been paid to the date of such deposit and payment to the owners thereof. The City may also discharge its obligations with respect to all or a portion of the Municipal Securities, by depositing with the paying agent on or before that date an amount equal to the principal, interest and redemption premium, if any, which are due on the maturity date, or earlier redemption date selected by the City, provided that notice of such redemption has been duly given as provided herein. The City may also at any time discharge its obligations with respect to all or a portion of the Municipal Securities, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank or financial institution qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be sufficient to pay all principal, interest, and redemption premium to become due thereon to maturity or the date of earlier redemption selected by the City. If less than all of the Municipal Securities are to be discharged pursuant to this paragraph, the mandatory sinking fund redemption requirement with respect to term bonds, and series may be selected by the City in its sole discretion.

**SECTION 6. Tax Covenants; Arbitrage Matters; Reimbursement and Continuing Disclosure.**

**6.01 Tax Covenant.** The City covenants and agrees with the holders from time to time of the Municipal Securities that it will not take or permit to be taken by any of its officers,

employees or agents any action which would cause the interest on the Municipal Securities to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and Regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

6.02 Arbitrage Certification. The Mayor and the City Auditor being the officers of the City charged with the responsibility for issuing the Municipal Securities pursuant to this resolution, are authorized and directed to execute and deliver a certificate in accordance with the provisions of the Code and applicable Treasury Regulations (the "Regulations"), stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Municipal Securities which make it reasonable to expect that the proceeds of the Municipal Securities will not be used in a manner that would cause the Municipal Securities to be arbitrage bonds within the meaning of the Code and Regulations.

6.03 Rebate. The City acknowledges that the Municipal Securities are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Municipal Securities from gross income for federal income tax purposes, unless the Municipal Securities qualify for the exception from the rebate requirement under Section 1.148-7 of the Regulations and no "gross proceeds" of the Municipal Securities (other than amounts constituting a "bona fide debt service fund") arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Auditor is hereby authorized and directed to execute an arbitrage and rebate certificate in the form prescribed by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

6.04 Not Qualified Tax Exemption Obligations. The Municipal Securities are not designated as "qualified tax-exempt obligations" for purpose of Section 265(b) of the Code.

6.05 Reimbursement. The City certifies that the proceeds of the Municipal Securities will not be used by the City to reimburse itself for any expenditure with respect to the Improvements which the City paid or will have paid prior to the issuance of the Municipal Securities unless, with respect to such prior expenditures, the City shall have made a declaration of official intent which complies with the provisions of Section 1.150-2 of the Regulations; provided that this certification shall not apply (i) with respect to certain de minimis expenditures, if any, with respect to the Improvements meeting the requirements of Section 1.150-2(f)(1) of the Regulations, or (ii) with respect to "preliminary expenditures" for the Improvements as defined in Section 1.150-2(f)(2) of the Regulations, including engineering or architectural expenses and similar preparatory expenses, which in the aggregate do not exceed 20% of the "issue price" of the Municipal Securities.

SECTION 7. Use of American Iron and Steel. The City will comply with all federal requirements applicable to the Loan Agreement (including those imposed by the 2014 Appropriations Act, Public Law No: 113-76 and related SRF regulations and policy guidelines) which the City understands includes, among other, requirements that all of the iron and steel

products used in the Improvements are to be produced in the United States ("American Iron and Steel Requirement") unless (i) the City has requested and obtained a waiver from the Department pertaining to the Improvements or (ii) the Department or Public Finance Authority has otherwise advised the City in writing that the American Iron and Steel Requirement is not applicable to the Improvements.

SECTION 8. Davis Bacon and Related Acts. The City shall, to the extent applicable to the Loan (as defined in the Loan Agreement) or any related grant, comply with the Davis Bacon and Related Acts requirements (40 U.S.C. 3141, et seq.).

SECTION 9. Record and Reporting Requirements. The City will comply with all record keeping and reporting requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a federal agency, the Department or the Public Finance Authority, such as performance indicators of program deliverables, information on costs and project progress. The City understands that (i) each contract and subcontract related to the Improvements is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act/Safe Drinking Water Act and the Loan Agreement may be a default thereunder that results in a repayment of the Loan thereunder in advance of the maturity of the Municipal Securities and/or other remedial actions.

SECTION 10. Authentication of Transcript. The officers of the City are hereby authorized and directed to prepare and furnish to the Public Finance Authority and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Municipal Securities and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Municipal Securities, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits and certificates, including any heretofore furnished, shall be deemed representations of the City as to the correctness of all statements contained therein.

[The remainder of this page intentionally left blank.]

Adopted \_\_\_\_\_, 2019.

CITY OF FARGO

By: \_\_\_\_\_  
Tim Mahoney, Mayor

ATTEST:

By: \_\_\_\_\_  
Steven Sprague, City Auditor

Attachment A

LIST OF IMPROVEMENT DISTRICT WITH ESTIMATED PRINCIPAL AMOUNTS,  
LEVY YEARS, AMOUNTS, AND YEARS OF PAYMENT FOR EACH

<b>District Designation</b>	<b>Aggregate Principal Amount</b>	<b>Levy Years (Inclusive)</b>	<b>Amounts and Payment Years</b>
FP-19-A	\$10,500,000	2020-2050	\$14,310,400

Attachment BFORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

REFUNDING IMPROVEMENT BOND, SERIES 2019D

R-1

\$10,500,000

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
1.50%	September 1, 2052	[____], 2019	NONE

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: TEN MILLION FIVE HUNDRED THOUSAND DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, North Dakota (the "City"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay solely from the sources set forth herein to the Registered Owner specified above, or registered assigns, the Principal Amount (set forth above), or such lesser amount actually disbursed to the City, on or before the Maturity Date (set forth above). Interest shall accrue from the Date of Original Issuance at the annual rate of one and one half percent (1.50%) and shall be payable semiannually on March 1 and September 1, commencing March 1, 2020. The Principal Amount of this Bond is subject to mandatory redemption on the dates and in the amounts set forth in Attachment A to this Municipal Security, which Attachment A shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the City less than as originally set forth in the Loan Agreement. The City hereby promises to pay the Administrative Fee, as defined in the Loan Agreement (being one half of one percent (0.50%) per annum on the outstanding principal amount of the Bond), payable semi-annually on each March 1 and September 1. All payments due with respect to this Bond are payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and Registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the Registered Owner at the Owner's address set forth on the registration books or by wire or other electronic funds transfer.

This Municipal Security is issued pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota, including N.D.C.C. ch. 40-27 (the "Act"), and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the City for the purpose of refunding a like principal amount of valid

outstanding special improvement warrants drawn on the funds of an improvement district heretofore duly created by the City for the financing of the cost of local improvements in anticipation of the levy and collection of special assessments with respect to the improvements, all pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota. Reference is hereby made to the Resolution and the Loan Agreement for a description of the funds and accounts pledged to the payment of the Municipal Securities and the rights of the Registered Owner of the Municipal Securities.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the City kept by the Bank of North Dakota, as bond registrar, by the Registered Owner hereof in person or by the Owner's duly authorized attorney, or it may be surrendered in exchange for new Municipal Securities of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Municipal Security shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Registered Owner, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED, AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of this Bond have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the City has duly created the SERIES 2019D REFUNDING IMPROVEMENT BOND FUND as a separate and special fund and has appropriated thereto the improvement warrants refunded by this Municipal Security, on which improvement warrant payments are required by law to be made as though none of such warrants had been refunded, and will use due diligence to collect said improvement warrants and the special assessments and any taxes, revenues or other funds appropriated for their payment; that the governing body is required by law to levy a tax upon all the taxable property in the corporate limits of the City, without limitation as to rate or amount, to meet any deficiency in any of said improvement district funds for the payment of all warrants drawn thereon, with interest; and that all collections of special assessments, revenues and taxes appropriated for the payment of said improvement warrants are required by law to be credited to the Bond Fund and applied in payment of the principal of and interest on this Municipal Security; all as more fully stated in the Resolution; and that the issuance of this Municipal Security has not caused the indebtedness of the Issuer to exceed any constitutional, charter or statutory limitation of indebtedness.

This Municipal Security shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City has caused this Municipal Security to be executed in its name by the manual or facsimile signatures of its Mayor and of its City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Tim Mahoney  
Mayor

ATTEST:

By: \_\_\_\_\_  
Steven Sprague  
City Auditor

---

CERTIFICATE OF AUTHENTICATION

This Municipal Security is one of the Municipal Securities described in and issued under the provisions of the within-mentioned Resolution.

BANK OF NORTH DAKOTA

By: \_\_\_\_\_  
Authorized Representative

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### ASSIGNMENT

For Value received the undersigned hereby sells, assigns and transfers unto  
the  
within-mentioned Municipal Security and hereby irrevocably constitutes and appoints  
attorney-  
in-fact, to transfer the same on the books of registration thereof, with full power of substitution in  
the premises.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Social Security or other identifying number of  
Assignee

\_\_\_\_\_  
NOTICE: The signature to this assignment  
must correspond with the name as it appears  
on the face of the within Municipal Security  
in every particular, without alteration or any  
change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed  
by a member of the New York Stock  
Exchange or a commercial bank or trust  
company.

SCHEDULE A

[to come]

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Resolution adopted by the governing body of the City of Fargo at the meeting held on December 2, 2019, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this \_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

(SEAL)

RESOLUTION CREATING THE FUNDS OF THE IMPROVEMENT DISTRICT,  
PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR  
THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING  
THE ISSUANCE OF \$10,500,000 IMPROVEMENT WARRANTS (SERIES 2019D)  
THEREON

BE IT RESOLVED by the City Commission (the "Commission") of the City of Fargo, Cass County, North Dakota (the "City") as follows:

1. Findings. It is hereby found, determined, and declared that the City has heretofore duly created the improvement district as set forth in **Attachment A** hereto, which is incorporated herein (the "Improvement District"), for the purpose of financing and constructing a large regional stormwater pond, including a storm sewer lift station, storm sewer piping and excavation (the "Improvements") pursuant to the provisions of North Dakota Century Code, Section 40-22-01. The Improvements are to be located on land owned by the City, located outside City limits but expected to be annexed. Plans and specifications for the Improvement have been prepared pursuant to North Dakota Century Code, Sections 40-22-10 and 40-22-11, and pursuant to North Dakota Century Code Section 40-22-15, the financing and implementation of the Improvements are exempt from the requirement of passage and publication of a resolution of necessity. The total cost of said Improvements in excess of any other funds on hand and appropriated for the payment of such cost, including reimbursing other funds of the City for any amounts temporarily advanced to meet immediate expenses of the Improvements less prepayments actually received and to be used to pay the cost of said Improvements, is now estimated to be approximately the amount set forth in **Attachment B** hereto, which is incorporated herein; that to pay the total cost of said Improvements, the City will sell improvement warrants in at least the total principal amount set forth in **Attachment B** hereto; that the total benefits to all lots, tracts, and parcels of land liable to be specially assessed for benefits resulting from the Improvements in said Improvement District will be substantially in excess of the cost of said Improvements to be assessed against said properties as herein provided; and that all acts, conditions, and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen, and to be performed preliminary to the issuance and sale of warrants to provide moneys to pay for said Improvements (the "Warrants") have been done, do exist, have happened, and have been performed in regular and due form and in the time and manner as so required. The Warrants are payable from and secured by a special fund of the City created with respect to the Improvement District.

2. Issuance and Sale of Warrants. In anticipation of the collection of said special assessments, revenues and taxes, if any, and for the purpose of borrowing money to pay the cost of said Improvements, the City shall issue its Warrants on the Special Fund in an amount of up to \$10,500,000. The governing body of the City, in response to its application for financial assistance from the North Dakota Department of Environmental Quality, Division of Municipal Facilities (the "Department") and the North Dakota Public Finance Authority (the "Public Finance Authority"), has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Warrants at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance

Authority to purchase the Warrants, to be immediately refunded by the issuance by the City of its Refunding Improvement Bonds, Series 2019D (the "Municipal Securities") in an aggregate principal amount of \$10,500,000 is reasonable and advantageous to the City and is hereby accepted. Issuance of the Warrants shall be conclusive evidence of the approval of such award.

3. Creation and Uses of Funds and Accounts There is hereby created a special fund of the City for the Improvement District (the "Special Fund"), which Special Fund shall be held and administered by the City Auditor separate and apart from all other funds of the City, and the Special Fund shall be continued and maintained as directed in this resolution until all Warrants issued thereon shall have been fully paid with interest. In the Special Fund there shall be maintained two separate accounts to be designated as the "Construction Account" and "Principal and Interest Account," respectively.

(A) There shall be credited to the Construction Account in the Special Fund the proceeds of the sale of the Warrants issued against the Special Fund except the accrued interest and except any amounts necessary to reimburse other funds of the City for temporary advances made for the Improvements. All costs and expenses of making said Improvements, including interest coming due during construction, shall be paid from time to time as incurred and allowed from said Construction Account, upon Construction Account warrants signed by the Mayor and City Auditor, or in their absence, the Deputy Mayor and/or the Deputy City Clerk, and moneys in said Account shall be used for no other purpose.

(B) There shall be credited to the Principal and Interest Account in the Special Fund the accrued interest, if any, on the Warrants drawn on said fund from the date of the Warrants to the date of delivery thereof to the purchaser, the entire amount of special assessments and any other funds, including funds appropriated pursuant to North Dakota Century Code, Section 40-24-10, revenues and taxes. Moneys in the Principal and Interest Account shall be used only for payment of the principal of and interest on the Warrants drawn against said fund as such payments become due.

(C) The City covenants and agrees with the holders from time to time of the Municipal Securities, which are payable from, and secured by, the Warrants and the interest on which is excluded from gross income for federal tax purposes, that it will not take or permit to be taken by any of its officers, employees, or agents any action which would cause the interest on the Municipal Securities to become subject to taxation under the Internal Revenue Code of 1986, as amended, and regulations, amended regulations, and proposed regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

4. Special Assessments. With respect to the Improvement District, the City covenants and agrees with all holders of Warrants that it will do and perform as soon as may be possible, in accordance with law, all acts and things necessary for the final and valid levy of special assessments against properties within the Improvement District benefited by the Improvements, in an aggregate amount equal to the total cost of the Improvements to the City, except any portion, not exceeding one-fifth of the cost of the Improvements and not exceeding any applicable constitutional, charter or statutory debt limit, as the City may determine to pay, including by the levy of *ad valorem* taxes upon all taxable property within its corporate limits.

In the event that the special assessment should at any time be held invalid with respect to any lot or tract of land, due to any error, defect or irregularity in any action or proceeding taken or to be taken by the City or by the governing body or by any officers or employees, either in the making of the special assessment or in the performance of any condition precedent thereto, the City and this governing body covenant and agree that they will forthwith do all such further acts and take all such further proceedings as may be required by law to make such special assessment a valid and binding lien upon such lot or tract.

The installments of special assessments from time to time remaining unpaid shall bear interest at the rate, not exceeding seventy five basis points (0.75%) above the true interest cost (TIC) annual interest rate on bonds issued on the special improvement district set forth in **Attachment A** hereto, said special assessments to be levied in equal annual installments of principal, together with the interest to accrue thereon, as set forth in **Attachment A** hereto.

5. Form of Warrants. The Warrants shall be reproduced in substantially the form set forth in **Attachment B** hereto and incorporated herein.

6. Execution and Delivery. Each Warrant shall be prepared for execution under the direction of the City Auditor and shall be executed on behalf of the City by the signature of the Mayor, countersigned by the City Auditor and sealed with the official seal of the City. When executed, the warrants shall be delivered by the City Auditor to the Public Finance Authority thereof upon payment of the purchase price agreed upon, and the Public Finance Authority shall not be obligated to see to the application of the purchase price.

The Mayor, the City Auditor, and other officers of the City are also hereby authorized to execute and deliver any such additional certificates, showings, agreements, or documents necessary or otherwise appropriate in connection with the issuance of the Warrants and the transactions contemplated thereby.

In the event of the absence or unavailability of the Mayor, the City Auditor, or other appropriate officer of the City, the Warrants and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, or other officer of the City in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor.

In case any officer signing documents authorized to be executed and delivered by this resolution shall cease to be such officer before or after the delivery of any such document, such signature, nevertheless, shall be valid and remain sufficient for all purposes as if such officer had remained in office until such delivery or later applicable time.

7. Covenant as to Tax Levy. With respect to the Special Fund, the City hereby recognizes its obligation with respect to the Warrants drawn against the funds, as set forth in § 40-26-08, North Dakota Century Code, as amended, and covenants that whenever all special assessments, revenues and taxes, if any, theretofore collected are insufficient to pay principal of or interest then due on the applicable Warrant, the governing body of the City shall thereupon levy a tax upon all taxable property in the corporate limits of the City for the payment of such

deficiency; provided, that if said Warrant has been exchanged for refunding improvement bonds pursuant to the provisions of Chapter 40-27, North Dakota Century Code, such deficiency tax may be made payable in the years and amounts required to pay the principal of and interest on such refunding improvement bonds as the same become due. Nothing herein contained shall be deemed to limit the power of the City and this governing body under the provisions of said § 40-26-08, as amended, to levy a general tax in anticipation of a deficiency considered likely to occur in said Special Fund within one year, and it is hereby declared to be the policy of the City that the governing body will annually review the current requirements and resources of the Special Fund, at the time of the preparation of and hearing on the budget, in accordance with the provisions of Chapter 40-40, North Dakota Century Code, to the end that provisions may be made in each annual budget for any deficiency in said applicable funds which is deemed likely to occur within the then next succeeding year. Any taxes levied in accordance with the provisions of this paragraph in payment of a deficiency, or in anticipation of a deficiency, shall be paid upon collection into the Principal and Interest Account of the Special Fund and applied as provided in paragraph 3(B) hereof.

8. Refunding. With respect to the Special Fund, the City reserves the right and privilege of refunding any warrants drawn against any of the Special Fund and refunding improvement bonds payable from such warrants which are past due, or which are redeemable at the option of the City, or to the redemption or exchange of which the holder thereof shall have consented, and for the payment of which Warrants moneys are not at the time available in said fund, by issuing new warrants pursuant to the provisions of § 40-27-06, North Dakota Century Code. Such refunding warrant shall be payable from the Special Fund on a parity with the Warrants previously issued as to interest charges, provided, however, the principal maturities of such refunding warrant shall be subsequent to the maturities of all Warrants payable from the Special Fund and then outstanding, except the warrants so refunded.

With respect to the Special Fund, the City also reserves the right to issue additional warrants and refunding improvement bonds for the payment of the cost of the Improvement in said district if the actual cost of said Improvement should be greater than has been estimated, such additional warrants to be payable from said fund on a parity with other warrants drawn on said funds. By separate resolution, the City expects to finance engineering costs of the Improvements by separate Warrants.

9. Certification of Proceedings. The officers of this City and the County Auditor of Cass County are authorized and directed to prepare and furnish to the purchaser of said warrants and to Dorsey & Whitney LLP, Bond Counsel to the City, certified copies of all ordinances, resolutions, affidavits or other instruments relating to the establishment and construction of said improvement and the operation and maintenance thereof, and the levy of special assessments and taxes therefore or the issuance of said Warrants, which may be necessary or proper to show the validity or marketability of said Warrants, and all instruments and transcripts so furnished, constitute representations of the City as to the correctness of the facts as stated or recited therein.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Auditor

COMMISSIONER \_\_\_\_\_ introduced the preceding resolution and moved its adoption. The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:

COMMISSIONERS \_\_\_\_\_.

The following were absent and not voting: \_\_\_\_\_, and the following voted against the same: \_\_\_\_\_, whereupon the resolution was declared duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2019.



Attachment AIMPROVEMENT DISTRICT WITH ESTIMATED PRINCIPAL AMOUNTS,  
LEVY YEARS, AMOUNTS, AND PAYMENT YEARS

<b>District Designation</b>	<b>Aggregate Principal Amount</b>	<b>Levy Years (Inclusive)</b>	<b>Amounts and Payment Years</b>
FP-19-A	\$10,500,000	2020-2050	\$14,310,400

Attachment B

FORM OF WARRANT

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

IMPROVEMENT WARRANT, SERIES 2019D  
IMPROVEMENT DISTRICT NO. FP-19-A

R-1

INTEREST RATE

DATE OF ORIGINAL ISSUE

[\_\_\_\_\_]%

\_\_\_\_\_, 2019

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: TEN MILLION FIVE HUNDRED THOUSAND DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota, (the "City") acknowledges itself to be specially indebted and for value received promises to pay to the registered owner specified above or registered assigns, the principal amount of \$10,500,000 in annual installments on September 1 in each of the years 2021 through 2050, but only from its Special Fund for Improvement District No. FP-19-A, with interest thereon from the date hereof at the annual rate specified above, such interest payable on March 1 and September 1 in each year, commencing March 1, 2020, to the holder of record on the close of the 15th day (whether or not a business day) of the immediately preceding month. Both principal and interest are payable at the office of the City Auditor of the City, in Fargo, North Dakota, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts.

This warrant is issued for the purpose of financing a portion of the cost of a necessary improvement benefiting the above-named District of the City, and is issued pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota thereunto enabling, including Chapters 40-22 to 40-28 and Chapter 40-49 of the North Dakota Century Code, and amendatory and supplemental laws, and in anticipation of the collection of special assessments levied or to be levied and collected to pay for said improvement, which moneys are to be appropriated to the account and fund referred to above.

This warrant is subject to redemption and prepayment at the option of the City at any time, at a price equal to the principal amount hereof and accrued interest, for the sole purpose of refunding the entire issue by the issuance of refunding improvement bonds of the City pursuant to Chapter 40-27, North Dakota Century Code.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen and to be performed preliminary to and in the valid issuance of this warrant have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that this warrant is duly issued to pay costs incurred and to be incurred in the making of a necessary improvement of special benefit to the above-named Improvement District, in anticipation of the collection of special assessments to be duly levied upon properties within said district, and of taxes and other revenues to the extent determined by the governing body, which are irrevocably appropriated to the fund of the district in amounts sufficient to pay when due the principal of and interest on all warrants drawn thereon; that if the fund should at any time be insufficient to pay principal or interest due, the City is also required by law to levy a tax upon all of the taxable property within its corporate limits for the payment of such deficiency, without limitation of rate or amount; and that the issuance of this warrant did not cause the special or general indebtedness of the City to exceed any constitutional, charter or statutory limitation.

IN WITNESS WHEREOF the City of Fargo, North Dakota, by its governing body has caused this warrant to be executed in its behalf by the signature of the Mayor and countersigned by the City Auditor, and sealed with its official seal.

\_\_\_\_\_  
Mayor

Countersigned:

\_\_\_\_\_  
City Auditor

(S E A L)

\_\_\_\_\_

REGISTRATION

The City of Fargo, North Dakota, has registered the ownership of the within warrant, and of the interest payable thereon, on the books of the City maintained by its City Auditor at Fargo, North Dakota, in the name of the following owner:

City of Fargo, in trust for the owners of its Refunding Improvement Bonds, Series 2019D.

Dated as of the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that the preceding resolution attached hereto is a full, true, and correct copy of the RESOLUTION CREATING THE FUNDS OF THE IMPROVEMENT DISTRICT, PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE ISSUANCE OF \$10,500,000 IMPROVEMENT WARRANTS (SERIES 2019D) THEREON adopted by the governing body of the City of Fargo at the meeting held on December 2, 2019, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

(S E A L)

**RESOLUTION AUTHORIZING THE ISSUANCE OF \$500,000 CITY OF FARGO,  
NORTH DAKOTA REFUNDING IMPROVEMENT BONDS, SERIES 2019C,  
PRESCRIBING THE TERMS AND COVENANTS THEREOF, AND  
CREATING A FUND FOR THE PAYMENT THEREOF**

WHEREAS, the City Commission (the "Commission"), of the City of Fargo, Cass County, North Dakota (the "City") has heretofore duly created the improvement district set forth in **Attachment A** hereto (the "Improvement District"), authorized the issuance of certain definitive warrants of the City (the "Warrants") for the Improvement District in the amount set forth in **Attachment A** hereto for the construction of improvements in the related Improvement District (the "Improvements;" and established a special fund for the Improvement District (the "Special Fund");

WHEREAS, the City desires to issue a series of its refunding improvement bonds (as further described herein, the "Municipal Securities") to finance engineering costs of the Improvements;

WHEREAS, by separate resolution, the City also expects to issue a further series of refunding improvement bonds to finance costs with respect to the Improvements;

WHEREAS, the City is authorized by North Dakota Century Code Chapter 40-27 (the "Act") to issue such Municipal Securities;

WHEREAS, the City desires to provide for the payment of such refunding improvement bonds through a pledge of the Warrants;

WHEREAS, such Municipal Securities shall be payable solely out of moneys in the Special Fund from which the Warrants are payable;

WHEREAS, pursuant to North Dakota Century Code Section 40-26-08, whenever all special assessments for an Improvement are insufficient to pay principal or interest then due on the Warrants, the City shall levy a tax upon all of the taxable property in the City for the payment of such deficiency;

WHEREAS, the City has applied to the North Dakota Department of Environmental Quality, Division of Municipal Facilities (the "Department") and the North Dakota Public Finance Authority (the "Public Finance Authority") for financial assistance to finance a portion of the cost of the Improvements, which application has been approved.

WHEREAS, in and by the resolution adopted by the City on this date, entitled "RESOLUTION CREATING THE FUNDS OF IMPROVEMENT DISTRICT, PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE ISSUANCE \$500,000 IMPROVEMENT WARRANTS (SERIES 2019C) THEREON" the City has authorized the issuance of the Warrants in the aggregate principal amount of \$500,000 payable from the Special Fund of the Improvement District, subject to the terms, provisions and covenants set forth in the resolution, which resolution is incorporated herein and made a part hereof;

BE IT RESOLVED by the Commission of the City, as follows:

SECTION 1. Authorization and Sale.

1.01 Ratification of Prior Acts. All acts performed, resolutions, motions, or ordinances adopted or passed, and all publications incidental to the construction and financing of the Improvements, whether or not reflected in the official minutes and records of the City, are hereby ratified and confirmed, and all resolutions and other acts or proceedings of the City which are in any way inconsistent with this Resolution are hereby amended to the extent necessary to give full force and effect to this Resolution.

1.02 Authorization. It is hereby found, determined, and declared that said Warrants were duly and legally authorized under authority of and in accordance with the provisions of Title 40 of the North Dakota Century Code, as amended; that there is not at the present time in the Special Fund sufficient money to pay the Warrants drawn thereon with interest, and by the exchange of said Warrants for the Municipal Securities the interest rate and interest costs thereon will be reduced, and the general tax which the City may become obligated to levy for any deficiencies in said funds can be reduced and equalized, and the burden on the taxpayers and property owners will be reduced; that said Warrants are subject to exchange at the option of the City for the purpose of issuing refunding improvement bonds or warrants of the City in accordance with the provisions of Chapter 40-27, North Dakota Century Code; that all acts, conditions, and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen, and to be performed precedent to the issuance of the Municipal Securities hereinafter described have been done, do exist, have happened, and have been performed in due form, time and manner as so required; and that the issuance of the Municipal Securities is necessary and expedient and for the best interest of the City and its inhabitants, taxpayers, and the owners of property liable to be assessed for said Improvements.

SECTION 2. Offer and Acceptance. The governing body of the City, in response to its application for financial assistance from the Department and the Public Finance Authority, has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Municipal Securities at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Municipal Securities is reasonable and advantageous to the City and is hereby accepted, and the Loan Agreement, in substantially the form presented to the City at this meeting, is hereby accepted and authorized to be executed on behalf of the City by its Mayor and City Auditor (the "Authorized Officers"), with such modifications as may be approved by the Authorized Officers. The Authorized Officers are authorized and directed to execute the Loan Agreement and to deliver it to the Public Finance Authority, which execution and delivery shall be conclusive evidence of the approval of any modifications with respect to the Loan Agreement. The City agrees to pay to the Public Finance Authority the Administrative Fee as defined in the Loan Agreement.

SECTION 3. Term of Municipal Securities.

3.01 Form. The Municipal Securities issued under this Resolution shall be designated CITY OF FARGO REFUNDING IMPROVEMENT BONDS, SERIES 2019C (or such other series designation as is appropriate at the time of issuance thereof), and shall be issued to the Public Finance Authority in the form of a single registered Municipal Security in substantially the form as attached hereto as **Attachment B**.

3.02 Terms. The City authorizes the issuance of the Municipal Securities in the aggregate principal amount not to exceed \$500,000, dated the date of issuance and delivery to the Public Finance Authority. The Municipal Securities shall bear interest commencing on the date of delivery thereof at the rate of 1.50% per year (plus an administrative fee as set out in the Loan Agreement), with principal payable in installments on September 1 of each of the years and in the amounts set forth below. Interest shall be payable semiannually on each March 1 and September 1 commencing March 1, 2020. Interest will be payable only on funds actually advanced to the City by the Public Finance Authority as a draw on the Municipal Securities. The schedule below and attached to the Municipal Securities will be revised to reflect the actual principal amount loaned to the City at the completion of the Improvements. The Municipal Security is subject to mandatory sinking fund redemption together with accrued interest to the Redemption Date on September 1 of the following years and in the following principal amounts:

<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>	<u>Redemption Date</u> <u>(September 1)</u>	<u>Amount</u>
2021	\$10,000	2036	\$15,000
2022	15,000	2037	15,000
2023	15,000	2038	15,000
2024	15,000	2039	15,000
2025	15,000	2040	20,000
2026	15,000	2041	20,000
2027	15,000	2042	20,000
2028	15,000	2043	20,000
2029	15,000	2044	20,000
2030	15,000	2045	20,000
2031	15,000	2046	20,000
2032	15,000	2047	20,000
2033	15,000	2048	20,000
2034	15,000	2049	20,000
2035	15,000	2050*	20,000

\*maturity

3.03 Payment to Registered Holders. The principal of and interest on the Municipal Securities shall be payable to the registered holder thereof at the address appearing on the registration books of the registrar in any coin or currency of the United States of America, which on the respective dates of payment is legal tender for the payment of public or private debts or by check or draft delivered to the registered holder thereof at the address appearing on the registration books of the registrar.



3.04 Registration. The Municipal Securities shall be registered as to both principal and interest and shall be initially registered in the name of and payable to the Public Finance Authority. While so registered, principal of and interest on the Municipal Securities shall be payable at the office of the Bank of North Dakota, in Bismarck, North Dakota (the "Bank"), or such other place as may be designated by the Public Finance Authority in writing, delivered to the Registrar. The Bank shall act as Registrar and as such shall establish and maintain a register for the purpose of recording the names and addresses of the registered holders or assigns, and the date of such registration.

3.05 Transfer and Exchange. The Municipal Securities are transferable upon the books of the City at the principal office of the Bank of North Dakota, as bond registrar, or a successor bond registrar appointed by the Bank of North Dakota (the "Bond Registrar"), by the registered owner thereof in person or by his attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Municipal Securities of other authorized denominations. Upon such transfer or exchange, the City will cause new Municipal Securities to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange. No transfer of Municipal Securities shall be required to be made during the 15 days next preceding an interest payment date, nor during the 45 days next preceding the date fixed for redemption of such Municipal Securities.

3.06 Registered Owner Deemed Owner. The City, the Bond Registrar and the paying agent may deem and treat the person in whose name any Municipal Securities are registered as the absolute owner thereof, whether the Municipal Securities are overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City, the Bond Registrar nor the paying agent shall be affected by any notice to the contrary. The City shall pay the fees and expenses of the Bond Registrar and the paying agent.

3.07 Execution and Delivery. The Municipal Securities shall forthwith be prepared under the direction of the City Auditor and when so prepared shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Auditor and shall be authenticated by the manual signature of the Registrar. When the Municipal Securities have been so executed and authenticated, they shall be delivered by the City to the Public Finance Authority.

3.08 Redemption. The Municipal Securities shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Public Finance Authority, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

3.09 Authorization of Related Documents. The Mayor, City Auditor, and other authorized officers of the City are hereby authorized to execute such additional agreements, certificates, and documents required or appropriate in connection with the issuance of the Municipal Securities and the transactions contemplated by the issuance thereof.

3.10 Draws of Municipal Security Proceeds. The proceeds of the Municipal Securities are irrevocably appropriated to pay expenses necessarily incurred in the construction and completion of the Improvements and to pay costs associated with the issuance of the Municipal Securities. Draws on the Municipal Securities, in the form of Requisitions for Payment, shall be submitted by the City to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Public Finance Authority for approval and funding.

SECTION 4. Establishment of Bond Fund. There shall be and is hereby created a special fund to be maintained by the City Auditor separate and apart from all other funds of the City, to be designated as the SERIES 2019C REFUNDING IMPROVEMENT BONDS BOND FUND (herein referred to as the "Bond Fund"). To the Bond Fund shall be credited the Warrants when received by the City Auditor, which Warrants shall thereupon become and shall thereafter be held as an asset of said fund, and the proceeds of all collections on said Warrants so acquired shall be held by the City in trust for the use and benefit of the holders from time to time of the Municipal Securities. The Special Fund of the Improvement District described in the resolution referred to in paragraph 1 hereof shall be continued and payments shall be made therefrom on the Warrants drawn thereon in the same manner as though said Warrants had not been exchanged. All payments of principal and interest made on said Warrants shall be credited to the Bond Fund and shall be used and applied, together with other amounts available therefor, including available sales tax revenues and storm sewer utility revenues, in payment of the principal of and interest on the Municipal Securities as such principal and interest become due.

4.01 Covenants. The City hereby covenants and agrees with the holders from time to time of the Municipal Securities issued pursuant hereto:

(a) That it will use due diligence to collect all amounts due on the Warrants and to levy and collect the special assessments appropriated for their payment.

(b) That it will preserve and enforce for the benefit of the holders from time to time of the Municipal Securities all of the rights, powers, and privileges reserved, to the holders of the Warrants, and all of the covenants of the City as provided in the resolution authorizing the issuance of the improvement warrants.

(c) That at the time and in the manner prescribed by § 40-26-08, North Dakota Century Code, as amended, this governing body will levy general taxes on all taxable property in the corporate limits of the Municipal Securities for the payment of any deficiency in any Special Fund and will cause the proceeds thereof to be applied in payment of the principal of and interest on the then unpaid Warrants drawn on said Special Fund; provided that the City reserves the right to levy taxes in the manner and to the extent permitted by law for payment and discharge of any deficiency in said Special Fund prior to the date upon which it may become obligatory to levy such deficiency taxes, and the amounts thereof shall be credited against the levies which the City might otherwise have been obligated to make.

(d) That in the event the moneys in the Bond Fund should at any time be insufficient to meet all payments of principal and interest then due on the Municipal Securities, said moneys shall be first used to pay the interest accrued on all outstanding Municipal Securities, and the

balance shall be applied in payment of the principal of said Municipal Securities in order of their principal payment dates, earliest first. The City reserves the right and privilege of refunding any of such Municipal Securities for the payment of which moneys are not at the time available by issuing new bonds payable from said Bond Fund, which bonds shall be on a parity with those theretofore issued, provided that no holder of Municipal Securities herein authorized to be issued shall be obligated to accept any such bond in exchange for any of such matured Municipal Security.

(e) The City hereby pledges all special assessments for improvements funded in whole or in part from the proceeds of the Municipal Securities, all Warrants and the payments thereon, and all amounts on deposit from time to time in the Special Fund and the Bond Fund to the payment of the principal of, and interest on, the Municipal Securities.

(f) The City will maintain complete books and records relating to the operation of the Bond Fund in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year, and an audit report prepared and made available for inspection of owners of the Municipal Securities.

**SECTION 5. Payment and Discharge; Defeasance.** When all of the Municipal Securities have been discharged as provided in this paragraph, all pledges, covenants and other rights granted by this resolution shall cease. The City may discharge its obligations with respect to all or a portion of the Municipal Securities which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment of the principal thereof, and interest accruing thereon to such duty in full. If any Municipal Securities shall not have been paid when due, the same may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment of the principal thereof in full with interest accrued thereon from the date to which interest has been paid to the date of such deposit and payment to the owners thereof. The City may also discharge its obligations with respect to all or a portion of the Municipal Securities, by depositing with the paying agent on or before that date an amount equal to the principal, interest and redemption premium, if any, which are due on the maturity date, or earlier redemption date selected by the City, provided that notice of such redemption has been duly given as provided herein. The City may also at any time discharge its obligations with respect to all or a portion of the Municipal Securities, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank or financial institution qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be sufficient to pay all principal, interest, and redemption premium to become due thereon to maturity or the date of earlier redemption selected by the City. If less than all of the Municipal Securities are to be discharged pursuant to this paragraph, the mandatory sinking fund redemption requirement with respect to term bonds, and series may be selected by the City in its sole discretion.

**SECTION 6. Tax Covenants; Arbitrage Matters; Reimbursement and Continuing Disclosure.**

**6.01 Tax Covenant.** The City covenants and agrees with the holders from time to time of the Municipal Securities that it will not take or permit to be taken by any of its officers,

employees or agents any action which would cause the interest on the Municipal Securities to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and Regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

6.02 Arbitrage Certification. The Mayor and the City Auditor being the officers of the City charged with the responsibility for issuing the Municipal Securities pursuant to this resolution, are authorized and directed to execute and deliver a certificate in accordance with the provisions of the Code and applicable Treasury Regulations (the "Regulations"), stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Municipal Securities which make it reasonable to expect that the proceeds of the Municipal Securities will not be used in a manner that would cause the Municipal Securities to be arbitrage bonds within the meaning of the Code and Regulations.

6.03 Rebate. The City acknowledges that the Municipal Securities are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Municipal Securities from gross income for federal income tax purposes, unless the Municipal Securities qualify for the exception from the rebate requirement under Section 1.148-7 of the Regulations and no "gross proceeds" of the Municipal Securities (other than amounts constituting a "bona fide debt service fund") arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Auditor is hereby authorized and directed to execute an arbitrage and rebate certificate in the form prescribed by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

6.04 Not Qualified Tax Exemption Obligations. The Municipal Securities are not designated as "qualified tax-exempt obligations" for purpose of Section 265(b) of the Code.

6.05 Reimbursement. The City certifies that the proceeds of the Municipal Securities will not be used by the City to reimburse itself for any expenditure with respect to the Improvements which the City paid or will have paid prior to the issuance of the Municipal Securities unless, with respect to such prior expenditures, the City shall have made a declaration of official intent which complies with the provisions of Section 1.150-2 of the Regulations; provided that this certification shall not apply (i) with respect to certain de minimis expenditures, if any, with respect to the Improvements meeting the requirements of Section 1.150-2(f)(1) of the Regulations, or (ii) with respect to "preliminary expenditures" for the Improvements as defined in Section 1.150-2(f)(2) of the Regulations, including engineering or architectural expenses and similar preparatory expenses, which in the aggregate do not exceed 20% of the "issue price" of the Municipal Securities.

SECTION 7. Use of American Iron and Steel. The City will comply with all federal requirements applicable to the Loan Agreement (including those imposed by the 2014 Appropriations Act, Public Law No: 113-76 and related SRF regulations and policy guidelines) which the City understands includes, among other, requirements that all of the iron and steel

products used in the Improvements are to be produced in the United States ("American Iron and Steel Requirement") unless (i) the City has requested and obtained a waiver from the Department pertaining to the Improvements or (ii) the Department or Public Finance Authority has otherwise advised the City in writing that the American Iron and Steel Requirement is not applicable to the Improvements.

SECTION 8. Davis Bacon and Related Acts. The City shall, to the extent applicable to the Loan (as defined in the Loan Agreement) or any related grant, comply with the Davis Bacon and Related Acts requirements (40 U.S.C. 3141, et seq.).

SECTION 9. Record and Reporting Requirements. The City will comply with all record keeping and reporting requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a federal agency, the Department or the Public Finance Authority such as performance indicators of program deliverables, information on costs and project progress. The City understands that (i) each contract and subcontract related to the Improvements is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Clean Water Act/Safe Drinking Water Act and the Loan Agreement may be a default thereunder that results in a repayment of the Loan thereunder in advance of the maturity of the Municipal Securities and/or other remedial actions.

SECTION 10. Authentication of Transcript. The officers of the City are hereby authorized and directed to prepare and furnish to the Public Finance Authority and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Municipal Securities and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Municipal Securities, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits and certificates, including any heretofore furnished, shall be deemed representations of the City as to the correctness of all statements contained therein.

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Adopted \_\_\_\_\_, 2019.

CITY OF FARGO

By: \_\_\_\_\_  
Tim Mahoney, Mayor

ATTEST:

By: \_\_\_\_\_  
Steven Sprague, City Auditor

Attachment A

LIST OF IMPROVEMENT DISTRICT WITH ESTIMATED PRINCIPAL AMOUNTS,  
LEVY YEARS, AMOUNTS, AND YEARS OF PAYMENT FOR EACH

<b>District Designation</b>	<b>Aggregate Principal Amount</b>	<b>Levy Years (Inclusive)</b>	<b>Amounts and Payment Years</b>
FP-19-A	\$500,000	2020-2050	\$678,155

Attachment BFORM OF MUNICIPAL SECURITY

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

REFUNDING IMPROVEMENT BOND, SERIES 2019C

R-1

\$500,000

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
1.50%	September 1, 2052	[ ], 2019	NONE

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: FIVE HUNDRED THOUSAND DOLLARS

KNOW ALL PERSONS BY THESE PRESENTS that the City of Fargo, North Dakota (the "City"), a political subdivision of and existing under and pursuant to the laws of the State of North Dakota, for value received, hereby promises to pay solely from the sources set forth herein to the Registered Owner specified above, or registered assigns, the Principal Amount (set forth above), or such lesser amount actually disbursed to the City, on or before the Maturity Date (set forth above). Interest shall accrue from the Date of Original Issuance at the annual rate of one and one half percent (1.50%) and shall be payable semiannually on March 1 and September 1, commencing March 1, 2020. The Principal Amount of this Bond is subject to mandatory redemption on the dates and in the amounts set forth in **Attachment A** to this Municipal Security, which Attachment A shall be revised in accordance with Section 2.02 of the Loan Agreement in the event funds are advanced to the City less than as originally set forth in the Loan Agreement. The City hereby promises to pay the Administrative Fee, as defined in the Loan Agreement (being one half of one percent (0.50%) per annum on the outstanding principal amount of the Bond), payable semi-annually on each March 1 and September 1. All payments due with respect to this Bond are payable in lawful money of the United States of America at the main office of the Bank of North Dakota, in Bismarck, North Dakota, as paying agent and Registrar under the Resolution hereinafter described or of its successor as such. Interest shall be paid by check or draft mailed to the Registered Owner at the Owner's address set forth on the registration books or by wire or other electronic funds transfer.

This Municipal Security is issued pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota, including N.D.C.C. ch. 40-27 (the "Act"), and pursuant to a Resolution (the "Resolution") and a Loan Agreement (the "Loan Agreement") adopted and entered into by the City for the purpose of refunding a like principal amount of valid



outstanding special improvement warrants drawn on the funds of an improvement district heretofore duly created by the City for the financing of the cost of local improvements in anticipation of the levy and collection of special assessments with respect to the improvements, all pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota. Reference is hereby made to the Resolution and the Loan Agreement for a description of the funds and accounts pledged to the payment of the Municipal Securities and the rights of the Registered Owner of the Municipal Securities.

This Municipal Security is transferable, as provided in the Resolution and the Loan Agreement, only upon books of the City kept by the Bank of North Dakota, as bond registrar, by the Registered Owner hereof in person or by the Owner's duly authorized attorney, or it may be surrendered in exchange for new Municipal Securities of the same aggregate principal amount, maturity and interest rate, as provided in the Resolution.

This Municipal Security shall be subject to redemption, in whole or in part, and if in part in principal amounts which are integral multiples of \$5,000, prior to their stated maturity, with the written consent of the Registered Owner, at a price equal to the principal amount thereof plus accrued interest to the date of redemption.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED, AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of North Dakota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of this Bond have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the City has duly created the SERIES 2019C REFUNDING IMPROVEMENT BOND FUND as a separate and special fund and has appropriated thereto the improvement warrants refunded by this Municipal Security, on which improvement warrant payments are required by law to be made as though none of such warrants had been refunded, and will use due diligence to collect said improvement warrants and the special assessments and any taxes, revenues or other funds appropriated for their payment; that the governing body is required by law to levy a tax upon all the taxable property in the corporate limits of the City, without limitation as to rate or amount, to meet any deficiency in any of said improvement district funds for the payment of all warrants drawn thereon, with interest; and that all collections of special assessments, revenues and taxes appropriated for the payment of said improvement warrants are required by law to be credited to the Bond Fund and applied in payment of the principal of and interest on this Municipal Security; all as more fully stated in the Resolution; and that the issuance of this Municipal Security has not caused the indebtedness of the Issuer to exceed any constitutional, charter or statutory limitation of indebtedness.

This Municipal Security shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon shall have been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City has caused this Municipal Security to be executed in its name by the manual or facsimile signatures of its Mayor and of its City Auditor, all as of the Date of Original Issue set forth above.

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Tim Mahoney  
Mayor

ATTEST:

By: \_\_\_\_\_  
Steven Sprague  
City Auditor

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CERTIFICATE OF AUTHENTICATION

This Municipal Security is one of the Municipal Securities described in and issued under the provisions of the within-mentioned Resolution.

BANK OF NORTH DAKOTA

By: \_\_\_\_\_  
Authorized Representative

### ASSIGNMENT

For Value received the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned Municipal Security and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney-in-fact, to transfer the same on the books of registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Social Security or other identifying number of Assignee

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Municipal Security in every particular, without alteration or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

SCHEDULE A

[to come]

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that attached hereto is a full, true and correct copy of the Resolution adopted by the governing body of the City of Fargo at the meeting held on December 2, 2019, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

(SEAL)

RESOLUTION CREATING THE FUNDS OF THE IMPROVEMENT DISTRICT,  
PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR  
THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING  
THE ISSUANCE OF \$500,000 IMPROVEMENT WARRANTS (SERIES 2019C) THEREON

BE IT RESOLVED by the City Commission (the "Commission") of the City of Fargo, Cass County, North Dakota (the "City") as follows:

1. Findings. It is hereby found, determined, and declared that the City has heretofore duly created the improvement district as set forth in **Attachment A** hereto, which is incorporated herein (the "Improvement District"), for the purpose of financing and constructing a large regional stormwater pond, including a storm sewer lift station, storm sewer piping and excavation (the "Improvements") pursuant to the provisions of North Dakota Century Code, Section 40-22-01. The Improvements are to be located on land owned by the City, located outside City limits but expected to be annexed. Plans and specifications for the Improvement have been prepared pursuant to North Dakota Century Code, Sections 40-22-10 and 40-22-11, and pursuant to North Dakota Century Code Section 40-22-15, the financing and implementation of the Improvements are exempt from the requirement of passage and publication of a resolution of necessity. The total cost of said Improvements in excess of any other funds on hand and appropriated for the payment of such cost, including reimbursing other funds of the City for any amounts temporarily advanced to meet immediate expenses of the Improvements less prepayments actually received and to be used to pay the cost of said Improvements, is now estimated to be approximately the amount set forth in **Attachment B** hereto, which is incorporated herein; that to pay the total cost of said Improvements, the City will sell improvement warrants in at least the total principal amount set forth in **Attachment B** hereto; that the total benefits to all lots, tracts, and parcels of land liable to be specially assessed for benefits resulting from the Improvements in said Improvement District will be substantially in excess of the cost of said Improvements to be assessed against said properties as herein provided; and that all acts, conditions, and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen, and to be performed preliminary to the issuance and sale of warrants to provide moneys to pay for said Improvements (the "Warrants") have been done, do exist, have happened, and have been performed in regular and due form and in the time and manner as so required. The Warrants are payable from and secured by a special fund of the City created with respect to the Improvement District.

2. Issuance and Sale of Warrants. In anticipation of the collection of said special assessments, revenues and taxes, if any, and for the purpose of borrowing money to pay the cost of said Improvements, the City shall issue its Warrants on the Special Fund in an amount of up to \$500,000. The governing body of the City, in response to its application for financial assistance from the North Dakota Department of Environmental Quality, Division of Municipal Facilities (the "Department") and the North Dakota Public Finance Authority (the "Public Facilities Authority"), has received an offer from the Public Finance Authority, subject to the approval of the Industrial Commission of North Dakota, to purchase the Warrants at a price equal to the principal amount plus accrued interest, if any, to the date of purchase, which offer is more fully set out in a loan agreement to be entered into between the City and the Public Finance Authority (the "Loan Agreement"). It is hereby found and determined that the offer of the Public Finance Authority to purchase the Warrants, to be immediately refunded by the issuance by the City of its

Refunding Improvement Bonds, Series 2019C (the "Municipal Securities") in an aggregate principal amount of \$500,000 is reasonable and advantageous to the City and is hereby accepted. Issuance of the Warrants shall be conclusive evidence of the approval of such award.

3. Creation and Uses of Funds and Accounts There is hereby created a special fund of the City for the Improvement District (the "Special Fund"), which Special Fund shall be held and administered by the City Auditor separate and apart from all other funds of the City, and the Special Fund shall be continued and maintained as directed in this resolution until all Warrants issued thereon shall have been fully paid with interest. In the Special Fund there shall be maintained two separate accounts to be designated as the "Construction Account" and "Principal and Interest Account," respectively.

(A) There shall be credited to the Construction Account in the Special Fund the proceeds of the sale of the Warrants issued against the Special Fund except the accrued interest and except any amounts necessary to reimburse other funds of the City for temporary advances made for the Improvements. All costs and expenses of making said Improvements, including interest coming due during construction, shall be paid from time to time as incurred and allowed from said Construction Account, upon Construction Account warrants signed by the Mayor and City Auditor, or in their absence, the Deputy Mayor and/or the Deputy City Clerk, and moneys in said Account shall be used for no other purpose.

(B) There shall be credited to the Principal and Interest Account in the Special Fund the accrued interest, if any, on the Warrants drawn on said fund from the date of the Warrants to the date of delivery thereof to the purchaser, the entire amount of special assessments and any other funds, including funds appropriated pursuant to North Dakota Century Code, Section 40-24-10, revenues and taxes. Moneys in the Principal and Interest Account shall be used only for payment of the principal of and interest on the Warrants drawn against said fund as such payments become due.

(C) The City covenants and agrees with the holders from time to time of the Municipal Securities, which are payable from, and secured by, the Warrants and the interest on which is excluded from gross income for federal tax purposes, that it will not take or permit to be taken by any of its officers, employees, or agents any action which would cause the interest on the Municipal Securities to become subject to taxation under the Internal Revenue Code of 1986, as amended, and regulations, amended regulations, and proposed regulations issued thereunder, as now existing or as hereinafter amended or proposed and in effect at the time of such action.

4. Special Assessments. With respect to the Improvement District, the City covenants and agrees with all holders of Warrants that it will do and perform as soon as may be possible, in accordance with law, all acts and things necessary for the final and valid levy of special assessments against properties within the Improvement District benefited by the Improvements, in an aggregate amount equal to the total cost of the Improvements to the City, except any portion, not exceeding one-fifth of the cost of the Improvements and not exceeding any applicable constitutional, charter or statutory debt limit, as the City may determine to pay, including by the levy of *ad valorem* taxes upon all taxable property within its corporate limits.

In the event that the special assessment should at any time be held invalid with respect to any lot or tract of land, due to any error, defect or irregularity in any action or proceeding taken or to be taken by the City or by the governing body or by any officers or employees, either in the making of the special assessment or in the performance of any condition precedent thereto, the City and this governing body covenant and agree that they will forthwith do all such further acts and take all such further proceedings as may be required by law to make such special assessment a valid and binding lien upon such lot or tract.

The installments of special assessments from time to time remaining unpaid shall bear interest at the rate, not exceeding 75 basis points (0.75%) above the true interest cost (TIC) annual interest rate on bonds issued on the special improvement district, set forth in **Attachment A** hereto, said special assessments to be levied in equal annual installments of principal, together with the interest to accrue thereon, as set forth in **Attachment A** hereto.

5. Form of Warrants. The Warrants shall be reproduced in substantially the form set forth in **Attachment B** hereto and incorporated herein.

6. Execution and Delivery. Each Warrant shall be prepared for execution under the direction of the City Auditor and shall be executed on behalf of the City by the signature of the Mayor, countersigned by the City Auditor and sealed with the official seal of the City. When executed, the warrants shall be delivered by the City Auditor to the Public Finance Authority thereof upon payment of the purchase price agreed upon, and the Public Finance Authority shall not be obligated to see to the application of the purchase price.

The Mayor, the City Auditor, and other officers of the City are also hereby authorized to execute and deliver any such additional certificates, showings, agreements, or documents necessary or otherwise appropriate in connection with the issuance of the Warrants and the transactions contemplated thereby.

In the event of the absence or unavailability of the Mayor, the City Auditor, or other appropriate officer of the City, the Warrants and the other documents authorized for execution and delivery pursuant to this section may be executed and delivered by the individual or individuals authorized generally by the City to act on behalf of the Mayor, the City Auditor, or other officer of the City in such circumstances, including, without limitation, the Deputy Mayor and the Deputy City Auditor.

In case any officer signing documents authorized to be executed and delivered by this resolution shall cease to be such officer before or after the delivery of any such document, such signature, nevertheless, shall be valid and remain sufficient for all purposes as if such officer had remained in office until such delivery or later applicable time.

7. Covenant as to Tax Levy. With respect to the Special Fund, the City hereby recognizes its obligation with respect to the Warrants drawn against the funds, as set forth in § 40-26-08, North Dakota Century Code, as amended, and covenants that whenever all special assessments, revenues and taxes, if any, theretofore collected are insufficient to pay principal of or interest then due on the applicable Warrant, the governing body of the City shall thereupon levy a tax upon all taxable property in the corporate limits of the City for the payment of such



deficiency; provided, that if said Warrant has been exchanged for refunding improvement bonds pursuant to the provisions of Chapter 40-27, North Dakota Century Code, such deficiency tax may be made payable in the years and amounts required to pay the principal of and interest on such refunding improvement bonds as the same become due. Nothing herein contained shall be deemed to limit the power of the City and this governing body under the provisions of said § 40-26-08, as amended, to levy a general tax in anticipation of a deficiency considered likely to occur in said Special Fund within one year, and it is hereby declared to be the policy of the City that the governing body will annually review the current requirements and resources of the Special Fund, at the time of the preparation of and hearing on the budget, in accordance with the provisions of Chapter 40-40, North Dakota Century Code, to the end that provisions may be made in each annual budget for any deficiency in said applicable funds which is deemed likely to occur within the then next succeeding year. Any taxes levied in accordance with the provisions of this paragraph in payment of a deficiency, or in anticipation of a deficiency, shall be paid upon collection into the Principal and Interest Account of the Special Fund and applied as provided in paragraph 3(B) hereof.

8. Refunding. With respect to the Special Fund, the City reserves the right and privilege of refunding any warrants drawn against any of the Special Fund and refunding improvement bonds payable from such warrants which are past due, or which are redeemable at the option of the City, or to the redemption or exchange of which the holder thereof shall have consented, and for the payment of which Warrants moneys are not at the time available in said fund, by issuing new warrants pursuant to the provisions of § 40-27-06, North Dakota Century Code. Such refunding warrant shall be payable from the applicable Special Fund on a parity with the Warrants previously issued as to interest charges, provided, however, the principal maturities of such refunding warrant shall be subsequent to the maturities of all Warrants payable from the Special Fund and then outstanding, except the warrants so refunded.

With respect to the Special Fund, the City also reserves the right to issue additional warrants and refunding improvement bonds for the payment of the cost of the Improvement in said district if the actual cost of said Improvement should be greater than has been estimated, such additional warrants to be payable from said fund on a parity with other warrants drawn on said funds. By separate resolution, the City expects to finance costs of the Improvements by separate Warrants.

9. Certification of Proceedings. The officers of this City and the County Auditor of Cass County are authorized and directed to prepare and furnish to the purchaser of said warrants and to Dorsey & Whitney LLP, Bond Counsel to the City, certified copies of all ordinances, resolutions, affidavits or other instruments relating to the establishment and construction of said improvement and the operation and maintenance thereof, and the levy of special assessments and taxes therefore or the issuance of said Warrants, which may be necessary or proper to show the validity or marketability of said Warrants, and all instruments and transcripts so furnished, constitute representations of the City as to the correctness of the facts as stated or recited therein.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Auditor

COMMISSIONER \_\_\_\_\_ introduced the preceding resolution and moved its adoption. The motion for the adoption of the foregoing resolution was duly seconded by COMMISSIONER \_\_\_\_\_, and upon roll call vote, the following voted in favor thereof:

COMMISSIONERS \_\_\_\_\_.

The following were absent and not voting: \_\_\_\_\_, and the following voted against the same: \_\_\_\_\_, whereupon the resolution was declared duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2019.

Attachment A

LIST OF IMPROVEMENT DISTRICT WITH ESTIMATED PRINCIPAL AMOUNTS,  
LEVY YEARS, AMOUNTS, AND PAYMENT YEARS

District Designation	Aggregate Principal Amount	Levy Years (Inclusive)	Amounts and Payment Years
FP-19-A	\$500,000	2020-2050	\$678,155

Attachment B

FORM OF WARRANT

UNITED STATES OF AMERICA  
STATE OF NORTH DAKOTA  
COUNTY OF CASS

CITY OF FARGO

IMPROVEMENT WARRANT, SERIES 2019C  
IMPROVEMENT DISTRICT NO. FP-19-A

R-1

INTEREST RATE

DATE OF ORIGINAL ISSUE

\_\_\_\_\_%

\_\_\_\_\_, 2019

REGISTERED OWNER: NORTH DAKOTA PUBLIC FINANCE AUTHORITY

PRINCIPAL AMOUNT: FIVE HUNDRED THOUSAND DOLLARS

KNOW ALL BY THESE PRESENTS that the City of Fargo, Cass County, North Dakota, (the "City") acknowledges itself to be specially indebted and for value received promises to pay to the registered owner specified above or registered assigns, the principal amount of \$500,000 in annual installments on September 1 in each of the years 2021 through 2050 but only from its Special Fund for Improvement District No. FP-19-A, with interest thereon from the date hereof at the annual rate specified above, such interest payable on March 1 and September 1 in each year, commencing March 1, 2020, to the holder of record on the close of the 15th day (whether or not a business day) of the immediately preceding month. Both principal and interest are payable at the office of the City Auditor of the City, in Fargo, North Dakota, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts.

This warrant is issued for the purpose of financing a portion of the cost of a necessary improvement benefiting the above-named District of the City, and is issued pursuant to and in full conformity with the Constitution, City Charter and laws of the State of North Dakota thereunto enabling, including Chapters 40-22 to 40-28 and Chapter 40-49 of the North Dakota Century Code, and amendatory and supplemental laws, and in anticipation of the collection of special assessments levied or to be levied and collected to pay for said improvement, which moneys are to be appropriated to the account and fund referred to above.

This warrant is subject to redemption and prepayment at the option of the City at any time, at a price equal to the principal amount hereof and accrued interest, for the sole purpose of refunding the entire issue by the issuance of refunding improvement bonds of the City pursuant to Chapter 40-27, North Dakota Century Code.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution, City Charter and laws of the State of North Dakota to be done, to exist, to happen and to be performed preliminary to and in the valid issuance of this warrant have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that this warrant is duly issued to pay costs incurred and to be incurred in the making of a necessary improvement of special benefit to the above-named Improvement District, in anticipation of the collection of special assessments to be duly levied upon properties within said district, and of taxes and other revenues to the extent determined by the governing body, which are irrevocably appropriated to the fund of the district in amounts sufficient to pay when due the principal of and interest on all warrants drawn thereon; that if the fund should at any time be insufficient to pay principal or interest due, the City is also required by law to levy a tax upon all of the taxable property within its corporate limits for the payment of such deficiency, without limitation of rate or amount; and that the issuance of this warrant did not cause the special or general indebtedness of the City to exceed any constitutional, charter or statutory limitation.

IN WITNESS WHEREOF the City of Fargo, North Dakota, by its governing body has caused this warrant to be executed in its behalf by the signature of the Mayor and countersigned by the City Auditor, and sealed with its official seal.

---

Mayor

Countersigned:

---

City Auditor

(S E A L)

---

REGISTRATION

The City of Fargo, North Dakota, has registered the ownership of the within warrant, and of the interest payable thereon, on the books of the City maintained by its City Auditor at Fargo, North Dakota, in the name of the following owner:

City of Fargo, in trust for the owners of its Refunding Improvement Bonds, Series 2019C.

Dated as of the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

CERTIFICATE

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

I, Steven Sprague, the duly appointed City Auditor of the City of Fargo, North Dakota, do hereby certify that the preceding resolution attached hereto is a full, true, and correct copy of the RESOLUTION CREATING THE FUNDS OF THE IMPROVEMENT DISTRICT, PROVIDING FOR AND APPROPRIATING SPECIAL ASSESSMENTS FOR THE SUPPORT AND MAINTENANCE OF SAID FUNDS, AND AUTHORIZING THE ISSUANCE OF \$500,000 IMPROVEMENT WARRANTS (SERIES 2019C) THEREON adopted by the governing body of the City of Fargo at the meeting held on December 2, 2019, and that such Resolution is now a part of the permanent records of the City of Fargo, North Dakota, as such records are filed in the office of the City Auditor.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
City Auditor

(S E A L)

Draft 10/10/2019

**NORTH DAKOTA  
STATE REVOLVING FUND PROGRAM**

**LOAN AGREEMENT**

**NORTH DAKOTA PUBLIC FINANCE AUTHORITY  
(Lender)**

**and**

**CITY OF FARGO, NORTH DAKOTA  
(Municipality)**

**(To be completed by Public Finance Authority)**

**Dated Date of Loan Agreement: [ ], 2019**

**SRF Program (circle one): Clean Water SRF  
~~Drinking Water SRF~~**

**State Act (circle one): N.D.C.C. ch. 61-28.2 (Clean Water)  
~~N.D.C.C. ch. 61-28.1 (Drinking Water)~~**

**Summary Description of Improvements: Construction of regional stormwater pond**

**Approved Loan Amount: \$500,000**

**Construction period: [ ], 2019 to [ ], 2021**

**Form of municipal securities: Refunding Improvement Bonds, Series 2019C**



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- EXHIBIT A: Description of Improvements
- EXHIBIT B: Municipal Securities Payment Schedule
- EXHIBIT C: Form of North Dakota State Revolving Fund Program Certificate Relating to  
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## LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of [\_\_\_\_], 2019, by and between the NORTH DAKOTA PUBLIC FINANCE AUTHORITY (the "Authority"), an agency and instrumentality of the State of North Dakota (the "State"), and the CITY OF FARGO, NORTH DAKOTA (the "Municipality"), a political subdivision of the State.

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Administrative Fee" means an annual fee of 1/2 of one percent (.50%) of the outstanding principal amount of the Loan or such lesser amount, if any, as the Authority may approve from time to time.

"Authority Act" means N.D.C.C. ch. 6-09.4.

"Authority Bonds" or "Bonds" mean bonds of the Authority authorized, authenticated, and delivered in order to finance or refinance the Improvements pursuant to this Loan Agreement and to enable the Department, through the Authority, to draw EPA capitalization grant funds for deposit in the SRF.

"Code" means the Internal Revenue Code of 1986 as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

"Costs" means those costs associated with the Improvements and the Loan that are eligible to be funded from the SRF, as determined by the Department and the Authority.

"Department" means the North Dakota Department of Environmental Quality, Division of Municipal Facilities.

"EPA" means the United State Environmental Protection Agency.

"Event of Default" means any occurrence or event specified in Section 5.01 of this Loan Agreement.

"Financial Obligation" means: (i) a debt obligation; (ii) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of a debt obligation or derivative instrument. Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rule Making Board (MSRB) consistent with the Rule.

"General Records" shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Improvements” means the improvement or undertaking of the Municipality described in Exhibit A attached hereto, for purposes of the State Water Pollution Control Revolving Loan Fund and the Federal Clean Water Act, or to the public water system of the Municipality for purposes of the State Safe Drinking Water Act and the Federal Safe Drinking Water Act, all or a portion of the Costs of which are financed or refinanced by the Authority from the SRF through the making of the Loan under this Loan Agreement.

“Loan” means the loan evidenced by the Municipal Securities, made by the Authority to the Municipality pursuant to this Loan Agreement to finance or refinance all or a portion of the Costs of the Improvements. For all purposes of this Loan Agreement, the amount of the Loan at any time shall be the amount of the Loan less any principal amount which has been repaid to the Authority by the Municipality.

“Loan Agreement” means this Loan Agreement, including the Exhibits attached to, and hereby made a part hereof, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Closing” means the date upon which the Municipality shall issue and deliver the documents listed in Section 2.06 of this Loan Agreement and shall be eligible to receive the Loan.

“Loan Commitment” means the offer by the Department to provide financial assistance to the Municipality from the SRF, subject to approval by the Authority. The Loan Commitment, when accepted by the Municipality through appropriate action of its governing body, shall be a “binding commitment” within the meaning of that term in the SRF Act.

“Loan Repayments” means the payments payable by the Municipality pursuant to the Authority, including payments payable under the Municipal Bond Resolution and the Municipal Securities.

“Municipal Bond Resolution” means the resolution(s) or ordinance(s) of the governing body of the Municipality authorizing the issuance of the Municipal Securities.

“Municipality” means the borrower under this Loan Agreement, which must be a “political subdivision,” as defined in section 6-09.4-03(5) of the Authority Act.

“Municipal Securities” means municipal securities, as such term is defined in the Authority Act, executed and delivered by the Municipality to the Authority to evidence the Loan in accordance with the Municipal Bond Resolution.

“SRF” means the revolving loan fund(s) created by the State Act.

“SRF Act” means, for purposes of the State Water Pollution Control Revolving Loan Fund Act, the Federal Clean Water Act, and for purposes of the State Safe Drinking Water Act, the Federal Safe Drinking Water Act, including any regulations and guidelines promulgated thereunder.

“State Act” means, for purposes of the Federal Clean Water Act, N.D.C.C. ch. 61-28.2 (the State Water Pollution Control Revolving Loan Fund Act), and, for purposes of the Federal Safe Drinking Water Act, N.D.C.C. ch. 61-28.1 (the State Safe Drinking Water Act).

“System Records” shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Trustee” means the Trustee appointed by the Authority pursuant to the State Revolving Fund Program Master Trust Indenture and its successor or successors and any other trustee which may at any time be substituted in its place as Trustee pursuant to the Indenture.

Section 1.02. Additional Terms. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

[The remainder of this page left intentionally blank.]

## ARTICLE II

### LOAN; OBLIGATIONS; DISCLAIMER; DELIVERY OF DOCUMENTS

Section 2.01. The Loan. The Authority hereby agrees to loan and disburse to the Municipality, and the Municipality agrees to borrow and accept from the Authority, the Loan in the principal amount of the Municipal Securities, plus accrued interest, if any. The Municipality shall use the proceeds of the Loan to pay the Costs of the Improvements in accordance with the Municipal Bond Resolution and this Loan Agreement.

Section 2.02. Disbursement of Loan Proceeds. The Authority will disburse the Loan upon (a) execution and delivery by the Municipality of the documents described in Section 2.06, (b) issuance and delivery by the Municipality of the Municipal Securities to the Authority, and (c) submission to and approval by the Department and the Authority of Requisitions for Payment in the form approved by the Department.

Section 2.03. Draws of Municipal Securities Proceeds. The proceeds of the Municipal Securities are appropriated by the Municipality to pay expenses necessarily incurred in the construction and completion of the Improvements and the issuance of the Municipal Securities. Requests for draws on the Loan, in the form of Requisitions for Payment, shall be submitted by the Municipality to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Authority and the Trustee for approval and funding. After all claims and expenses with respect to the Improvements and the issuance of the Municipal Securities have been duly paid and satisfied, the amortization schedule for the Municipal Securities shall be adjusted to reflect the total principal amount drawn under this Loan Agreement.

Section 2.04. Unconditional Obligations. The Municipality shall not be obligated to make any payments required to be made by any other political subdivision with respect to the lending of funds by the Authority from the SRF.

Section 2.05. Disclaimer of Warranties. The Municipality acknowledges and agrees that (i) neither the Authority nor the Department has made or makes any warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for any use of the Improvements or any portions thereof or any other warranty or representation with respect thereto; and (ii) in no event shall the Authority, nor the Department or their respective officers, directors, employees, or agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Improvements or the existence, furnishing, functioning or use of the Improvements.

Section 2.06. Delivery of Documents. Concurrently with the execution and delivery of this Loan Agreement, the Municipality will cause each of the following items to be delivered to the Authority:

- (a) Executed counterparts of this Loan Agreement.

(b) Copies of the Municipal Bond Resolution adopted October 21, 2019 by the governing body of the Municipality authorizing the execution and delivery of this Loan Agreement and the Municipal Securities, certified by an authorized officer of the Municipality.

(c) An arbitrage certificate and a closing certificate covering such matters as may be agreed upon by the Municipality and the Authority.

(d) An opinion or opinions of the Municipality's counsel which may be given by one or more counsel, covering such matters concerning the validity and tax status of the Municipal Securities as may be agreed upon by the Municipality and the Authority.

(e) Such other certificates, documents, opinions and information as the Authority may require.

The documents referred to above must be prepared and provided by the Municipality to the Authority prior to the Loan Closing for review and approval.

[The remainder of this page left intentionally blank.]

## ARTICLE III

### COVENANTS AND REPRESENTATIONS

#### Section 3.01. Covenants and Representations of Municipality.

(a) Performance Under Loan Agreement. The Municipality covenants and agrees (i) to maintain the Improvements in good repair and operating condition and (ii) to cooperate with the Authority and the Department in the observance and performance of the respective duties, covenants, obligations and agreements of the Municipality and the Authority under this Loan Agreement.

(b) Completion of Improvements and Provision of Moneys Therefor. The Municipality covenants and agrees (i) to exercise its best efforts in accordance with prudent utility practice to complete the Improvements and to so accomplish such completion on or before the estimated Improvements completion date; and (ii) to provide from its own fiscal resources all moneys in excess of the total amount of the Loan required to complete the Improvements.

(c) Disposition of Improvements. The Municipality covenants and agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Improvements or any other system which provides revenues for upkeep and maintenance of the Improvements except on ninety (90) days prior written notice to the Authority and, in any event, shall not sell, lease, abandon or otherwise dispose of the Improvements unless the following conditions are met: (i) the Municipality, with the approval of the Authority, shall assign this Loan Agreement and its rights and interests hereunder in accordance with Section 4.02 to the purchaser or lessee of the Improvements which must be a political subdivision as defined in the Authority Act, and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Municipality under this Loan Agreement; and (ii) the Authority, in its sole discretion, by appropriate action determines that such sale, lease, abandonment or other disposition will not adversely affect (A) the ability of the Municipality or its assignees to meet its duties, covenants, obligations and agreements under the Municipal Bond Resolution, (B) the value of this Loan Agreement as security for the payment of Authority Bonds and interest thereon, (C) the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation, or (D) any agreement entered into by the Authority or the State through the Department with, or any condition of any grant received by the Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Authority or the State through the Department.

(d) Operation and Maintenance of Improvements. The Municipality covenants and agrees that it will, in accordance with prudent wastewater or drinking water treatment utility practice, as the case may be, (i) at all times operate the Improvements and the properties associated with and operated in conjunction with the Improvements and any business in connection therewith in an efficient manner, (ii) maintain the Improvements in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the Improvements so that at all times the



enterprise or business carried on in connection therewith shall be properly and advantageously conducted; provided that this covenant shall not be construed as requiring the Municipality to expend any funds which are derived from sources other than the operation of the Improvements or other receipts of such Improvements which are not pledged under the Municipal Bond Resolution for such purpose, and provided further that nothing herein shall be construed as preventing the Municipality from doing so.

The Municipality covenants and agrees that the proceeds of the Loan shall be used and expended in a manner consistent with the State Act and the SRF Act, all regulations and guidelines promulgated thereunder, and this Loan Agreement.

(e) Records; Accounts.

(i) The Municipality will, to the extent required by generally accepted government accounting principles, keep accurate records and accounts for the utility (the "System Records") separate from its other records and accounts (the "General Records"). The System Records will be maintained in accordance with generally accepted government accounting principles and will be audited annually or biennially by an independent accountant, which audit may be part of the annual or biennial audit of the General Records of the Municipality. The System Records and General Records will be made available for inspection by the Authority and the Department at any reasonable time. A copy of the Municipality's audited financial statements, including all written comments and recommendations of the auditor, will be furnished to the Authority within 150 days of the close of the fiscal year or years being audited. The Municipality agrees that its financial reports for the year or years which it receives draws under this Agreement shall be prepared in accordance with the Federal Single Audit Act and the Federal Office of Management and Budget's Circular A-128.

(ii) The Municipality will keep, or cause to be kept, accurate records, if such records must be kept for compliance with the requirements of Section 148 of the Code, of each investment it makes in investment property (as that term is defined in Section 148(b) of the Code) acquired, directly or indirectly, with proceeds of the Authority Bonds. The Authority will advise the Municipality if the loan is not being funded with the proceeds of Authority Bonds. Further, with respect to such investments made by the Municipality which are not excepted from the computation of rebate under Section 148(f)(4) of the Code, the Municipality (A) will calculate, or cause to be calculated, the amount (the "rebate amount") that is to be rebated to the United States Treasury pursuant to Section 148(f) of the Code, and (B) will for each computation date under Section 148(f) of the Code (or on any further periodic basis requested in writing by the Authority) remit the following to the Authority: (1) the calculations supporting the determination of the rebate amount and (2) an amount of money equal to the rebate installment then owed. To the extent any such rebate amounts (or the investment income thereon) are in excess of the Authority's rebate requirement allocable to the Municipal Securities, such amounts will be promptly returned by the Authority to the Municipality.

(f) Inspections; Information. The Municipality will permit the Authority, the Department, and the Trustee, and any designated party to examine, visit and inspect, at any and all reasonable times, the property constituting the Improvements, and to inspect and make copies of any accounts, books and records, including (without limitation) its Systems Records, General Records, and any other records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and will supply such reports and information as the Authority, the Department and the Trustee may reasonably require in connection therewith.

(g) Insurance. The Municipality shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self insurance programs covering risk of direct physical loss, damage or destruction of the Improvements, at least to the extent of similar insurance usually carried by utilities constructing, operating and maintaining, works of the nature of the Improvements, including liability coverage, but in no case less than will satisfy all applicable regulatory requirements. The Authority, the Department and the Trustee may require the Municipality to provide them with evidence of insurance on the Improvements.

(h) Costs of Improvements. The Municipality certifies that the Costs of the Improvements provided to the Authority are a reasonable and accurate estimation, and upon direction of the Authority will provide a certificate from its engineer stating that such Costs are a reasonable and accurate estimation.

(i) Continuing Disclosure.

(i) So long as the Municipality shall constitute an obligated person within the meaning, of S.E.C. Rule 15c2-12 (the "Rule") as in effect from time to time, the Municipality agrees to furnish to the Authority any such information it requires in order to comply with the provisions of the Rule, including audited financial statements and operating data with respect to the Municipality at such time and in such forms as the Authority shall reasonably request. The Municipality consents to the inclusion of such information in the Authority's official statement(s) used in connection with the issuance and sale or the re-marketing of its bonds or continuing disclosure with respect to its bonds (collectively, the "Disclosure Documents"), whether or not all or a portion of the proceeds of the bonds were or will be loaned to the Municipality.

(ii) The Municipality shall provide notice to the Authority of the occurrence of any of the following events with respect to the Municipal Securities in a timely manner not in excess of ten business days after the occurrence of the event:

- (A) principal and interest payment delinquencies;
- (B) unscheduled draws on debt service reserves reflecting financial difficulties;
- (C) unscheduled draws on credit enhancements reflecting financial difficulties;
- (D) substitution of credit or liquidity providers, if any, or their failure to perform;

- (E) adverse tax opinions or the issuance by the IRS of proposed or final determinations of taxability or of a Notice of Proposed Issue (IRS Form 5701-TEB);
- (F) tender offers;
- (G) defeasances;
- (H) rating changes;
- (I) bankruptcy, insolvency, receivership or similar event of the Municipality; or
- (J) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation, any of which reflect financial difficulties.

(iii) The Municipality shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Municipal Securities, *if material*, in a timely manner not in excess of ten business days after the occurrence of the event:

- (A) non-payment related defaults;
- (B) unless described in (ii)(E) above, other notices or determinations by the IRS with respect to the tax-exempt status of the Municipal Securities, or other events affecting the tax-exempt status of the Municipal Securities;
- (C) modifications to rights of holders of the Municipal Securities;
- (D) bond calls;
- (E) release, substitution or sale of property securing repayment of the Municipal Securities;
- (F) the consummation of a merger, consolidation or acquisition involving the Municipality or the sale of all or substantially all of the assets of the Municipality, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (G) appointment of a successor or additional trustee or the change of name of a trustee; or
- (H) incurrence of a Financial Obligation or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation, any of which affect security holders.

(iv) For the purposes of the event identified in subsection (ii)(I), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Municipality in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Municipality, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan or reorganization, arrangement or liquidation by a court or governmental authority having

supervision or jurisdiction over substantially all of the assets or business of the Municipality.

(v) Whenever the Municipality obtains knowledge of the occurrence of an event under subsection (iii), the Municipality shall as soon as possible determine if such event would constitute material information for holders of Municipal Securities. The Municipality shall submit the information in the format prescribed by the Authority.

(vi) The Municipality agrees that from time to time it will also provide notice to the Authority of the occurrence of other events, in addition to those listed above, if such other events are material with respect to the Municipal Securities.

(vii) The Municipality will provide, in a timely manner, to the Authority, notice of a failure to satisfy the requirements of this Section.

(viii) At the request of the Authority, the Municipality will certify and represent that the information with respect to the Municipality in any Disclosure Document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading; provided, however, that in no event will the Authority require the Municipality to make any representation about any other information in the Disclosure Documents or as to any Disclosure Document in its entirety. If for any reason the Municipality determines that it is not able to make that certification and representation, it will provide to the Authority the information for inclusion in the Disclosure Documents necessary for the Municipality to make the certification and representation.

(ix) If at any time during the period ending 90 days after the date the Municipality provides information to the Authority for inclusion in a Disclosure Document any event occurs that the Municipality believes would cause the information with respect to the Municipality in the Disclosure Document to omit a material fact or make the statements therein misleading, the Municipality agrees to promptly notify the Authority in writing of that event and provide information for inclusion in the Disclosure Document or an amendment thereof or a supplement thereto. At the request of the Authority, the Municipality will also provide the certification and representation required in (viii) above with respect to that information.

(x) The Municipality will promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Municipality, or in the ability to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Municipal Securities.

(j) No Free Service. The Municipality will not furnish or supply, or cause to be furnished or supplied, any use, output, capacity or service of the Improvements free of charge to any person, firm, corporation (public or private), public agency or instrumentality other than the Municipality itself.

(k) Commencement of Construction. The Municipality shall initiate construction of the Improvements within twelve (12) months after the Loan Closing.

(l) Archeological Artifacts. In the event that archaeological artifacts or historical resources are unearthed during construction excavation, the Municipality shall stop, or cause to be stopped, construction activities and will notify the superintendent of the State Historical Board of North Dakota and the Authority or the Department of such unearthing and follow all applicable state and federal laws and regulations governing such occurrence.

(m) Additional Covenants and Requirements. If necessary in connection with the Authority's issuance of the Authority Bonds or the making of the Loan, additional covenants and requirements will be evidenced by certificates or other documents in the form or forms as may be agreed upon by the Municipality and the Authority.

(n) Continuing Representations. The covenants and representations of the Municipality contained herein shall be true at the time of the execution of this Loan Agreement and the Municipality agrees that such covenants and representations will be binding and enforceable at all times during the term of this Loan Agreement.

(o) No Lobbying. No portion of the Loan may be used for lobbying or propaganda as prohibited by 18 U.S.C. §1913 or Section 607(a) of Public Law 96-74 or other federal restriction or regulation referenced in the form of North Dakota State Revolving Fund Program Certificate Relating to Lobbying and Litigation which is attached as Exhibit C to this Loan Agreement and shall be executed by the Municipality.

(p) Buy American Requirements. The Municipality covenants and agrees that it will comply with all federal requirements applicable to the Loan (including those imposed by the 2014 Appropriations Act, Public Law No: 113-76 and related SRF regulations and policy guidelines) which the Municipality understands includes, among other requirements, that all of the iron and steel products used in the Improvements are to be produced in the United States ("American Iron and Steel Requirement") unless (a) the Municipality has requested and obtained a waiver from the Department pertaining to the Improvements or (b) the Department or Authority has otherwise advised the Municipality writing that the American Iron and Steel Requirement is not applicable to the Improvements.

(q) Record and Reporting Requirements. The Municipality will comply with all record keeping requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a federal agency, the Department or the Authority such as performance of program deliverables, information on costs and Improvements progress. The Municipality understands that (a) each contract and subcontract related to the Improvements is subject to audit by appropriate federal and state entities and (b) failure to comply with the Clean Water Act/Safe Drinking Water Act and this Loan Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity of the Municipal Securities and/or other remedial actions.

(r) Compliance with Davis Bacon Act. The Municipality shall, to the extent applicable to the Loan or any related grant, comply with the Davis Bacon and Related Acts requirements. 40 U.S.C. 3141, et seq.

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## ARTICLE IV

### ASSIGNMENT

#### Section 4.01. Assignment and Transfer by Authority.

(a) The Municipality acknowledges that, other than the Administrative Fees payable pursuant to the Municipal Bond Resolution, all interests of the Authority in and under this Loan Agreement and the Municipal Securities have been pledged as security for the Authority Bonds, and that if any Event of Default shall occur, the Authority or the Trustee shall be entitled to act hereunder. The Municipality hereby acknowledges and consents that the Authority or the Trustee may compel or enforce the right to receive payments required to be made by the Municipality hereunder and may compel or otherwise enforce observance and performance by the Municipality of its other duties, covenants, obligations and agreements hereunder, and that the right and authority to enforce such requirements may be further transferred, assigned, and reassigned in whole or in part to one or more assignees or subassignees without the necessity of obtaining the consent of, but after giving prior written notice to, the Municipality.

(b) In the event of any assignment or transfer of this Loan Agreement and the Municipal Securities, the Authority shall retain the right to compel or otherwise enforce observance and performance by the Municipality of its obligations and agreement to pay Administrative Fees.

#### Section 4.02. Assignment by Municipality.

(a) This Loan Agreement may not be assigned by the Municipality unless the following conditions shall be satisfied: (i) the Authority shall have approved the assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code, shall be a political subdivision as defined in the Authority Act and shall have expressly assumed in writing the full and faithful observance and performance of the Municipality's duties, covenants, agreements and obligations under this Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Municipality under this Loan Agreement; (iv) the Authority shall have received an opinion of bond counsel to the effect that the assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code; and (v) the Authority shall have received an opinion of its counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority or the State through the Department with, or any condition of any grant received by the Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Authority or the State through the Department.

(b) No assignment under this Section shall relieve the Municipality from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Municipality shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

## ARTICLE V

### DEFAULTS AND REMEDIES

Section 5.01. Events of Default. If any of the following events occur, it is hereby defined and declared to be and to constitute an Event of Default:

(a) Failure by the Municipality to pay, or cause to be paid, any payment, including the payment of principal and interest on the Municipal Securities, required to be paid hereunder when due.

(b) Failure by the Municipality to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Municipality for borrowed money (other than the Loan and the Municipal Securities and after giving effect to any applicable grace period), the payments of which are secured by any revenues derived or to be derived from the Improvements.

(c) Failure by the Municipality to pay, or cause to be paid, the Administrative Fee or any portion thereof when due or to perform or observe any other covenant, agreement or condition on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Municipality by the Authority, unless the Authority shall agree in writing to an extension of the time prior to its expiration; however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Authority may not unreasonably withhold its consent to an extension of time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Municipality within the applicable period and diligently pursued until the Event of Default is corrected.

(d) Any representation made by or on behalf of the Municipality contained in this Loan Agreement or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the Municipal Securities, is false or misleading in any material respect.

(e) A petition is filed by or against the Municipality under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Municipality such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Municipality shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Municipality or any of its property) shall be appointed by court order or take possession of the Municipality or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.02. Notice of Default. The Municipality shall give the Authority prompt telephonic notice of the occurrence of any Event of Default at such time as the Municipality



becomes aware of the existence thereof. Any telephone notice pursuant to this Section 5.02 shall be confirmed in writing as soon as practicable by the Municipality.

Section 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 shall have occurred and be continuing, the Authority shall have the right to take, or to direct the Trustee or its authorized agent to take, any action permitted or required to be taken under the Municipal Bond Resolution or this Loan Agreement or exercise whatever other remedy at law or in equity available to the Authority to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Municipality hereunder. The Authority may also exercise one or more of the following remedies: (i) withhold approval of any disbursement request, (ii) reject any pending application by the Municipality for financial assistance, and (iii) to the extent permitted by law, demand immediate payment of the Loan in full and, upon such demand, the outstanding principal amount of the Loan will be immediately due and payable, with interest accrued thereon to the date of payment.

Section 5.04. Application of Moneys. Any moneys collected by the Authority pursuant to Section 5.03 shall be applied (a) first, to pay interest due and payable on the Municipal Securities, (b) second, to pay principal due and payable on the Municipal Securities, (c) third, to pay any other amounts due and payable under this Loan Agreement.

Section 5.05. No Remedy Exclusive; Waiver; Notice. No remedy conferred upon or reserved to the Authority or the Trustee, is intended to be exclusive and every remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee, to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

Section 5.06. Retention of Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Municipal Bond Resolution, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Municipality at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Municipality to the Authority pursuant to this Loan Agreement and the Municipal Bond Resolution.

Section 5.07. Default by Authority. In the event of any default by the Authority under any covenant, agreement or obligation of this Loan Agreement, the Municipality may pursue any available remedy at law or in equity, including without limitation suit for damages or injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority hereunder as may be necessary or appropriate.

## ARTICLE VI

### MISCELLANEOUS

Section 6.01. Notices. All notices, certificates or other communications under this Loan Agreement shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Municipality, the Authority and the Department at the following addresses:

(a) Authority:

North Dakota Public Finance Authority  
1200 Memorial Highway  
P.O. Box 5509  
Bismarck, North Dakota 58506-5509  
Attention: Executive Director

(b) Department:

North Dakota Department of Environmental Quality  
Division of Municipal Facilities  
918 East Divide Avenue, 3rd Floor  
P.O. Box 5520  
Bismarck, ND 58501-1947

(c) Municipality:

City of Fargo  
200 North 3<sup>rd</sup> Street  
Fargo, ND 58102  
Attention: Finance Director

AND

City of Fargo  
Attention: Bruce Grubb, Enterprise Director  
435 14<sup>th</sup> Ave S.  
Fargo, ND 58103

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Department, the Authority and the Municipality and their respective successors and assigns.

Section 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision.

Section 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Municipality.

Section 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.06. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

Section 6.07. Consents and Approvals. Whenever the written consent or approval of the Authority is required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law or by rules, regulations or resolutions of the Authority or unless expressly delegated to the Authority's agent.

Section 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or Sections of this Loan Agreement.

Section 6.09. Further Assurances. The Municipality will, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement and the Municipal Securities.

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NORTH DAKOTA PUBLIC FINANCE  
AUTHORITY

By: \_\_\_\_\_  
DeAnn Ament, Executive Director

[Signature Page –Loan Agreement (2019C)]

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Tim Mahoney, Mayor

(S E A L)

ATTEST:

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

[Signature Page – Loan Agreement (2019C)]

**EXHIBIT A**

**DESCRIPTION OF IMPROVEMENTS**

Engineering for construction of regional stormwater pond, including storm sewer lift station, storm sewer piping and excavation

**EXHIBIT B**

**MUNICIPAL SECURITIES PAYMENT SCHEDULE**

**[Update?]**

**EXHIBIT C**

**NORTH DAKOTA STATE REVOLVING FUND PROGRAM  
CERTIFICATE RELATING TO LOBBYING AND LITIGATION**

The undersigned hereby certify that they are, respectively, the duly elected or appointed, qualified and acting Mayor and City Auditor of the Municipality (as defined in the North Dakota State Revolving Fund Program Loan Agreement of even date (the "Loan Agreement")), and as such officials, they are familiar with the Municipality's property, affairs, and records, and the undersigned, as such officials, hereby further acknowledge, agree, and certify as follows:

1. No grant or loan funds awarded under this State Revolving Fund Program will be used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The Municipality shall abide by OMB Circulars A-21, A-87, and A-122, which generally prohibit the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

2. The Municipality will comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The Municipality shall incorporate or refer to the language of this provision in the Loan Agreement for all loans exceeding \$100,000.

3. In accordance with the Byrd Anti-Lobbying Amendment, any Municipality which makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

Dated: \_\_\_\_\_, 2019.

CITY OF FARGO, NORTH DAKOTA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Auditor



Draft 10/10/2019

**NORTH DAKOTA  
STATE REVOLVING FUND PROGRAM**

**LOAN AGREEMENT**

**NORTH DAKOTA PUBLIC FINANCE AUTHORITY  
(Lender)**

**and**

**CITY OF FARGO, NORTH DAKOTA  
(Municipality)**

**(To be completed by Public Finance Authority)**

**Dated Date of Loan Agreement: [\_\_\_\_], 2019**

**SRF Program (circle one): Clean Water SRF  
~~Drinking Water SRF~~**

**State Act (circle one): N.D.C.C. ch. 61-28.2 (Clean Water)  
~~N.D.C.C. ch. 61-28.1 (Drinking Water)~~**

**Summary Description of Improvements: Construction of regional stormwater pond**

**Approved Loan Amount: \$10,500,000**

**Construction period: [\_\_\_\_], 2019 to [\_\_\_\_], 2021**

**Form of municipal securities: Refunding Improvement Bonds, Series 2019D**

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## LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of [\_\_\_\_], 2019, by and between the NORTH DAKOTA PUBLIC FINANCE AUTHORITY (the "Authority"), an agency and instrumentality of the State of North Dakota (the "State"), and the CITY OF FARGO, NORTH DAKOTA (the "Municipality"), a political subdivision of the State.

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Administrative Fee" means an annual fee of 1/2 of one percent (.50%) of the outstanding principal amount of the Loan or such lesser amount, if any, as the Authority may approve from time to time.

"Authority Act" means N.D.C.C. ch. 6-09.4.

"Authority Bonds" or "Bonds" mean bonds of the Authority authorized, authenticated, and delivered in order to finance or refinance the Improvements pursuant to this Loan Agreement and to enable the Department, through the Authority, to draw EPA capitalization grant funds for deposit in the SRF.

"Code" means the Internal Revenue Code of 1986 as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder and any administrative or judicial interpretations thereof.

"Costs" means those costs associated with the Improvements and the Loan that are eligible to be funded from the SRF, as determined by the Department and the Authority.

"Department" means the North Dakota Department of Environmental Quality, Division of Municipal Facilities.

"EPA" means the United State Environmental Protection Agency.

"Event of Default" means any occurrence or event specified in Section 5.01 of this Loan Agreement.

"Financial Obligation" means: (i) a debt obligation; (ii) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of a debt obligation or derivative instrument. Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rule Making Board (MSRB) consistent with the Rule.

"General Records" shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Improvements” means the improvement or undertaking of the Municipality described in Exhibit A attached hereto, for purposes of the State Water Pollution Control Revolving Loan Fund and the Federal Clean Water Act, or to the public water system of the Municipality for purposes of the State Safe Drinking Water Act and the Federal Safe Drinking Water Act, all or a portion of the Costs of which are financed or refinanced by the Authority from the SRF through the making of the Loan under this Loan Agreement.

“Loan” means the loan evidenced by the Municipal Securities, made by the Authority to the Municipality pursuant to this Loan Agreement to finance or refinance all or a portion of the Costs of the Improvements. For all purposes of this Loan Agreement, the amount of the Loan at any time shall be the amount of the Loan less any principal amount which has been repaid to the Authority by the Municipality.

“Loan Agreement” means this Loan Agreement, including the Exhibits attached to, and hereby made a part hereof, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Closing” means the date upon which the Municipality shall issue and deliver the documents listed in Section 2.06 of this Loan Agreement and shall be eligible to receive the Loan.

“Loan Commitment” means the offer by the Department to provide financial assistance to the Municipality from the SRF, subject to approval by the Authority. The Loan Commitment, when accepted by the Municipality through appropriate action of its governing body, shall be a “binding commitment” within the meaning of that term in the SRF Act.

“Loan Repayments” means the payments payable by the Municipality pursuant to the Authority, including payments payable under the Municipal Bond Resolution and the Municipal Securities.

“Municipal Bond Resolution” means the resolution(s) or ordinance(s) of the governing body of the Municipality authorizing the issuance of the Municipal Securities.

“Municipality” means the borrower under this Loan Agreement, which must be a “political subdivision,” as defined in section 6-09.4-03(5) of the Authority Act.

“Municipal Securities” means municipal securities, as such term is defined in the Authority Act, executed and delivered by the Municipality to the Authority to evidence the Loan in accordance with the Municipal Bond Resolution.

“SRF” means the revolving loan fund(s) created by the State Act.

“SRF Act” means, for purposes of the State Water Pollution Control Revolving Loan Fund Act, the Federal Clean Water Act, and for purposes of the State Safe Drinking Water Act, the Federal Safe Drinking Water Act, including any regulations and guidelines promulgated thereunder.

“State Act” means, for purposes of the Federal Clean Water Act, N.D.C.C. ch. 61-28.2 (the State Water Pollution Control Revolving Loan Fund Act), and, for purposes of the Federal Safe Drinking Water Act, N.D.C.C. ch. 61-28.1 (the State Safe Drinking Water Act).

“System Records” shall have the same meaning given in Section 3.01(f) of this Loan Agreement.

“Trustee” means the Trustee appointed by the Authority pursuant to the State Revolving Fund Program Master Trust Indenture and its successor or successors and any other trustee which may at any time be substituted in its place as Trustee pursuant to the Indenture.

Section 1.02. Additional Terms. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

[The remainder of this page left intentionally blank.]

## ARTICLE II

### LOAN; OBLIGATIONS; DISCLAIMER; DELIVERY OF DOCUMENTS

Section 2.01. The Loan. The Authority hereby agrees to loan and disburse to the Municipality, and the Municipality agrees to borrow and accept from the Authority, the Loan in the principal amount of the Municipal Securities, plus accrued interest, if any. The Municipality shall use the proceeds of the Loan to pay the Costs of the Improvements in accordance with the Municipal Bond Resolution and this Loan Agreement.

Section 2.02. Disbursement of Loan Proceeds. The Authority will disburse the Loan upon (a) execution and delivery by the Municipality of the documents described in Section 2.06, (b) issuance and delivery by the Municipality of the Municipal Securities to the Authority, and (c) submission to and approval by the Department and the Authority of Requisitions for Payment in the form approved by the Department.

Section 2.03. Draws of Municipal Securities Proceeds. The proceeds of the Municipal Securities are appropriated by the Municipality to pay expenses necessarily incurred in the construction and completion of the Improvements and the issuance of the Municipal Securities. Requests for draws on the Loan, in the form of Requisitions for Payment, shall be submitted by the Municipality to the Department from time to time in accordance with procedures established by the Department. Requisitions for Payment approved by the Department shall be forwarded to the Authority and the Trustee for approval and funding. After all claims and expenses with respect to the Improvements and the issuance of the Municipal Securities have been duly paid and satisfied, the amortization schedule for the Municipal Securities shall be adjusted to reflect the total principal amount drawn under this Loan Agreement.

Section 2.04. Unconditional Obligations. The Municipality shall not be obligated to make any payments required to be made by any other political subdivision with respect to the lending of funds by the Authority from the SRF.

Section 2.05. Disclaimer of Warranties. The Municipality acknowledges and agrees that (i) neither the Authority nor the Department has made or makes any warranty or representation, either express or implied as to the value, design, condition, merchantability or fitness for a particular purpose or fitness for any use of the Improvements or any portions thereof or any other warranty or representation with respect thereto; and (ii) in no event shall the Authority, nor the Department or their respective officers, directors, employees, or agents be liable or responsible for any direct, incidental, indirect, special or consequential damages in connection with or arising out of this Loan Agreement or the Improvements or the existence, furnishing, functioning or use of the Improvements.

Section 2.06. Delivery of Documents. Concurrently with the execution and delivery of this Loan Agreement, the Municipality will cause each of the following items to be delivered to the Authority:

- (a) Executed counterparts of this Loan Agreement.

(b) Copies of the Municipal Bond Resolution adopted October 21, 2019 by the governing body of the Municipality authorizing the execution and delivery of this Loan Agreement and the Municipal Securities, certified by an authorized officer of the Municipality.

(c) An arbitrage certificate and a closing certificate covering such matters as may be agreed upon by the Municipality and the Authority.

(d) An opinion or opinions of the Municipality's counsel which may be given by one or more counsel, covering such matters concerning the validity and tax status of the Municipal Securities as may be agreed upon by the Municipality and the Authority.

(e) Such other certificates, documents, opinions and information as the Authority may require.

The documents referred to above must be prepared and provided by the Municipality to the Authority prior to the Loan Closing for review and approval.

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## ARTICLE III

### COVENANTS AND REPRESENTATIONS

#### Section 3.01. Covenants and Representations of Municipality.

(a) Performance Under Loan Agreement. The Municipality covenants and agrees (i) to maintain the Improvements in good repair and operating condition and (ii) to cooperate with the Authority and the Department in the observance and performance of the respective duties, covenants, obligations and agreements of the Municipality and the Authority under this Loan Agreement.

(b) Completion of Improvements and Provision of Moneys Therefor. The Municipality covenants and agrees (i) to exercise its best efforts in accordance with prudent utility practice to complete the Improvements and to so accomplish such completion on or before the estimated Improvements completion date; and (ii) to provide from its own fiscal resources all moneys in excess of the total amount of the Loan required to complete the Improvements.

(c) Disposition of Improvements. The Municipality covenants and agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all or any substantial portion of the Improvements or any other system which provides revenues for upkeep and maintenance of the Improvements except on ninety (90) days prior written notice to the Authority and, in any event, shall not sell, lease, abandon or otherwise dispose of the Improvements unless the following conditions are met: (i) the Municipality, with the approval of the Authority, shall assign this Loan Agreement and its rights and interests hereunder in accordance with Section 4.02 to the purchaser or lessee of the Improvements which must be a political subdivision as defined in the Authority Act, and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Municipality under this Loan Agreement; and (ii) the Authority, in its sole discretion, by appropriate action determines that such sale, lease, abandonment or other disposition will not adversely affect (A) the ability of the Municipality or its assignees to meet its duties, covenants, obligations and agreements under the Municipal Bond Resolution, (B) the value of this Loan Agreement as security for the payment of Authority Bonds and interest thereon, (C) the eligibility of interest on Authority Bonds then outstanding or which could be issued in the future for exclusion from gross income for purposes of federal income taxation, or (D) any agreement entered into by the Authority or the State through the Department with, or any condition of any grant received by the Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Authority or the State through the Department.

(d) Operation and Maintenance of Improvements. The Municipality covenants and agrees that it will, in accordance with prudent wastewater or drinking water treatment utility practice, as the case may be, (i) at all times operate the Improvements and the properties associated with and operated in conjunction with the Improvements and any business in connection therewith in an efficient manner, (ii) maintain the Improvements in good repair, working order and operating condition, (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the Improvements so that at all times the

enterprise or business carried on in connection therewith shall be properly and advantageously conducted; provided that this covenant shall not be construed as requiring the Municipality to expend any funds which are derived from sources other than the operation of the Improvements or other receipts of such Improvements which are not pledged under the Municipal Bond Resolution for such purpose, and provided further that nothing herein shall be construed as preventing the Municipality from doing so.

(e) The Municipality covenants and agrees that the proceeds of the Loan shall be used and expended in a manner consistent with the State Act and the SRF Act, all regulations and guidelines promulgated thereunder, and this Loan Agreement.

(f) Records; Accounts.

(i) The Municipality will, to the extent required by generally accepted government accounting principles, keep accurate records and accounts for the utility (the "System Records") separate from its other records and accounts (the "General Records"). The System Records will be maintained in accordance with generally accepted government accounting principles and will be audited annually or biennially by an independent accountant, which audit may be part of the annual or biennial audit of the General Records of the Municipality. The System Records and General Records will be made available for inspection by the Authority and the Department at any reasonable time. A copy of the Municipality's audited financial statements, including all written comments and recommendations of the auditor, will be furnished to the Authority within 150 days of the close of the fiscal year or years being audited. The Municipality agrees that its financial reports for the year or years which it receives draws under this Agreement shall be prepared in accordance with the Federal Single Audit Act and the Federal Office of Management and Budget's Circular A-128.

(ii) The Municipality will keep, or cause to be kept, accurate records, if such records must be kept for compliance with the requirements of Section 148 of the Code, of each investment it makes in investment property (as that term is defined in Section 148(b) of the Code) acquired, directly or indirectly, with proceeds of the Authority Bonds. The Authority will advise the Municipality if the loan is not being funded with the proceeds of Authority Bonds. Further, with respect to such investments made by the Municipality which are not excepted from the computation of rebate under Section 148(f)(4) of the Code, the Municipality (A) will calculate, or cause to be calculated, the amount (the "rebate amount") that is to be rebated to the United States Treasury pursuant to Section 148(f) of the Code, and (B) will for each computation date under Section 148(f) of the Code (or on any further periodic basis requested in writing by the Authority) remit the following to the Authority: (1) the calculations supporting the determination of the rebate amount and (2) an amount of money equal to the rebate installment then owed. To the extent any such rebate amounts (or the investment income thereon) are in excess of the Authority's rebate requirement allocable to the Municipal Securities, such amounts will be promptly returned by the Authority to the Municipality.

(g) Inspections; Information. The Municipality will permit the Authority, the Department, and the Trustee, and any designated party to examine, visit and inspect, at any and all reasonable times, the property constituting the Improvements, and to inspect and make copies of any accounts, books and records, including (without limitation) its Systems Records, General Records, and any other records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and will supply such reports and information as the Authority, the Department and the Trustee may reasonably require in connection therewith.

(h) Insurance. The Municipality shall maintain or cause to be maintained, in force, insurance policies with responsible insurers or self insurance programs covering risk of direct physical loss, damage or destruction of the Improvements, at least to the extent of similar insurance usually carried by utilities constructing, operating and maintaining, works of the nature of the Improvements, including liability coverage, but in no case less than will satisfy all applicable regulatory requirements. The Authority, the Department and the Trustee may require the Municipality to provide them with evidence of insurance on the Improvements.

(i) Costs of Improvements. The Municipality certifies that the Costs of the Improvements provided to the Authority are a reasonable and accurate estimation, and upon direction of the Authority will provide a certificate from its engineer stating that such Costs are a reasonable and accurate estimation.

(j) Continuing Disclosure.

(i) So long as the Municipality shall constitute an obligated person within the meaning, of S.E.C. Rule 15c2-12 (the "Rule") as in effect from time to time, the Municipality agrees to furnish to the Authority any such information it requires in order to comply with the provisions of the Rule, including audited financial statements and operating data with respect to the Municipality at such time and in such forms as the Authority shall reasonably request. The Municipality consents to the inclusion of such information in the Authority's official statement(s) used in connection with the issuance and sale or the re-marketing of its bonds or continuing disclosure with respect to its bonds (collectively, the "Disclosure Documents"), whether or not all or a portion of the proceeds of the bonds were or will be loaned to the Municipality.

(ii) The Municipality shall provide notice to the Authority of the occurrence of any of the following events with respect to the Municipal Securities in a timely manner not in excess of ten business days after the occurrence of the event:

- (A) principal and interest payment delinquencies;
- (B) unscheduled draws on debt service reserves reflecting financial difficulties;
- (C) unscheduled draws on credit enhancements reflecting financial difficulties;
- (D) substitution of credit or liquidity providers, if any, or their failure to perform;

- (E) adverse tax opinions or the issuance by the IRS of proposed or final determinations of taxability or of a Notice of Proposed Issue (IRS Form 5701-TEB);
- (F) tender offers;
- (G) defeasances;
- (H) rating changes;
- (I) bankruptcy, insolvency, receivership or similar event of the Municipality; or
- (J) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation, any of which reflect financial difficulties.

(iii) The Municipality shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Municipal Securities, *if material*, in a timely manner not in excess of ten business days after the occurrence of the event:

- (A) non-payment related defaults;
- (B) unless described in (ii)(E) above, other notices or determinations by the IRS with respect to the tax-exempt status of the Municipal Securities, or other events affecting the tax-exempt status of the Municipal Securities;
- (C) modifications to rights of holders of the Municipal Securities;
- (D) bond calls;
- (E) release, substitution or sale of property securing repayment of the Municipal Securities;
- (F) the consummation of a merger, consolidation or acquisition involving the Municipality or the sale of all or substantially all of the assets of the Municipality, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (G) appointment of a successor or additional trustee or the change of name of a trustee; or
- (H) incurrence of a Financial Obligation or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation, any of which affect security holders.

(iv) For the purposes of the event identified in subsection (ii)(I), the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Municipality in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Municipality, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan or reorganization, arrangement or liquidation by a court or governmental authority having

supervision or jurisdiction over substantially all of the assets or business of the Municipality.

(v) Whenever the Municipality obtains knowledge of the occurrence of an event under subsection (iii), the Municipality shall as soon as possible determine if such event would constitute material information for holders of Municipal Securities. The Municipality shall submit the information in the format prescribed by the Authority.

(vi) The Municipality agrees that from time to time it will also provide notice to the Authority of the occurrence of other events, in addition to those listed above, if such other events are material with respect to the Municipal Securities.

(vii) The Municipality will provide, in a timely manner, to the Authority, notice of a failure to satisfy the requirements of this Section.

(viii) At the request of the Authority, the Municipality will certify and represent that the information with respect to the Municipality in any Disclosure Document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading; provided, however, that in no event will the Authority require the Municipality to make any representation about any other information in the Disclosure Documents or as to any Disclosure Document in its entirety. If for any reason the Municipality determines that it is not able to make that certification and representation, it will provide to the Authority the information for inclusion in the Disclosure Documents necessary for the Municipality to make the certification and representation.

(ix) If at any time during the period ending 90 days after the date the Municipality provides information to the Authority for inclusion in a Disclosure Document any event occurs that the Municipality believes would cause the information with respect to the Municipality in the Disclosure Document to omit a material fact or make the statements therein misleading, the Municipality agrees to promptly notify the Authority in writing of that event and provide information for inclusion in the Disclosure Document or an amendment thereof or a supplement thereto. At the request of the Authority, the Municipality will also provide the certification and representation required in (viii) above with respect to that information.

(x) The Municipality will promptly notify the Authority of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Municipality, or in the ability to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Municipal Securities.

(k) No Free Service. The Municipality will not furnish or supply, or cause to be furnished or supplied, any use, output, capacity or service of the Improvements free of charge to any person, firm, corporation (public or private), public agency or instrumentality other than the Municipality itself.

(l) Commencement of Construction. The Municipality shall initiate construction of the Improvements within twelve (12) months after the Loan Closing.

(m) Archeological Artifacts. In the event that archaeological artifacts or historical resources are unearthed during construction excavation, the Municipality shall stop, or cause to be stopped, construction activities and will notify the superintendent of the State Historical Board of North Dakota and the Authority or the Department of such unearthing and follow all applicable state and federal laws and regulations governing such occurrence.

(n) Additional Covenants and Requirements. If necessary in connection with the Authority's issuance of the Authority Bonds or the making of the Loan, additional covenants and requirements will be evidenced by certificates or other documents in the form or forms as may be agreed upon by the Municipality and the Authority.

(o) Continuing Representations. The covenants and representations of the Municipality contained herein shall be true at the time of the execution of this Loan Agreement and the Municipality agrees that such covenants and representations will be binding and enforceable at all times during the term of this Loan Agreement.

(p) No Lobbying. No portion of the Loan may be used for lobbying or propaganda as prohibited by 18 U.S.C. §1913 or Section 607(a) of Public Law 96-74 or other federal restriction or regulation referenced in the form of North Dakota State Revolving Fund Program Certificate Relating to Lobbying and Litigation which is attached as Exhibit C to this Loan Agreement and shall be executed by the Municipality.

(q) Buy American Requirements. The Municipality covenants and agrees that it will comply with all federal requirements applicable to the Loan (including those imposed by the 2014 Appropriations Act, Public Law No: 113-76 and related SRF regulations and policy guidelines) which the Municipality understands includes, among other requirements, that all of the iron and steel products used in the Improvements are to be produced in the United States ("American Iron and Steel Requirement") unless (a) the Municipality has requested and obtained a waiver from the Department pertaining to the Improvements or (b) the Department or Authority has otherwise advised the Municipality writing that the American Iron and Steel Requirement is not applicable to the Improvements.

(r) Record and Reporting Requirements. The Municipality will comply with all record keeping requirements under the Clean Water Act/Safe Drinking Water Act, including any reports required by a federal agency, the Department or the Authority such as performance of program deliverables, information on costs and Improvements progress. The Municipality understands that (a) each contract and subcontract related to the Improvements is subject to audit by appropriate federal and state entities and (b) failure to comply with the Clean Water Act/Safe Drinking Water Act and this Loan Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity of the Municipal Securities and/or other remedial actions.

(s) Compliance with Davis Bacon Act. The Municipality shall, to the extent applicable to the Loan or any related grant, comply with the Davis Bacon and Related Acts requirements. 40 U.S.C. 3141, et seq.

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## ARTICLE IV

### ASSIGNMENT

#### Section 4.01. Assignment and Transfer by Authority.

(a) The Municipality acknowledges that, other than the Administrative Fees payable pursuant to the Municipal Bond Resolution, all interests of the Authority in and under this Loan Agreement and the Municipal Securities have been pledged as security for the Authority Bonds, and that if any Event of Default shall occur, the Authority or the Trustee shall be entitled to act hereunder. The Municipality hereby acknowledges and consents that the Authority or the Trustee may compel or enforce the right to receive payments required to be made by the Municipality hereunder and may compel or otherwise enforce observance and performance by the Municipality of its other duties, covenants, obligations and agreements hereunder, and that the right and authority to enforce such requirements may be further transferred, assigned, and reassigned in whole or in part to one or more assignees or subassignees without the necessity of obtaining the consent of, but after giving prior written notice to, the Municipality.

(b) In the event of any assignment or transfer of this Loan Agreement and the Municipal Securities, the Authority shall retain the right to compel or otherwise enforce observance and performance by the Municipality of its obligations and agreement to pay Administrative Fees.

#### Section 4.02. Assignment by Municipality.

(a) This Loan Agreement may not be assigned by the Municipality unless the following conditions shall be satisfied: (i) the Authority shall have approved the assignment in writing; (ii) the assignee shall be a governmental unit within the meaning of Section 141(c) of the Code, shall be a political subdivision as defined in the Authority Act and shall have expressly assumed in writing the full and faithful observance and performance of the Municipality's duties, covenants, agreements and obligations under this Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations or agreements of the Municipality under this Loan Agreement; (iv) the Authority shall have received an opinion of bond counsel to the effect that the assignment will not adversely affect the exclusion of interest on the Authority Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code; and (v) the Authority shall have received an opinion of its counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority or the State through the Department with, or any condition of any grant received by the Authority or the State through the Department from, the United States of America, which is related to any SRF capitalization grant received by the Authority or the State through the Department.

(b) No assignment under this Section shall relieve the Municipality from primary liability for any of its obligations under this Loan Agreement and in the event of such assignment, the Municipality shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.



## ARTICLE V

### DEFAULTS AND REMEDIES

Section 5.01. Events of Default. If any of the following events occur, it is hereby defined and declared to be and to constitute an Event of Default:

(a) Failure by the Municipality to pay, or cause to be paid, any payment, including the payment of principal and interest on the Municipal Securities, required to be paid hereunder when due.

(b) Failure by the Municipality to make, or cause to be made, any required payments of principal, redemption premium, if any, and interest on any bonds, notes or other obligations of the Municipality for borrowed money (other than the Loan and the Municipal Securities and after giving effect to any applicable grace period), the payments of which are secured by any revenues derived or to be derived from the Improvements.

(c) Failure by the Municipality to pay, or cause to be paid, the Administrative Fee or any portion thereof when due or to perform or observe any other covenant, agreement or condition on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Municipality by the Authority, unless the Authority shall agree in writing to an extension of the time prior to its expiration; however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Authority may not unreasonably withhold its consent to an extension of time up to 120 days from the delivery of the written notice referred to above if corrective action is instituted by the Municipality within the applicable period and diligently pursued until the Event of Default is corrected.

(d) Any representation made by or on behalf of the Municipality contained in this Loan Agreement or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan or in connection with the Municipal Securities, is false or misleading in any material respect.

(e) A petition is filed by or against the Municipality under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Municipality such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal; or the Municipality shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Municipality or any of its property) shall be appointed by court order or take possession of the Municipality or its property or assets if such order remains in effect or such possession continues for more than thirty (30) days.

Section 5.02. Notice of Default. The Municipality shall give the Authority prompt telephonic notice of the occurrence of any Event of Default at such time as the Municipality

becomes aware of the existence thereof. Any telephone notice pursuant to this Section 5.02 shall be confirmed in writing as soon as practicable by the Municipality.

Section 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 shall have occurred and be continuing, the Authority shall have the right to take, or to direct the Trustee or its authorized agent to take, any action permitted or required to be taken under the Municipal Bond Resolution or this Loan Agreement or exercise whatever other remedy at law or in equity available to the Authority to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Municipality hereunder. The Authority may also exercise one or more of the following remedies: (i) withhold approval of any disbursement request, (ii) reject any pending application by the Municipality for financial assistance, and (iii) to the extent permitted by law, demand immediate payment of the Loan in full and, upon such demand, the outstanding principal amount of the Loan will be immediately due and payable, with interest accrued thereon to the date of payment.

Section 5.04. Application of Moneys. Any moneys collected by the Authority pursuant to Section 5.03 shall be applied (a) first, to pay interest due and payable on the Municipal Securities, (b) second, to pay principal due and payable on the Municipal Securities, (c) third, to pay any other amounts due and payable under this Loan Agreement.

Section 5.05. No Remedy Exclusive; Waiver; Notice. No remedy conferred upon or reserved to the Authority or the Trustee, is intended to be exclusive and every remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee, to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

Section 5.06. Retention of Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof or of the Municipal Bond Resolution, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Municipality at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Municipality to the Authority pursuant to this Loan Agreement and the Municipal Bond Resolution.

Section 5.07. Default by Authority. In the event of any default by the Authority under any covenant, agreement or obligation of this Loan Agreement, the Municipality may pursue any available remedy at law or in equity, including without limitation suit for damages or injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the Authority hereunder as may be necessary or appropriate.

## ARTICLE VI

### MISCELLANEOUS

Section 6.01. Notices. All notices, certificates or other communications under this Loan Agreement shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Municipality, the Authority and the Department at the following addresses:

(a) Authority:

North Dakota Public Finance Authority  
1200 Memorial Highway  
P.O. Box 5509  
Bismarck, North Dakota 58506-5509  
Attention: Executive Director

(b) Department:

North Dakota Department of Environmental Quality  
Division of Municipal Facilities  
918 East Divide Avenue, 3rd Floor  
P.O. Box 5520  
Bismarck, ND 58501-1947

(c) Municipality:

City of Fargo  
200 North 3<sup>rd</sup> Street  
Fargo, ND 58102  
Attention: Finance Director

AND

City of Fargo  
Attention: Bruce Grubb, Enterprise Director  
435 14<sup>th</sup> Ave S.  
Fargo, ND 58103

Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Department, the Authority and the Municipality and their respective successors and assigns.

Section 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision.

Section 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority and the Municipality.

Section 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.06. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

Section 6.07. Consents and Approvals. Whenever the written consent or approval of the Authority is required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law or by rules, regulations or resolutions of the Authority or unless expressly delegated to the Authority's agent.

Section 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or Sections of this Loan Agreement.

Section 6.09. Further Assurances. The Municipality will, at the request of the Authority, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement and the Municipal Securities.

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NORTH DAKOTA PUBLIC FINANCE  
AUTHORITY

By: \_\_\_\_\_  
DeAnn Ament, Executive Director

[Signature Page –Loan Agreement (2019D)]

CITY OF FARGO, NORTH DAKOTA

By: \_\_\_\_\_  
Tim Mahoney, Mayor

(S E A L)

ATTEST:

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

[Signature Page – Loan Agreement (2019D)]

**EXHIBIT A**

**DESCRIPTION OF IMPROVEMENTS**

Construction of regional stormwater pond, including storm sewer lift station, storm sewer piping and excavation

## EXHIBIT B

## MUNICIPAL SECURITIES PAYMENT SCHEDULE

Date	Principal	Interest	Total Principal & Interest	Annual P&I Payment	Outstanding Balance	Admin. Fee	Total Payment	Annual Total Payment
9/1/2019	-	26,250.00	26,250.00	26,250.00	10,500,000.00			
3/1/2020	-	78,750.00	78,750.00	-	10,500,000.00	8,750.00	35,000.00	35,000.00
9/1/2020	-	78,750.00	78,750.00	137,500.00	10,500,000.00	26,250.00	105,000.00	210,000.00
3/1/2021	-	78,750.00	78,750.00	-	10,500,000.00	26,250.00	105,000.00	-
9/1/2021	260,000.00	78,750.00	338,750.00	417,500.00	10,240,000.00	26,250.00	365,000.00	470,000.00
3/1/2022	-	76,800.00	76,800.00	-	10,240,000.00	23,600.00	102,400.00	-
9/1/2022	265,000.00	76,800.00	341,800.00	418,600.00	9,975,000.00	25,600.00	367,400.00	469,800.00
3/1/2023	-	74,812.50	74,812.50	-	9,975,000.00	24,937.50	99,750.00	-
9/1/2023	270,000.00	74,812.50	344,812.50	419,625.00	9,705,000.00	24,937.50	369,750.00	469,500.00
3/1/2024	-	72,787.50	72,787.50	-	9,705,000.00	24,262.50	97,050.00	-
9/1/2024	275,000.00	72,787.50	347,787.50	420,575.00	9,430,000.00	24,262.50	372,050.00	469,100.00
3/1/2025	-	70,725.00	70,725.00	-	9,430,000.00	23,575.00	94,300.00	-
9/1/2025	280,000.00	70,725.00	350,725.00	421,450.00	9,150,000.00	23,575.00	374,300.00	468,600.00
3/1/2026	-	68,625.00	68,625.00	-	9,150,000.00	22,875.00	91,500.00	-
9/1/2026	285,000.00	68,625.00	353,625.00	422,250.00	8,865,000.00	22,875.00	376,500.00	468,000.00
3/1/2027	-	66,487.50	66,487.50	-	8,865,000.00	22,162.50	88,650.00	-
9/1/2027	290,000.00	66,487.50	356,487.50	422,975.00	8,575,000.00	22,162.50	378,650.00	467,300.00
3/1/2028	-	64,312.50	64,312.50	-	8,575,000.00	21,437.50	85,750.00	-
9/1/2028	295,000.00	64,312.50	359,312.50	423,625.00	8,280,000.00	21,437.50	380,750.00	466,500.00
3/1/2029	-	62,100.00	62,100.00	-	8,280,000.00	20,700.00	82,800.00	-
9/1/2029	300,000.00	62,100.00	367,100.00	429,200.00	7,975,000.00	20,700.00	387,800.00	470,600.00
3/1/2030	-	59,812.50	59,812.50	-	7,975,000.00	19,937.50	79,750.00	-
9/1/2030	310,000.00	59,812.50	369,812.50	429,625.00	7,665,000.00	19,937.50	389,750.00	469,500.00
3/1/2031	-	57,487.50	57,487.50	-	7,665,000.00	19,162.50	76,650.00	-
9/1/2031	315,000.00	57,487.50	372,487.50	429,975.00	7,350,000.00	19,162.50	391,650.00	468,300.00
3/1/2032	-	55,125.00	55,125.00	-	7,350,000.00	18,375.00	73,500.00	-
9/1/2032	320,000.00	55,125.00	375,125.00	430,250.00	7,030,000.00	18,375.00	393,500.00	467,000.00
3/1/2033	-	52,725.00	52,725.00	-	7,030,000.00	17,575.00	70,300.00	-
9/1/2033	330,000.00	52,725.00	382,725.00	433,450.00	6,700,000.00	17,575.00	400,300.00	470,600.00
3/1/2034	-	50,250.00	50,250.00	-	6,700,000.00	16,750.00	67,000.00	-
9/1/2034	335,000.00	50,250.00	385,250.00	435,500.00	6,365,000.00	16,750.00	402,000.00	469,000.00
3/1/2035	-	47,737.50	47,737.50	-	6,365,000.00	15,912.50	63,650.00	-
9/1/2035	340,000.00	47,737.50	387,737.50	435,475.00	6,025,000.00	15,912.50	403,650.00	467,300.00
3/1/2036	-	45,187.50	45,187.50	-	6,025,000.00	15,062.50	60,250.00	-
9/1/2036	350,000.00	45,187.50	395,187.50	440,375.00	5,675,000.00	15,062.50	410,250.00	470,500.00
3/1/2037	-	42,562.50	42,562.50	-	5,675,000.00	14,187.50	56,750.00	-
9/1/2037	355,000.00	42,562.50	397,562.50	440,125.00	5,320,000.00	14,187.50	411,750.00	468,500.00
3/1/2038	-	39,900.00	39,900.00	-	5,320,000.00	13,300.00	53,200.00	-
9/1/2038	360,000.00	39,900.00	399,900.00	439,800.00	4,960,000.00	13,300.00	413,200.00	466,400.00
3/1/2039	-	37,200.00	37,200.00	-	4,960,000.00	12,400.00	49,600.00	-
9/1/2039	370,000.00	37,200.00	407,200.00	444,400.00	4,590,000.00	12,400.00	419,600.00	469,200.00
3/1/2040	-	34,425.00	34,425.00	-	4,590,000.00	11,475.00	45,900.00	-
9/1/2040	375,000.00	34,425.00	409,425.00	443,850.00	4,215,000.00	11,475.00	420,900.00	466,800.00
3/1/2041	-	31,612.50	31,612.50	-	4,215,000.00	10,537.50	42,150.00	-
9/1/2041	385,000.00	31,612.50	416,612.50	448,225.00	3,830,000.00	10,537.50	427,150.00	469,300.00
3/1/2042	-	28,725.00	28,725.00	-	3,830,000.00	9,575.00	38,300.00	-
9/1/2042	390,000.00	28,725.00	418,725.00	447,450.00	3,440,000.00	9,575.00	428,300.00	466,600.00
3/1/2043	-	25,800.00	25,800.00	-	3,440,000.00	8,600.00	34,400.00	-
9/1/2043	400,000.00	25,800.00	425,800.00	451,600.00	3,040,000.00	8,600.00	434,400.00	468,800.00
3/1/2044	-	22,800.00	22,800.00	-	3,040,000.00	7,600.00	30,400.00	-
9/1/2044	410,000.00	22,800.00	432,800.00	455,600.00	2,630,000.00	7,600.00	440,400.00	470,800.00
3/1/2045	-	19,725.00	19,725.00	-	2,630,000.00	6,575.00	26,300.00	-
9/1/2045	415,000.00	19,725.00	434,725.00	454,450.00	2,215,000.00	6,575.00	441,300.00	467,600.00
3/1/2046	-	16,612.50	16,612.50	-	2,215,000.00	5,537.50	22,150.00	-
9/1/2046	425,000.00	16,612.50	441,612.50	458,225.00	1,790,000.00	5,537.50	447,150.00	469,300.00
3/1/2047	-	13,425.00	13,425.00	-	1,790,000.00	4,475.00	17,900.00	-
9/1/2047	435,000.00	13,425.00	448,425.00	461,850.00	1,355,000.00	4,475.00	452,000.00	470,800.00
3/1/2048	-	10,162.50	10,162.50	-	1,355,000.00	3,387.50	13,550.00	-
9/1/2048	440,000.00	10,162.50	450,162.50	460,325.00	915,000.00	3,387.50	453,550.00	467,100.00
3/1/2049	-	6,862.50	6,862.50	-	915,000.00	2,287.50	9,150.00	-
9/1/2049	450,000.00	6,862.50	456,862.50	463,725.00	465,000.00	2,287.50	459,150.00	468,300.00
3/1/2050	-	3,487.50	3,487.50	-	465,000.00	1,162.50	4,650.00	-
9/1/2050	465,000.00	3,487.50	468,487.50	471,975.00	-	1,162.50	469,650.00	474,300.00
<b>Total</b>	<b>\$ 10,500,000.00</b>	<b>\$ 2,857,900.00</b>	<b>\$ 13,357,900.00</b>	<b>\$ 13,357,900.00</b>		<b>\$ 957,600.00</b>	<b>\$ 14,310,400.00</b>	<b>\$ 14,310,400.00</b>



**EXHIBIT C**

**NORTH DAKOTA STATE REVOLVING FUND PROGRAM  
CERTIFICATE RELATING TO LOBBYING AND LITIGATION**

The undersigned hereby certify that they are, respectively, the duly elected or appointed, qualified and acting Mayor and City Auditor of the Municipality (as defined in the North Dakota State Revolving Fund Program Loan Agreement of even date (the "Loan Agreement")), and as such officials, they are familiar with the Municipality's property, affairs, and records, and the undersigned, as such officials, hereby further acknowledge, agree, and certify as follows:

1. No grant or loan funds awarded under this State Revolving Fund Program will be used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The Municipality shall abide by OMB Circulars A-21, A-87, and A-122, which generally prohibit the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

2. The Municipality will comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The Municipality shall incorporate or refer to the language of this provision in the Loan Agreement for all loans exceeding \$100,000.

3. In accordance with the Byrd Anti-Lobbying Amendment, any Municipality which makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

Dated: \_\_\_\_\_, 2019.

**CITY OF FARGO, NORTH DAKOTA**

By \_\_\_\_\_  
Mayor


By \_\_\_\_\_  
City Auditor



8

## MEMORANDUM

**TO:** BOARD OF CITY COMMISSIONERS

**FROM:** DESI FLEMING   
DIRECTOR OF PUBLIC HEALTH

**DATE:** NOVEMBER 26, 2019

**RE:** AGREEMENT FOR SERVICES WITH ANNIE WOOD FOR  
CASS CLAY FOOD ACTION NETWORK MEETINGS \$900

The attached Agreement for Services with Annie Wood for a maximum of \$900 for assistance in presentation creation connected with the Cass Clay Food Action Network. There will be six events at \$150 per event.

No budget adjustment is required for this contract.

**Suggested Motion:** Move to approve the Agreement for Services with Annie Wood.

DF/lis  
Enclosure



## AGREEMENT FOR SERVICES



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

**THIS AGREEMENT**, effective the 18<sup>th</sup> day of November 2019, by and between Fargo Cass Public Health ("FCPH"); and Annie Wood (Independent Contracting Consultant).

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of November 18, 2019 through September 30, 2020.
- B. Services to be provided by independent contractor:** Independent contractor will work closely with the Cass Clay Food Partners and the Cass Clay Food Action Network Project Manager to assist event presenters with presentation creation and effective ways to "share their story". Services will be provided for 6 events.
- C. Reimbursement:** The independent contracting consultant shall be reimbursed at a rate of \$150/event with a maximum of \$900 for services and will submit an invoice twice during the contract period.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish or communicate any individually identifiable health information or other confidential information to any person, firm or corporation without consent unless that disclosure is authorized under North Dakota law.

**Special Considerations:**

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

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

**FARGO CASS PUBLIC HEALTH**

By Desi Fleming  
Desi Fleming, Director of Public Health

Date 11/26/2019

By \_\_\_\_\_  
Timothy, J. Mahoney, Mayor, City of Fargo

Date \_\_\_\_\_

**Annie Wood, Independent Contractor**

By Annie Wood  
Annie Wood, Independent Contractor


Date 11/24/19

Contract Originator: Kim Lipetzky

9

## MEMORANDUM

**TO:** BOARD OF CITY COMMISSIONERS

**FROM:** DESI FLEMING   
DIRECTOR OF PUBLIC HEALTH

**DATE:** NOVEMBER 26, 2019

**RE:** AGREEMENT FOR SERVICES WITH GIA RASSIER FOR  
CASS CLAY FOOD ACTION NETWORK MEETINGS  
\$1,440

The attached Agreement for Services with Gia Rassier for a maximum of \$1,440 for services of marketing and promotion connected with the Cass Clay Food Action Network

No budget adjustment is required for this contract.

**Suggested Motion:** Move to approve the Agreement for Services with Gia Rassier.

DF/lls  
Enclosure



## AGREEMENT FOR SERVICES



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

**THIS AGREEMENT**, effective the 18<sup>th</sup> day of November 2019, by and between Fargo Cass Public Health ("FCPH"); and Gia Rassier (Independent Contracting Consultant).

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto as follows:

- A. Term of Agreement:** The parties entered into a written agreement for the period of November 18, 2019 through September 30, 2020.
- B. Services to be provided by independent contractor:** Independent contractor will work closely with the Cass Clay Food Partners to implement and conduct the Cass Clay Food Action Network meetings (also known as First Fridays @ B). Work includes planning the program and content for 6 events, work with the facility on set up and technology needs, market and promote events utilizing media, social media, etc. and videotaping events.
- C. Reimbursement:** The independent contracting consultant shall be reimbursed at a rate of \$240/event with a maximum of \$1,440 for services and will submit an invoice twice during the contract period.
- D. Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish or communicate any individually identifiable health information or other confidential information to any person, firm or corporation without consent unless that disclosure is authorized under North Dakota law.

**Special Considerations:**

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

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

**FARGO CASS PUBLIC HEALTH**

**Gia Rassier, Independent Contractor**

By Desi Fleming  
Desi Fleming, Director of Public Health

By Gia Rassier  
Gia Rassier, Independent Contractor

Date 11/26/2019

Date 11/20/19

By \_\_\_\_\_  
Timothy, J. Mahoney, Mayor, City of Fargo

Date \_\_\_\_\_


Contract Originator: Kim Lipetzky



(10)

## MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: DESI FLEMING**   
**DIRECTOR OF PUBLIC HEALTH**

**DATE: NOVEMBER 26, 2019**

**RE: AGREEMENT FOR SERVICES WITH AE2S  
COMMUNICATIONS TO INCREASE EDUCATIONAL  
AWARENESS FOR FAMILY PLANNING AND STI  
SERVICES FOR UP TO \$50,000**

The attached Contract Agreement with AE2S Communications is to provide marketing and communication for media campaigns to increase awareness of family planning services and STI prevention at Fargo Cass Public Health's clinic. It will be targeting underserved, low socioeconomic status and uninsured individuals.

No budget adjustment is required for this contract.

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

DF/lls  
Enclosure



**THIS AGREEMENT**, effective the 2<sup>nd</sup> day of December 2019, by and between Fargo Cass Public Health ("FCPH"); and Advanced Engineering and Environmental Services, Inc., dba AE2S Communications.

**NOW, THEREFORE**, it is hereby agreed by and between the parties hereto as follows:

- A. **Term of Agreement:** The parties entered into a written agreement for the period of December 2, 2019 through March 31, 2020.
- B. **Statement of Work:** A comprehensive marketing and communications campaign will be developed and implemented aimed at promoting Family Planning Clinic Services. Topics including, but not limited to, Family Planning Reproductive Health Services and Sexually Transmitted Infection Counseling, Testing, and Treatment. The target group to provide educational awareness will include individuals who are underserved, low socioeconomic status, and uninsured.
- C. **Reimbursement:** The contracting company, AE2S Communications, shall be reimbursed on an hourly basis according to the Hourly Fee Schedule (attached) and submit an invoice with reimbursement not to exceed \$50,000.
- D. **Termination:** This agreement may be terminated by either party upon the giving of thirty (30) days written notice.
- E. **Confidentiality:** The contracting companies agree to not, directly or indirectly, disclose, make known, divulge, publish or communicate any individually identifiable health information or other confidential information to any person, firm or corporation without consent unless that disclosure is authorized under North Dakota law.

**Special Considerations:**

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

In Witness thereof, this contract agreement has been executed between AE2S Communications and Fargo Cass Public Health on the date-executed below.

**FARGO CASS PUBLIC HEALTH**

By *Desi Fleming*  
 Desi Fleming, Director of Public Health

Date 11/26/2019

By \_\_\_\_\_  
 Timothy J. Mahoney, Mayor, City of Fargo

Date \_\_\_\_\_

**ADVANCED ENGINEERING AND  
 ENVIRONMENTAL SERVICES, INC. DBA  
 AE2S COMMUNICATIONS**

By *Brian R. Bergantine*  
 Brian R. Bergantine, Operations Manager

Date 11-22-2019

Client:

CASS COUNTY AUDITOR

Account # 10508 Ad # 2805490

Phone: (701) 241-5609

Fax:

Address: PO BOX 2806

FARGO, ND 58108-2806

Sales Rep.:

0135 Forum Legal AdTaker

Phone: (701) 241-5504

Fax: (701) 241-5540

Email: [legals@forumcomm.com](mailto:legals@forumcomm.com)

Class.: 9950 NORTH DAKOTA LEGALS

Requested By:

Start Date: 11/11/2019

End Date: 11/18/2019

Nb. of Inserts: 9

Dimensions: 1 col. x 41.00 6.5 PT LINES

Publications: inforum.com

The Forum - Fargo

Total Price: \$68.00

Paid Amount: \$0.00

Balance: \$68.00

Page 1 of 1

REQUEST FOR PROPOSAL  
CITY OF FARGO

The City of Fargo is requesting proposals for promotion of Family Planning Clinic Services. Topics including, but not limited to, Family Planning Reproductive Health Services and Sexually Transmitted Infection Counseling, Testing, and Treatment to target audiences. The proposer should be skilled in mass communication principles and techniques with the ability to develop educational materials to reach specific target audiences for a period beginning December 2, 2019 through March 31, 2020. All detailed information is outlined in the following Request for Proposal (RFP).

All proposals and any questions should be sent to:

Larry Anenson  
Director of Health Protection and Promotion

1240 25th Street South

Fargo, ND 58103-2367

Phone: 701.241.8575

Email: [LANenson@FargoND.gov](mailto:LANenson@FargoND.gov)

All proposals must be presented to the Fargo Cass Public Health Family Planning Committee by 10:00 a.m. on November 22, 2019 (1240 25th Street South, Fargo, ND 58103). Three copies of the proposal are required.

Fargo Cass Public Health Family Planning Committee will review, score, and approve all proposals.

A copy of the full RFP can be found at [www.FargoND.gov/BidPostings](http://www.FargoND.gov/BidPostings)





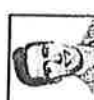

The City of Fargo reserves the right to reject all submittals.

City Auditor's Office  
(November 11 & 18, 2019) 2805490



# COST

• 12-Month Period

	<b>ANDREA BOE</b> Practice Leader & Marketing Strategist		<b>HEATHER SYVERSON</b> Project Manager		<b>TAMMY JO A. TAFT</b> Graphics & Video		<b>ZACK OTTESON</b> Branding & Design		<b>CODY SCHULER</b> Video & Drone Pilot		<b>TAYLOR CORBETT</b> Digital Media & Design
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	Marketing Strategist	Project Manager	Graphics & Video	Branding & Design	Video & Drone Pilot	Media & Design	Budget Hours	Budget Labor Costs	General Expenses Budgeted	Total AE2S Fee Budgeted
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2019 BILLING RATE LINE - HIDE THIS ROW FOR PROPOSALS \$ 183 \$ 103 \$ 103 \$ 103 \$ 90 \$ 90

<b>Task 0: Project Management</b>										
0.1 Client communications/meetings/coordination	2	10	10			2	24	\$ 2,606		\$ 2,606
0.2 Project administration	1	4					5	\$ 595		\$ 595
<b>TOTAL FOR TASK 0</b>	<b>3</b>	<b>14</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>29</b>	<b>\$ 3,201</b>	<b>\$ -</b>	<b>\$ 3,201</b>

<b>Task 1: Discovery and Inventory</b>										
1.1 Current marketing material review		4				8	14	\$ 1,338		\$ 1,338
1.2 Stakeholder/small group interviews	2	10				10	22	\$ 2,296		\$ 2,296
1.3 Synthesize data and package	2	6				5	13	\$ 1,434		\$ 1,434
<b>TOTAL FOR TASK 1</b>	<b>4</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23</b>	<b>49</b>	<b>\$ 5,068</b>	<b>\$ -</b>	<b>\$ 5,068</b>

<b>Task 2: Media Plan and Campaign Development, Testing Concepts</b>										
2.1 Theme and message development	5	5	5	5	5	4	29	\$ 3,280		\$ 3,280
2.2 Visual identity development (3 options, 3 reiterations)	2	5	9	15		9	40	\$ 4,193		\$ 4,193
2.3 Presentation of Campaign and refinement		2	5	2		5	14	\$ 1,381		\$ 1,381
<b>TOTAL FOR TASK 2</b>	<b>7</b>	<b>12</b>	<b>22</b>	<b>5</b>	<b>18</b>	<b>83</b>	<b>83</b>	<b>\$ 8,854</b>	<b>\$ -</b>	<b>\$ 8,854</b>

<b>Task 3: Campaign Implementation</b>										
3.1 Internal and external rollout campaign		10					10	\$ 1,030		\$ 1,030
3.2 Implementation plan for adoption		10					10	\$ 1,030		\$ 1,030
3.3 Production of Materials			15			15	45	\$ 4,245		\$ 4,245
3.4 Placement and Management of Campaign		15					15	\$ 1,545		\$ 1,545
<b>TOTAL FOR TASK 3</b>		<b>35</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>80</b>	<b>80</b>	<b>\$ 7,850</b>	<b>\$ -</b>	<b>\$ 7,850</b>

<b>Task 4: Paid Media and Advertising Costs, Materials Production</b>										
4.1 Traditional, local market advertising costs								\$ -	\$ 11,000	\$ 11,000
4.2 Social media, digital advertising/targeting								\$ -	\$ 5,000	\$ 5,000
4.3 Print materials, signage & translation services								\$ -	\$ 8,000	\$ 8,000
4.4 Community engagement, celebration, events								\$ -	\$ 1,000	\$ 1,000
<b>TOTAL FOR TASK 4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ -</b>	<b>\$ 25,000</b>	<b>\$ 25,000</b>

<b>TOTAL PROJECT HOURS/EXPENSES</b>										
	14	81	10	22	20	58	241	\$ 24,973	\$ 25,000	\$ 49,973

(11)

To: Board of City Commissioners  
From: Jill Minette, Director of Human Resources *JM*  
Re: Position Evaluation Committee (PEC) Recommendations  
Date: November 26, 2019

The Position Evaluation Committee (PEC) met on November 25 to review reclassification and market adjustment requests as outlined below:

### 1. Police

Dave Todd, Police Chief, requests a reclassification of 1.0 FTE Police Officer (grade P12) (approved in the 2020 budget) to 1.0 FTE Police Lieutenant (P17). The Lieutenant position would provide oversight to several positions and programs within the Administration Division. The request would be effective January 1, 2020.

The annual cost of the reclassification is approximately \$29,423.

- The PEC recommends the approval of the reclassification of 1.0 FTE Police Officer to 1.0 FTE Police Lieutenant effective January 1, 2020. The cost of the reclassification will be absorbed within the current budget.

Additionally, during the annual compensation review, the PEC approved a request to reclassify 1.0 FTE Police Support Specialist (grade 8) to 1.0 FTE Evidence Property Assistant (grade 10). There was some question as to whether this change was approved by the Budget Committee and ultimately the City Commission during the budget approval process. The request will be reviewed again during this meeting.

The annual cost of the reclassification is approximately \$2,621.

- The PEC recommends the approval of the reclassification of 1.0 FTE Police Support Specialist to 1.0 FTE Evidence Property Assistant effective January 1, 2020. The cost of the reclassification will be absorbed within the current budget.

## 2. Transit

Matt Peterson, Assistant Transit Director, requests a market adjustment for 2.0 FTE's Transit Reservationists from a grade 6 to a grade 7. Additionally, the request includes a reclassification for the 1.0 FTE Lead Reservationist (grade 8) to an Operations Supervisor (grade 10). If the reclassification is not approved, a market adjustment is requested for the Lead Reservationist from a grade 8 to a grade 9. The request is to approve retroactively to August 1, 2019.

The annual cost of the combined request is \$11,550. Retro pay back to August 1, 2019 would be approximately \$2,611.76

- The PEC recommends the approval of an out-of-grade market adjustment for the 2.0 FTE's Transit Reservationist from a grade 6 to a grade 7 effective upon commission approval. The market adjustment will not be applied retroactively.
- The PEC recommends the approval of a reclassification of the Lead Transit Reservationist (grade 8) to an Operations Supervisor (grade 9) effective upon commission approval. The move to grade 9 is supported by market as well. The reclassification will not be applied retroactively.

### **Suggested Motion:**

Approve the recommendations of the PEC as outlined in this memo effective upon approval, unless otherwise noted.

(12)

TO: Board of City Commissioners

FROM: Jill Minette *Jm*  
Director of Human Resources

RE: City of Fargo Employment Policies  
200-004 Employment Definitions  
500-007 Military Leave Policy  
500-009 Holidays

DATE: November 26, 2019

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The employment policies listed below have been revised. Within the Employment Definitions Policy (200-004), the language has been revised to reflect our current employment definitions and categories.

The Military Leave Policy (500-007) language has been revised to reflect our current pay and benefit practices in relation to paid and unpaid periods of leave related to military service.

The primary change to the Holidays Policy (500-009) includes the early closure on Christmas Eve.

These policies have been reviewed by the cabinet, the city attorney's office, and the Civil Service Commission. The draft policies were also sent to all employees via email and posted in the departments for all employees to review and comment.

I am requesting approval of the policy changes with an effective date of December 2, 2019.

**RECOMMENDED MOTION:**

To approve the Employment Definitions Policy (200-004), the Military Leave Policy (500-007) and the Holidays Policy (500-009) effective December 2, 2019.

**CITY OF FARGO EMPLOYMENT POLICY NO. 200-004**

**EMPLOYMENT DEFINITIONS**

**Date Approved: 11/92**

**Date Issued: 11/92**

**Date Revised: 4/96, 12/96, 10/98, 8/99, 8/02,  
12/19**

City of Fargo positions are classified as **regular, temporary, contract or seasonal** positions. These position types may be filled on a **full-time, part-time, or variable (as needed)** basis. **Elected official** positions include the mayor, deputy mayor, city commissioners and municipal court judge. **Appointed official** positions include civil service commissioners.

Position status changes must have prior approval from the Budget or Finance Committee and the Board of City Commissioners.

**REGULAR POSITIONS**

Regular positions are budget-approved positions which are part of the approved FTE (full-time equivalent) count and the position control system. Regular positions are considered to be "employment-at-will" meaning the position may be terminated by the employee or the City, with or without cause. These positions are governed by the Civil Service System.

1. A **Full-time Regular (40)** position is one which:
  - a. Is regularly scheduled to work a minimum of 40 hours each week during the calendar year;
  - b. Is regularly scheduled to work 2080 hours (2912 for fire suppression) during the calendar year;
  - c. Is paid in accordance with the official City pay plan, including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
  - d. Is eligible for benefits;
  - e. Is a mandatory participant in a defined benefit plan (pension) and is eligible to participate in a 457 deferred compensation plan; and
  - f. Accrues paid time off according to policy.
2. A **Full-time Regular (30-39)** position is one which:
  - a. Is regularly scheduled to work 30 to 39 hours each week during the calendar year;
  - b. Is regularly scheduled to work 1560 to 2079 hours during the calendar year;
  - c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
  - d. Is eligible for benefits;

- e. Is a mandatory participant in a defined benefit plan (pension) and is eligible to participate in a 457 deferred compensation plan; and
- f. Accrues paid time off according to policy.

3. A **Part-time Regular (20-29)** position is one which:

- a. Is regularly scheduled between 20 to 29 hours each week during the calendar year (with the exception of the Public Health Nurses assigned to schools for approximately nine months of the calendar year);
- b. Is regularly scheduled 1040 to 1559 hours during the calendar year;
- c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
- d. Is eligible for benefits;
- e. Is a mandatory participant in a defined benefit plan (pension) and is eligible to participate in a 457 deferred compensation plan; and
- f. Accrues paid time off according to policy.

**TEMPORARY POSITIONS**

Temporary positions are allocated funding but are not part of the approved FTE head count or the position control system. These positions are reviewed annually during the budget process to determine if funding will be allocated for the next budget year. Temporary positions are considered to be "employment-at-will" meaning the position may be terminated by the employee or the City, with or without cause. Temporary positions are not governed by the Civil Service System.

1. A **Full-time Temporary (40)** position is one which:

- a. Is scheduled to work a minimum of 40 hours each week during the calendar year;
- b. Is scheduled to work 2080 (2912 for fire suppression) hours during the calendar year as long as funding is available and budgeted;
- c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
- d. Is eligible for benefits;
- e. Is a mandatory participant in a defined benefit plan (pension) and is eligible to participate in a 457 deferred compensation plan;
- f. Accrues paid time off in accordance with policy; and
- g. Requires an annual evaluation of the position prior to submission of proposed budget.

2. A **Full-time Temporary (30-39)** position is one which:

- a. Is scheduled to work a minimum of 30-39 hours each week during the calendar year;

- b. Is scheduled to work 1560 to 2079 hours during the calendar year as long as funding is available and budgeted;
- c. Is paid based upon market rates for temporary employees;
- d. Is eligible for health insurance only;
- e. Is eligible for optional participation in NDPERS pension. Temporary employees in this category are responsible for the full required contribution as there is no City contribution;
- f. Is not eligible to participate in a 457 deferred compensation plan;
- g. Earns limited annual and sick leave in accordance with Policy No. 500-001 - Annual Leave and Policy No. 500-003 - Sick Leave; and
- h. Requires an annual evaluation of position prior to submission of proposed budget.

3. A **Part-time Temporary (20-29)** position is one which:

- a. Is scheduled 20 to 29 hours each week during the calendar year;
- b. Is scheduled 1040 to 1559 hours during the calendar year as long as funding is available and budgeted;
- c. Is paid based upon market rates for temporary employees;
- d. Is not benefit eligible with the exception of NDPERS pension;
- e. Is eligible for optional participation in NDPERS pension. Temporary employees in this category are responsible for the full required contribution as there is no City contribution; and
- f. Is not eligible to participate in the 457 deferred compensation plan;
- g. Earns limited annual and sick leave in accordance with Policy No. 500-001 - Annual Leave and Policy No. 500-003 - Sick Leave; and
- h. Requires an annual evaluation of position prior to submission of proposed budget.

4. A **Variable Temporary (less than 20)** position is one which:

- a. Is scheduled less than 20 hours per week or as needed throughout the calendar year as long as funding is available and budgeted;
- b. Is paid based upon market rates for temporary employees;
- c. Service hours will be measured for the purpose of determining eligibility for health insurance coverage. Is not eligible for other benefits with the exception of NDPERS pension;
- d. Is eligible for optional participation in NDPERS pension. Temporary employees in this category are responsible for the full required contribution as there is no City contribution;
- e. Is not eligible to participate in the 457 deferred compensation plan;
- f. Is not eligible for time off accruals; and
- g. Requires an annual evaluation of position prior to submission of proposed budget.

**Contract Positions**

A Contract Position is an approved position which is limited to specific projects/assignments/unique services and is not governed by the Civil Service system.



Written contracts must include (but are not limited to) conditions of employment, hours of work, duration of employment, compensation and benefits, job requirements and duties, and assignment to a supervisor. Conditions of employment, compensation and benefits shall not exceed those afforded regular full-time and/or regular part-time employees. Contract positions are considered to be "employment-at-will" meaning the position may be terminated by the employee or the City, with or without cause. Contract positions are not governed by the Civil Service System.

1. A **Full-time Contract (40)** position is one which during the duration of the contract:
  - a. Is scheduled to work a minimum of 40 hours each week during the calendar year;
  - b. Is scheduled to work 2080 (2912 for fire suppression) hours during the calendar year as long as funding is available and budgeted;
  - c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
  - d. Is eligible for benefits;
  - e. Is a mandatory participant in a defined benefit plan (pension) and is eligible to participate in a 457 deferred compensation plan;
  - f. Accrues paid time in accordance with policy; and
  - g. Requires an annual evaluation of the position prior to submission of proposed budget.
2. A **Full-time Contract (30-39)** position is one which during the duration of the contract:
  - a. Is regularly scheduled to work 30 to 39 hours each week during the calendar year;
  - b. Is regularly scheduled to work 1560 to 2079 hours during the calendar year;
  - c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
  - d. Is eligible for benefits;
  - e. Is a mandatory participant in NDPERS defined benefit plan (pension) and is eligible to participate in a deferred compensation 457 plan;
  - f. Accrues paid time off according to policy; and
  - g. Requires an annual evaluation of the position prior to submission of proposed budget.
3. A **Part-time Contract (20-29)** position is one which during the duration of the contract:
  - a. Is regularly scheduled between 20 to 29 hours each week during the calendar year (with the exception of the Public Health Nurses assigned to schools for approximately nine months of the calendar year);
  - b. Is regularly scheduled 1040 to 1559 hours during the calendar year;
  - c. Is paid in accordance with the official City pay plan including eligibility for step increases and competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);



- d. Is eligible for benefits;
- e. Is a mandatory participant in NDPERS defined benefit plan (pension) and is eligible to participate in a deferred compensation 457 plan;
- f. Accrues paid time off according to policy; and
- g. Requires an annual evaluation of the position prior to submission of proposed budget.

4. A **Variable Contract (less than 20)** position is one which:

- a. Is scheduled less than 20 hours per week or as needed throughout the calendar year as long as funding is available and budgeted;
- b. Is paid based upon market rates for temporary employees;
- c. Service hours will be measured for the purpose of determining eligibility for health insurance coverage. Is not eligible for other benefits with the exception of NDPERS pension;
- d. Is eligible for optional participation in NDPERS pension. Contract employees in this category are responsible for the full required contribution as there is no City contribution;
- e. Is not eligible to participate in the 457 Deferred Compensation Plan;
- f. Is not eligible for time off accruals;
- g. Requires an annual evaluation of the position prior to submission of proposed budget.

**Seasonal Positions**

A position that is typically filled for six months or less and begins and ends at approximately the same time each calendar year.

Seasonal positions have funding allocated in the budget but are not part of the approved FTE head count or the position control system. These positions are reviewed annually during budget process to determine if funding will be allocated for the next budget year. Seasonal positions are considered to be "employment-at-will" meaning the position may be terminated by the employee or the City, with or without cause. Seasonal positions are not governed by the Civil Service System.

1. A **Seasonal** position is one which:

- a. Is scheduled up to 40 hours each week based on seasonal staffing needs;
- b. Is scheduled to work up to six months as long as funding is available and budgeted;
- c. Is paid based upon market rates for seasonal employees;
- d. Service hours will be measured for the purpose of determining eligibility for health insurance coverage. Is not eligible for other benefits with the exception of NDPERS pension;
- e. Is eligible for optional participation in NDPERS pension. Seasonal employees are responsible for the full required contribution as there is no City contribution;
- f. Is not eligible to participate in the 457 Deferred Compensation Plan; and
- g. Is not eligible for time off accruals.

### **Elected Official Positions**

Elected officials are in positions for which the schedule and salary are determined by the City Commission. These positions include the Mayor, Deputy Mayor, City Commissioners and Municipal Court Judge. Elected official positions are not governed by the Civil Service System.

1. An **Elected Official** position is one which:
  - a. Is paid a salary determined by the City Commission based on 20 hours per week (1040 hours per year) for City Commissioners and on 30 hours per week (1560 hours per year) for the Municipal Judge;
  - b. Is not eligible for step increases but does receive competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's); according to the official City pay plan;
  - c. Is eligible for benefits;
  - d. Is a mandatory participant in NDPERS defined benefit plan (pension) and is eligible to participate in a deferred compensation 457 plan; and
  - e. Is not eligible to accrue paid time off.

### **Appointed Official Positions**

Appointed official positions include Civil Service Commissioners. The commissioners do not have a set schedule. Civil Service meetings are regularly scheduled on a monthly basis. Appointed official positions are not governed by the Civil Service system.

1. An **Appointed Official** position is one which:
  - a. Is paid a rate of pay determined by the City Commission when engaged in Civil Service meetings and is not eligible for step increases or competitive wage adjustments (CWA's) / cost-of-living adjustments (COLA's);
  - b. Is not eligible for benefits with the exception of NDPERS pension;
  - c. Is eligible for optional participation in NDPERS pension. Appointed officials are responsible for the full required contribution as there is no City contribution;
  - d. Is not eligible to participate in the 457 Deferred Compensation Plan; and
  - e. Is not eligible to accrue paid time off.

### Employment Definitions Pay and Benefits by Category

Employment Definition	Category	Scheduled Hours Week/Year	Pay	Benefit Eligible	Pension Eligible	457 Eligible	Paid Time Off (Vacation & Sick) Eligible
<b>Regular</b>	Full-time (40)	40 / 2080 (2912 – Fire)	COF Pay Plan	Yes	Yes	Yes	Yes
	Full-time (30)	30-39/ 1560-2079	COF Pay Plan	Yes	Yes	Yes	Yes
	Part-time (20)	20-29 / 1040-1559	COF Pay Plan	Yes	Yes	Yes	Yes
<b>Temporary</b>	Full-time (40)	40 / 2080 (2912 – Fire)	COF Pay Plan	Yes	Yes	Yes	Yes
	Full-time (30)	30-39/ 1560-2079	Temporary Market Rates	Health Only	Yes employee pays full post- tax contribution	No	Yes - limited
	Part-time (20)	20-29 / 1040-1559	Temporary Market Rates	No	Yes employee pays full post- tax contribution	No	Yes - limited
	Variable (<20)	Varies <20	Temporary Market Rates	No – service hours measured for health	Yes employee pays full post- tax contribution	No	No
<b>Contract</b>	Full-time (40)	40 / 2080	COF Pay Plan	Yes	Yes	Yes	Yes
	Full-time (30)	30-39/ 1560-2079	COF Pay Plan	Yes	Yes	Yes	Yes
	Part-time (20)	20-29 / 1040-1559	COF Pay Plan	Yes	Yes	Yes	Yes
	Variable (<20)	Varies <20	Temporary Market Rates	No – service hours measured for health	Yes employee pays full post- tax contribution	No	No
<b>Seasonal</b>	Seasonal	Varies	Seasonal Market Rates	No – service hours measured for health	Yes employee pays full post- tax contribution	No	No
<b>Elected Official</b>	Mayor & Commissioner	20-29 / 1040-1559	Determined by City Commission	Yes	Yes	Yes	No
	Municipal Court Judge	30-39/ 1560-2079	Determined by City Commission	Yes	Yes	Yes	No
<b>Appointed Official</b>	Civil Service Commissioner	Varies <20	Determined by City Commission	No	Yes employee pays full post- tax contribution	No	No

**CITY OF FARGO EMPLOYMENT POLICY NO. 500-007**  
**MILITARY LEAVE**

**Date approved: 11/92 Date Issued: 11/92 Date Revised: 5/96, 10/01, 11/06, 2/08, 12/19**

The City of Fargo is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the City of Fargo policy that no employee or prospective employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States, provided the military service is under honorable conditions.

An employee who is either enlisted or an officer in the National Guard or Armed Forces Reserves shall be granted military leave annually in accordance with Sections 37-01-25 (Retain Status) and 37-01-25.1 (Reinstatement) of the North Dakota Century Code.

City employees may be granted military leave with pay up to a maximum of twenty (20) working days/160 hours per calendar year based on 2080 hours per year, for those employees who have been employed continuously for a period of ninety (90) calendar days or more. Fire Suppression employees may receive 224 hours per calendar year based on 2912 hours per year. Employees scheduled less than 2080 hours per year will receive pro-rated military leave hours based on the approved full-time equivalent (FTE).

Employees must provide as much advance notice as possible for periods of military leave due to either non-active or active duty.

**NON-ACTIVE DUTY:**

During periods of non-active duty, employees may request to use annual leave to pay for this time; may request leave without pay; or may request a schedule change. (Regular guard weekend drills and training).

**ACTIVE DUTY:**

City employees may receive up to twenty (20) days/160 hours paid leave (Fire Suppression 224 hours). This includes training periods which are defined as active duty periods only. Written confirmation of assignment to active duty will be necessary to establish the employee basic eligibility for protection under Uniformed Services Employment and Reemployment Rights Act (USERRA).

(Continued)

### **ACTIVE DUTY – FULL OR PARTIAL MOBILIZATION**

Any leave of absence necessitated by a full or partial mobilization of the reserve and National Guard forces of the United States of America, or emergency state of active duty, must be without loss of pay for:

- The first thirty (30) days in the first year (240 hours) (Fire Suppression 336 hours), less any other paid military leave of absence which may have been granted during the calendar year in accordance with NDCC 37-01-25.
- In addition, if the mobilization continues into successive calendar years, the first twenty (20) days in year two and successive years (160 hours) (Fire Suppression 224 hours) less any other paid military leave of absence, which may have been granted during the calendar year.

**ENLISTMENT/INDUCTION:** Military leave with pay may be granted to City employees up to a maximum of twenty (20) working days/160 hours per calendar year based on 2080 hours per year, for those employees who have been employed continuously for a period of ninety (90) calendar days or more prior to the enlistment/induction leave. Fire Suppression employees may receive 224 hours per calendar year based on 2912 hours per year.

### **REINSTATEMENT TO FORMER POSITION**

- Any employee who, within ninety (90) days after receiving a discharge other than dishonorable from such active noncivilian service, and who is not physically or otherwise incapacitated to perform the duties of the position formerly held, applies for such position held by the person at the time of entering such active service, must be given such position or one of like seniority, status, and pay, and may not be discharged from said position except for cause, as defined by the Department of Veteran's Affairs, for a period of one year after entering upon the duties of the person's civilian position.
- Employees returning to work must have all licenses or certificates required to perform their duties. If the licenses or certifications have lapsed, employees will be unable to perform the duties requiring the license or certificate and may be temporarily reassigned without loss of status, seniority or pay. Employees will be given a reasonable time to secure the required licensure, at the employer's discretion. Failure to obtain the required licensure or certification may result in termination of employment, with cause. Any such person not so reemployed or who is discharged within a period of one year without cause has the right of appeal to the Department of Veterans' Affairs under such rules and regulations as the Administrative Committee on Veterans' Affairs may promulgate. If the Department of Veterans' Affairs finds that such person was not reemployed or was discharged within one year without cause, it may order any officer or other appointing power to comply with the provisions of NDCC 37-01-25.1.

(Continued)

### **FULL MILITARY LEAVE PAY**

All military leave payments will be paid through regular payroll and are subject to income tax withholding.

According to the Internal Revenue Service (IRS), payment for active duty leave of absences for periods of more than thirty (30) days is considered military differential pay. This payment can represent all or a portion of the wages the employee would have received from the City of Fargo. Beyond the period of full military leave pay, employees may request to receive partial military leave pay.

### **PARTIAL MILITARY LEAVE PAY**

In the case of a full or partial mobilization of the reserve and National Guard forces for periods greater than 30 days, an employee may request to receive partial military leave pay. After all full military leave pay is depleted, an employee may elect to receive pay equal to the difference between their gross military pay and their gross City of Fargo pay for hours they would have regularly been scheduled had it not been for their military leave for up to six months. All accrued annual leave and comp time must be depleted prior to the start of partial military leave pay.

Accrued annual leave and comp time will be paid out based on the employee's scheduled hours for each pay period until it is exhausted. The employee will be eligible for holiday pay that they would otherwise receive had they been working during this annual leave payout period. Employees who elect to receive partial military leave pay must submit military pay stubs on a monthly basis during the six-month period.

If partial military leave pay overlaps a time period when the employee receives full military pay (January of next year) the partial military leave pay will be suspended. Once the full military pay entitlement has been paid, the partial military leave pay will be reinstated for the remainder of the six month period.

(Continued)

**Taxation of Military Pay**

	<b>Active Duty 30 days or less</b>	<b>Active Duty (including enlistment / induction) 31 days or more</b>	<b>Active Duty (Full or partial mobilization)</b>
<b>Payment</b>	The first 20 days in the calendar year are paid through regular payroll	The first 20 days in the calendar year are paid through regular payroll	The first 30 days in the first calendar year are paid through regular payroll.  The first 20 days in year two and successive years are paid through regular payroll
<b>Income Tax (federal and state)</b>	Wages are subject to income tax withholding	Wages are subject to income tax withholding	Wages are subject to income tax withholding
<b>Social Security and Medicare Tax (FICA)</b>	Wages are subject to social security and Medicare taxes (FICA) withholding	Wages are excludable from social security and Medicare taxes (FICA) withholding	Full or partial mobilizations of 30 days or less - wages are subject to social security and Medicare taxes (FICA) withholding.  Full or partial mobilization of 31 days or more, wages are excludable from social security and Medicare taxes (FICA) withholding.

(Continued)

## **BENEFITS**

All employees going on a military leave of greater than thirty (30) days must meet with Human Resources to obtain information about their benefit continuation rights and make any necessary benefit elections.

During periods of paid leave, employees who are on active duty assignments will continue to accrue annual and sick leave while they are receiving full military leave pay. When a paid holiday occurs during paid military leave, the employee will accrue annual leave, equal to the number of hours worked up to 8 hours which will be added to their annual leave balance (except fire suppression).

Employees will not accrue annual or sick leave during periods of unpaid leave or periods of receiving partial military leave pay.

Pension contributions will continue during periods of paid military leave (full and partial). Employees returning from active duty military leave will have the option to buy back service time for periods of unpaid service.

**(Continued)**



## City of Fargo Employment Policy No. 500-009

### Holidays

Date Approved: 11/92

Date Issued: 11/92

Date Revised: 3/96, 3/04, 6/14, 5/15, 12/19

The City of Fargo observes the following holidays:

- New Year's Day
- Martin Luther King, Jr. Day
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day
- Floating Holiday – up to 8 hours
- Any day designated by the Board of City Commissioners as a public holiday

#### **Christmas Eve - Early Closing**

Christmas Eve is observed by a noon closure of departments/divisions typically subject to closure on holidays. Non-exempt employees will be compensated for the hours actually worked. Employees may request to use annual leave, compensatory time, leave without pay or request to make up the time within that same defined workweek in order to reach their regularly scheduled hours. Exempt employees are not required to use annual leave providing they have worked a portion of the day. Employees may choose to work during the closure with approval by their supervisor.

Employees do not receive holiday credit pay and holiday worked pay on Christmas Eve.

### **Holiday Observance**

If a holiday falls on a weekend, it will be observed in the following manner:

- Employees on a weekday schedule (regularly scheduled Monday – Friday):

If the actual holiday falls on a Saturday, the holiday will be observed on the preceding Friday. If the actual holiday falls on a Sunday, the following Monday will be observed as the holiday.

- Employees on a schedule including weekends (regularly scheduled shifts Monday-Sunday):

The actual holiday will be the designated holiday.

### **Holiday Credit Pay (non-worked)**

Employees, (except fire suppression and sworn police employees) who are scheduled to work on a holiday (observed or actual depending upon regular schedule) and are not required to work, will receive up to 8 hours of holiday credit pay (non-worked). Employees receive hours of holiday credit pay (non-worked) according to the following schedule:

Employee Type	Hours of Holiday Pay
Full-time Regular (40) and Full-time Temporary (40)	8 hours
Full-time Regular (30-39) and Part-time Regular (20-29)	Pro-rated hours based on FTE
All other Temporary and Seasonal	N/A
Contract	As indicated in contract
Elected officials	Pro-rated hours based on FTE

During a work week in which a holiday falls, an employee whose scheduled days do not fall on the holiday, will be paid 8 hours of holiday credit (non-worked) (or a pro-rated amount for full-time regular (30-39) and part-time regular (20-29) employees) within that week. In this situation, a full-time employee's holiday credit hours will count towards their 40 regular hours worked and be applied to the overtime calculation.

Employees on a leave-of-absence are eligible for holiday credit pay (non-worked) as long as they are receiving paid leave (or pay for hours worked in the case of intermittent leave) for any portion of the scheduled shift preceding the holiday. Employees on unpaid leave for the entire scheduled shift preceding the holiday are not eligible for holiday credit pay (non-worked).

The holiday credit pay hours are included in the overtime calculation. The holiday credit pay hours are included in paid leave accruals (i.e. vacation and sick) calculation.

An employee who is receiving total temporary disability payments (wage-loss benefits) from Workforce Safety and Insurance (WSI) will not receive holiday credit pay (non-worked) but rather will be paid according to Policy 400-005 Workforce Safety and Insurance (WSI) Injury Leave Occupational Health.

Public Safety Provision - Fire suppression employees have the holiday (not-worked) credit calculated in their annual leave accrual. Sworn police employees who do not work on a holiday receive a holiday credit of up to eight (8) hours added to annual leave. Sworn officers in assignments other than patrol, civilian police employees and fire employees (on 40 hour per week schedules) who are scheduled to work on a holiday (observed or actual depending upon regular schedule) and are not required to work will receive up to 8 hours of holiday credit pay (non-worked).

### **Holiday Worked Pay**

All full-time regular, full-time temporary and part-time regular (non-exempt) employees who are scheduled or requested to work on a holiday (observed or actual as described above) will receive holiday worked pay at the rate of 1.5 times for all hours actually worked on the holiday. In addition, the employee will accrue annual leave, equal to the number of hours worked up to 8 hours, which will be added to their annual leave balance. Hours worked over the 24 hour period beginning at midnight on the holiday (actual or observed), will qualify for holiday worked pay.

Public Safety Provision – fire suppression and sworn police employees scheduled to work on a holiday are not eligible for holiday worked pay. Sworn and civilian police employees and fire employees (on 40 hour per week schedules) who work on a holiday (observed or actual depending upon regular schedule) receive a holiday credit of up to eight (8) hours added to annual leave. In addition, sworn and civilian police employees and fire employees (on 40-hour per week schedules) who are called-back to work on a holiday will be paid at 1.5 times for all hours worked on the holiday.

Exempt employees who are required to work on a holiday record the time as Holiday Worked which is paid at their regular rate. Exempt employees who work a partial day record the time worked and record holiday credit pay (non-worked) for the remainder of the scheduled day. The exempt employee receives a credit of up to eight (8) hours added to annual leave for the number of hours worked on the holiday. See Policy 600-006 Workweek and Hours of Work Policy for further details on exempt employee time keeping.

Full-time temporary (30-39), part-time temporary and seasonal employees are not eligible for holiday worked pay or holiday credit and will be paid their regular rate (or overtime for hours over 40 in the workweek) if they work on a holiday. Contract employees are only eligible for holiday worked pay and/or holiday credit if indicated in their contract.

The holiday pay hours are included in the overtime calculation. Hours worked on a holiday are also included in paid leave accruals (i.e. vacation and sick).

**Floating Holiday**

Eight hours of leave (12 hours for fire suppression employees) will be added to a full-time (including full-time temporary) employee's accumulated annual leave by January 2 of each year as a floating holiday credit. All other employees are credited with leave on a pro-rated basis according to the holiday credit schedule above. This leave may be used as annual leave when requested by the employee and approved by the immediate supervisor and/or department head.

New employees will be credited with annual leave for the floating holiday at the time of hire. The annual leave will be available for immediate use.

**Early Closing Due to Holiday**


If the Mayor or designee declare an early closing for non-emergency personnel in conjunction with a holiday, non-exempt employees will be compensated for the hours actually worked. Employee's may request to use annual leave, compensatory time, leave without pay or request to make up the time within that same defined work week. Exempt employees are not required to use benefit time providing they have worked a portion of the day.



(13)

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: JIM GILMOUR, STRATEGIC PLANNING DIRECTOR** 

**DATE: NOVEMBER 26, 2019**

**SUBJECT: OLD POLICE AND HEALTH PARKING LOTS**

The parking lots adjacent to the old police and health buildings are not being fully used at this time. There are about 30 parking spaces in the police lot and about 40 parking spaces in the health lot. Six spaces in the police lot are being used by the Downtown Community Partnership and a few will be used by Interstate Parking.

Leasing parking spots in the police and health lots would help address parking needs until the Mercantile garage is completed. It would also provide revenue to the City.

The City can work with Interstate Parking to rent the parking spaces. Interstate Parking recommends a monthly rent of \$70 per parking spot. Additional costs to the City will be some signs and hang tags.

**Recommended Motion**

Authorize Interstate Parking to lease parking spaces in the old police and health buildings for \$70 per month per parking space and install necessary signage.





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.

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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



**MEMORANDUM**

**TO:** Fargo City Commission

**FROM:** Nicole Crutchfield, Director of Planning & Development  
Aaron Nelson, Planning Coordinator *AN*

**DATE:** November 27, 2019

**RE:** Consultant Contract for Core Neighborhoods Master Plan (RFP19130)

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Staff is requesting approval of the attached contract with *czb, LLC* for professional consulting services to lead the development of a Core Neighborhoods Master Plan. The contract has a not to exceed budget of \$288,900 that has been allocated from the Planning Department's planning services budget. The project is anticipated to be completed within approximately twelve months, once work is underway.

Background

The need for a core neighborhoods plan has become increasingly evident in recent years, as the City's oldest neighborhoods have felt increasing pressures relating to the City's rapid growth. Within the most recent budgeting cycle, staff has worked to realign funding towards planning services in order to better utilize professional consultants for strategic projects such as this, and has identified this plan as a priority on the Planning Department's current work plan.

On May 15, 2019, staff hosted a joint Brown Bag meeting of the Planning Commission and Community Development Committee. At which, detailed discussion was had regarding the proposed Core Neighborhoods Plan and feedback was solicited from these two groups as well as from members of the public who were in attendance. The City Commission then approved the drafting and publishing of the Core Neighborhoods Master Plan RFP on July 1, 2019. Thirteen consultant teams from across the country submitted proposals in response to the RFP. A consultant selection committee consisting of two City Commissioners, the Planning Commission Chair, a former Planning Commission Chair, and the Planning Director reviewed the submitted project proposals and interviewed three selected finalists. Ultimately, this selection committee chose *czb* as the project team that would best be able to meet the needs of the City for this project.

The Core Neighborhoods Mast Plan is intended to build upon the work recently completed with the Downtown InFocus Plan by bringing together city officials, residents, the development community, and other stakeholders to collaboratively expand planning efforts to the neighborhoods surrounding the downtown core. The study will build upon the vision and goals of the Go2030 Comprehensive Plan; identify and respond to current conditions and issues; and guide public and private investment within the City's core neighborhoods.

Attached please find the consulting agreement with *czb, LLC* and associated exhibits for the development of a Core Neighborhoods Master Plan.

Suggested Motion

"To approve the consulting agreement with *czb, LLC* for professional consulting services for the development of the Core Neighborhoods Master Plan."

## CONSULTING AGREEMENT

czb, LLC and the City of Fargo

THIS CONSULTING AGREEMENT ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between czb, LLC, a Virginia limited liability company, with offices at 2001 Mount Vernon Avenue, Alexandria, VA 22301 (referred to either as "czb" or "Consultant"), and City of Fargo, ND, a North Dakota municipal corporation, with offices at 225 4th Street North, Fargo, ND, 58102 (referred to either as "City" or "Contractor")

WHEREAS, Contractor sought proposals to complete a Core Neighborhoods Master Plan during the year 2020; and

WHEREAS, Consultant was selected by Contractor to complete a Core Neighborhoods Master Plan; and

WHEREAS, Consultant is able and willing to complete a Core Neighborhoods Master Plan by performing the scope of work defined below and the City desires to engage Consultant for such purposes and the parties wish to enter into an agreement memorializing the terms thereof;

NOW, THEREFORE, the parties hereto, intending to be legally bound, and for good and sufficient consideration, hereby agree as follows:

1. Consultant shall perform the work and services outlined below in the attached scope of work so that Contractor may achieve its goals.
2. Performance – the Work. Consultant shall perform the work required by this Agreement in a manner consistent with the highest professional standards. Consultant shall undertake and perform the following scope of work (the "Work"):
  - a. Gather and engage project and small area (neighborhoods) steering committees; educate members about markets, econometrics, neighborhood dynamics, and other matters as needed; develop a sense of committee (stakeholder) ownership of the process; draft work, final plans and implementation briefs. This will be accomplished by regular meetings of the various committees led by czb staff and subcontractors, said meetings scheduled and co-designed by czb and City of Fargo staff and other stakeholders to the project as needed.
  - b. Conduct and deliver appropriate quantitative and qualitative research and analysis necessary to understand (and convey to the public in a meaningful way) the regional and citywide context within which the core neighborhoods exist; the conditions and trends in, and affecting, the core neighborhoods; and the market and the other forces at work in the core neighborhoods. This will be accomplished by czb examination of numerous datasets including, but not limited to, data from the U.S. Census, American Community Survey, HMDA, HUD User, the Cass County and City of Fargo local governments, Fargo-Moorhead FlexMLS, and information gathered from interviews and surveys.
  - c. Identify and explain key issues to be addressed through committee work and quantitative and qualitative research and analysis.
  - d. Identify and deliver a planning framework for stakeholders to evaluate issues and make informed tradeoff decisions and recommendations to the City.



- e. Design a toolkit for enhanced capacity across public and private and nonprofit sectors to successfully manage change in the core neighborhoods, inclusive of but not limited to tools ranging from changes to the City's zoning and subdivision regulations; modifications to the City's comprehensive plan; use, modification, and introduction of new municipal or public-private programs and initiatives like a land bank (to dispose of troubled assets), a land trust (to preserve open space or ensure housing affordability), and/or others.
  - f. Conduct a complete exterior (visual) property conditions survey of the residential structures in the City.
  - g. With the project committees, co-create three small area plans consistent with the City's comprehensive plan and zoning/regulatory framework, and nine implementation briefs (one for each of nine core neighborhoods) to guide City staff in their implementation work.
  - h. Deliver three small area plans, each relating to a sub-section of the core neighborhoods area.
  - i. Deliver a Core Neighborhoods Master Plan as described in ATTACHMENT "A", with the following additions:
    - i. Conduct a residential property conditions survey for the entire City of Fargo;
    - ii. Provide a citywide market context and conditions report at the end of Phase 1 in which the level of detail is the same for every area of the city; and
    - iii. Develop a land use plan and map for the core neighborhoods.
3. Timeframe for Performance of Work. Consultant shall begin the Work on or before December 15, 2019 and Consultant shall be responsible for substantially conforming to the schedule described in ATTACHMENT "B", and the Work shall be completed no later than December 31, 2020, unless this Agreement is sooner terminated in accordance with the terms hereof.
4. Compensation for Services. Contractor shall pay compensation to Consultant for the Performance of the Work in accordance with the schedule of hourly rates and in accordance with the schedule of hours generally attributable to the schedule attached as ATTACHMENT "C", which schedule contemplates up to 19 person-trips by czb personnel. Unless otherwise approved by the parties by change order or amendment to this Agreement, said compensation shall not exceed TWO HUNDRED EIGHTY EIGHT THOUSAND NINE HUNDRED AND no/100 DOLLARS (\$288,900.00). Consultant's travel expenses shall be borne solely by Consultant. ATTACHMENT "C" establishes estimated costs comprising the total sum. Contractor and Consultant agree that costs in ATTACHMENT "C" are estimates and may change, and such changes are not required to be reported by Consultant, but the total sum shall not change without a written request from Consultant to Contractor and written authorization granted by Contractor to Consultant. Consultant shall invoice Contractor for 80% of the lump sum total in ten monthly equal installments of \$23,112.00 from January 2020 through October 2020. Consultant shall invoice Contractor for remaining 20% of the lump sum total in the amount of \$57,780.00 upon the conclusion of the project and acceptance by the City of all deliverables described in the Work. On receipt of Consultant invoices, transmitted via email in PDF form, Contractor shall make full payment to Consultant within 30 calendar days of receipt.
5. Representation and Warranties of Contractor. The Contractor represents and warrants to Consultant that it has obtained funds to pay Consultant under this Contract. Both the Contractor and Consultant warrant and represent to each other that this Agreement does not conflict with any other agreement by which Contractor or Consultant is bound, and this Agreement has been approved by the Contractor's officers. Contractor and Consultant each represent and warrant to

each other that each has the full power and legal authority to enter into this Agreement and to perform the obligations required of it as set forth in the Agreement.

6. Consultant Not an Agent of Contractor. Nothing in this Agreement or the performance by Consultant or any of its subcontractors of the work specified by this Agreement shall make the Consultant or its subcontractors an agent of Contractor for any purpose.
7. No Third Party Beneficiaries. Nothing in this Agreement shall confer any rights on any third persons as third party beneficiaries of this Agreement, and no one shall have any authority to enforce the terms of this Agreement except the parties signing this Agreement.
8. No Termination Except for Cause. Neither party shall have the right to terminate this Agreement except for cause amounting to a breach by the other party of one or more of its obligations or duties as set forth in this Agreement.
9. Entire Agreement. This Agreement as written constitutes the entire agreement of the parties with respect to the subject matter, and any prior negotiations, discussions or submissions are not part of this Agreement except if they are expressly included in the written terms of this Agreement.
10. Governing Law, Jurisdiction and Venue. This Agreement and the rights and obligations of the parties stated herein shall be interpreted under the law of the state of North Dakota with the Parties hereby agreeing that any lawsuits resulting from a dispute over this Agreement or the Work performed hereunder shall be brought either in state district court for the state of North Dakota or in federal district court for the District of North Dakota and that venue for such lawsuits shall lie in Cass County, North Dakota.
11. Binding Agreement. This Agreement is binding upon the parties hereto and their respective successors and assigns.
12. Term of Agreement. The term of this Agreement shall commence on the date of this Agreement and shall continue until December 31, 2020 unless sooner terminated by the parties.
13. No Assignment. Neither party may assign this Agreement to any third party without the express written consent of the other party, which consent may be withheld in the other party's sole discretion.
14. Disputes. The parties shall attempt to mutually resolve any disputes that arise between them under this Agreement, but in the event that a mutual resolution of the dispute cannot be achieved, each party may pursue all available legal remedies.
15. Notice. In the event that any party to this Agreement needs to provide notice to any other party of any matter or occurrence related to this Agreement, said notice shall be sent by first class mail, return receipt requested, to each of the parties as follows:

**To the Consultant:**

czb, LLC  
ATTN: Charles Buki  
2001 Mount Vernon Avenue  
Alexandria, VA 22301

Or to:

The Registered Agent for service of process for the Consultant on record with the  
Secretary of State for the Commonwealth of Virginia

**To the City:**

City Auditor  
Fargo City Hall  
225 N. Fourth Street  
Fargo, ND 58102

and to:

Director of Planning and Development  
ATTN: Nicole Crutchfield  
Fargo City Hall  
225 N. Fourth Street  
Fargo, ND 58102

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have executed this Agreement as of the day and year first above written.

**CONTRACTOR:**

City of Fargo  
a North Dakota municipal corporation

By: \_\_\_\_\_  
Timothy J. Mahoney, M.D., Mayor

**ATTEST:**

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

**CONSULTANT:**

Czb, LLC  
a Virginia limited liability company

By:  \_\_\_\_\_  
Charles Buki  
Its: President

ATTACHMENT “A”

Core Neighborhoods Master Plan Work Description

[see attached]

## Proposed Work Program



Our proposed approach is somewhat unorthodox. In nearly every project we undertake of this kind, we insist on a representative steering committee of ideally 12-15 people who can not only guide the development of a new plan, but also become credible champions for its implementation before the ink is even dry on the plan. In agreement with the City's RFP, we believe there should be a good, solid steering committee to oversee the development of the master plan. However, we propose to go a step beyond a standard steering committee.

The City will get far more from this process if it can get more granular, by which we mean the core neighborhoods should be treated not as one place but as a collection of places with diverse challenges and opportunities. To this end, we propose an overall steering committee and also the **addition of three more committees**, to be facilitated during the project by czb, each one with the responsibility of guiding a planning process for 3-4 core neighborhoods at a time. The determination about how nine neighborhoods could become three sub-areas for the purpose of the project will of course require a collaborative decision between the City and the consulting team.



Overall Steering Committee



Sub-Area 1 Committee



Sub-Area 2 Committee



Sub-Area 3 Committee

As is standard, the proposed work program includes online surveys and public open houses, but we view our chief public engagement process as the committees themselves. We ask our committees to work hard, to work with each other, and to be open to learning. By deeply engaging four committees instead of one, and 50-60 people instead of a dozen, and by doing this in a year-long group setting instead of sporadically at public meetings, we can deliver a more meaningfully engaged group of residents, reflective of and connected to their community and neighbors, with a master plan to match.



By doing this, the process can engage more residents, place them in a leadership position, build broader buy-in for the plan down the road, and create educated champions who understand the issues and what's at stake. For its part, the City will be left with a master plan that actually contains three high-level small area plans, providing better detail and more implementation power. We propose to facilitate the four committees through a three phase process roughly as follows:

#### Phase 1:

- Building the committees, educating about markets and neighborhood dynamics, and developing ownership of the planning process.
- Quantitative and qualitative research and analysis to understand the regional and citywide context, the core neighborhoods area, each of the nine individual neighborhoods within it, and the forces and systems at work in the core neighborhoods.
- Identifying issues by establishing a comprehensive picture of market health, challenges, and opportunities for the city and core neighborhoods area.

#### Phase 2:

- Developing a planning framework for the core neighborhoods that provides a way to think about what is going on, which problems the City ought to solve, and what kind of responses might be appropriate.
- Designing a toolkit to build system capacity for future implementation.
- Crafting three "plans within the plan" for three sub-areas of the larger core neighborhoods area.

#### Phase 3:

- Building all previous work into a core neighborhoods master plan, inclusive of:
  - Market context and neighborhood typology
  - Identified issues and opportunities
  - Planning and intervention framework
  - Implementation toolkit
  - Three high-level sub-area plans
  - Nine neighborhood-specific implementation briefs

**How parallel  
but coordinated  
group work will  
produce a core  
neighborhoods  
master plan**



## WHAT THESE GROUPS WILL BE WORKING ON

CITYWIDE AND CORE  
NEIGHBORHOODS  
CONTEXT AND SYSTEMS

AREA SPECIFIC  
CONTEXT AND ENGAGEMENT

### PHASE 1



CITYWIDE  
AND CORE  
NEIGHBORHOODS  
PICTURE



AREA SPECIFIC  
PICTURE



### PHASE 2



CITYWIDE AND CORE  
NEIGHBORHOODS  
TOOLKIT



THREE DRAFT  
SMALL  
AREA PLANS



### PHASE 3

### Products of the Process

What's included in the  
Master Plan



MARKET CONTEXT AND  
NEIGHBORHOOD TYPOLOGY



ISSUES/  
OPPORTUNITIES



PLANNING AND  
INTERVENTION FRAMEWORK



IMPLEMENTATION TOOLKIT



RECOMMENDATIONS AND  
IMPLEMENTATION ACTIONS ORGANIZED  
BY THREE SUB-AREAS AND NINE  
NEIGHBORHOODS

CORE  
NEIGHBORHOODS  
MASTER PLAN



THREE HIGH LEVEL AREA PLANS



NINE IMPLEMENTATION BRIEFS





## PHASE 0

### Phase 0: December 2019 - January 2020

If selected, we will work with City staff to finalize scope and process to deliver the master plan. Issues to finalize will include:

- Project management issues such as point of contact and data sharing.
- Decision, or decision-making process, on how to group nine neighborhoods into three sub-areas.
- Composition of project steering committee and sub-area committees.
- Project schedule with milestones spelled out, specific meeting dates placed on the calendar, and consultant travel requirements identified.

The czb team will make all project preparations and begin data assembly and preliminary analysis.

## PHASE 1

### Phase 1: February 2020 - May 2020

The first phase represents the official project kickoff, the beginning of committee work, and the bulk of the consulting team's research and analysis. Key activities include:

**Building the committees, educating about markets and neighborhood dynamics, and developing ownership of the planning process.**

- Once the committees are impaneled, we will develop exercises for committee members to complete ahead of February kickoff meetings, focused on identifying neighborhood issues and articulating committee members' thoughts about the project.
- We will visit Fargo for a set of kickoff meetings in February where we will provide an overview of the project, share initial thoughts and data findings, review committee exercise results, and set up future project schedule and steps.
- Part of the February meetings will also be focused on the committees beginning work on identifying neighborhood brands, or improvements to existing neighborhood brands. We will facilitate the meetings in a workshop format, with brand work focusing on target markets and core brand attributes, and looking ahead to brand strategy.

**Quantitative and qualitative research and analysis to understand the regional and citywide context, the core neighborhoods area, each of the nine individual neighborhoods within it, and the forces and systems at work in the core neighborhoods.**

- This set of tasks consists of a consultant deep dive into data and into conversations with residents and local experts who can shed light on the past, present, and possible future of core neighborhoods. Data analysis will include a range of primary and secondary sources, including:
  - **Census Datasets:** Using historical Census data and American Community Survey 5-year estimates, we will gather a broad combination of demographic, socio-economic, housing stock, and housing financial data.
  - **Home Mortgage Disclosure Act and HudUser.org:** We will use additional federal and state datasets, paired with local agency data, to identify locations and details for affordable and assisted housing in the City, as well as lending and CRA activity.
  - **Local Government Data:** We will rely on the City to provide assessment records, tax foreclosure records, outstanding code violations, and all other available and relevant data.



- **Multiple Listing Service:** We will gather data on recent homes sales, including average sale price, list price to sales price ratios, time on market, and physical characteristics of sold properties.
- **Residential Property Conditions Survey:** czb has long used a property conditions survey not only to understand markets, but also to devise surgically precise intervention strategies for revitalization planning, acquisition/rehab programs, for code enforcement planning, and for demolition strategies where they become necessary. (See page 13 for more information.) We regularly use all kinds of partners to help with property surveys, from college students, to project steering committees, to engaged senior citizen groups. For this project, we recommend training steering committee members to collect the data late in the first phase, once spring has arrived. When the community itself collects this critical data, it "owns" the data, and it feels more ownership in addressing the problems it may reveal. It is also a key part of the committees' educational process as they learn about neighborhood dynamics and branding.  
(We will determine feasibility of this approach by early March. In the event it proves impractical for steering committee members to do this work, we will have in place a contingency plan to hire students from NDSU. We frequently hire local college students for conditions surveys and are well practiced in recruiting, hiring, and managing them for successful results.)
- Much of our qualitative research will be time spent in the neighborhoods and with members of the committees, getting to know the neighborhoods and what their challenges and opportunities might be. Committees will generally be given "homework assignments" between visits in order to advance the work within the phase. Beyond that, methodologies will include:
  - **Stakeholder and Expert Interviews:** There are likely others who can provide perspective and insights who will not be part of the committees. We expect to identify them early in the phase and connect with them via phone or in person.
  - **Surveys:** We suggest at least one online survey be conducted during the project, with topics and questions informed by consultant findings and committee interests. Sometime near the end of the first phase is good timing for a survey.

**Identifying issues by establishing a comprehensive picture of market health, challenges, and opportunities for the city and core neighborhoods area.**

- By the end of Phase 1, the bulk of the project's research will be done, as will the foundation for neighborhood identity and branding efforts. The committees will have a strong sense of citywide, core neighborhoods, and individual neighborhood market conditions and trajectories, as well as a stronger understanding of neighborhood dynamics and emerging brand improvement possibilities.
- The czb team will visit two additional times to facilitate two more sets of committee meetings during the first phase: once in April where we will continue working with the committees on issue identification and branding strategy and check progress on the property conditions survey, and once in May to present a Phase 1 capstone report that represents a comprehensive picture of market health, challenges, and opportunities for the core neighborhoods area.
- If City staff thinks it is a good idea, the last visit of Phase 1 (and the third visit overall) would be a good time to hold a public open house to share project findings and initial directions. In particular, it is an efficient way to share a large volume of information, gather outstanding stakeholder and resident input, and provide a heads up to elected officials and planning commission members who will be considering the master plan later in the year.

**Phase 1 Summary:**

Visits	Committee(s)	Focus	Deliverables
February April May	Steering	<ul style="list-style-type: none"> <li>Citywide and Core Neighborhoods Market Context</li> </ul>	<ul style="list-style-type: none"> <li>Citywide and Core Neighborhoods Market Assessment</li> <li>Key Issues</li> </ul>
	Sub-Area	<ul style="list-style-type: none"> <li>Sub-Area and Neighborhood-Specific Market Context</li> <li>Branding</li> <li>Property Conditions Survey</li> </ul>	<ul style="list-style-type: none"> <li>Draft Brand Concepts</li> <li>Sub-Area and Neighborhood Market Assessment</li> <li>Key Issues</li> </ul>
	Both	<ul style="list-style-type: none"> <li>Issue Identification</li> <li>General Public Engagement</li> </ul>	<ul style="list-style-type: none"> <li>Phase 1 Report</li> <li>Open House</li> <li>Online Survey</li> </ul>

**PHASE 2****Phase 2: June 2020 - August 2020**

Once the consulting team, the committees, and staff have a sense from Phase 1 of what is going on in the neighborhoods, what the opportunities and constraints are, and what the emerging brand ideas will require, Phase 2 begins to answer the question: "ok, now what do we do about it?" Key activities include:

**Developing a planning framework for the core neighborhoods that provides a way to think about what is going on and what kind of responses might be appropriate.**

- Given the existing conditions and the City's desires for the core neighborhoods, what does the gap between today and tomorrow look like? What's possible? What can the private sector deliver if properly regulated and what must the public sector contribute? These are all key questions that the planning process must answer, but only after the City has determined what its goals are and what kind of resources will be made available to meet those goals.
- Across the nine neighborhoods of the study area, there may be different problems to solve with different implications for decisions and resource allocation. Using the Phase 1 analysis as a baseline, Phase 2 will begin by setting goals and stating outcomes for the future of the core neighborhoods. Goals and outcomes will be aligned with emerging brands coming out of the committees' work. Some areas may be in need of revitalization in the form of increased property maintenance and higher home values. Others may be in need of new regulations to manage development. Still others may be in need of additional affordability if prices and rents have risen quickly in recent years. Which neighborhoods have which goals?
- Once goals and outcomes have been measured against baseline conditions, the actions necessary to close the gaps start to come into focus. This leads to the implementation tools necessary to facilitate those actions.

#### Designing a toolkit to build system capacity for future implementation.

- Whatever the needs are for managing change across the core neighborhoods, does the City have the tools in place to support that management process? During Phase 2, City staff and the overall steering committee will focus on this question in response to the work of the subarea committees. We will work together to assess whether planning regulations, code enforcement capacity, City staffing, and other key inputs are sufficient to the tasks that seems to be emerging for the future of the core neighborhoods. It is often the case that we find new tools must also be invented, and we are prepared for this to be true in Fargo as well.
- During two visits in Phase 2, one in July and one in August, we expect to cover these topics in meetings with the steering committee in order to reality check emerging plan recommendations and build support for the recommendations that make it through to the draft master plan in the fall of 2020.

#### Crafting three “plans within the plan” for three sub-areas of the larger core neighborhoods area.

- As the steering committee works through the framework and toolkit, the three sub-area committees will work to turn their issue identification and branding desires first into vision, then into plan outlines, and then into sub-area plans that will “handshake” with a broader master plan.
- During the July visit, we will again use an extended workshop format with the sub-area committees to convert brand concepts to visions and then match them to appropriate actions that will inform the sub-area plans. The result of the July sub-area committee meetings will be plan outlines. In August, the czb team will return with three high level draft sub-area plans (assume roughly 60-70% completion) to test them individually with the committees and to vet them in totality with the steering committee.
- If the City thinks it a good idea, this would be a good point in the project for another survey to test ideas in the emerging sub-area plans.

#### Phase 2 Summary:

Visits	Committee(s)	Focus	Deliverables
July August	Steering	<ul style="list-style-type: none"> <li>• Goals and Outcomes</li> <li>• Tools and Systems</li> </ul>	<ul style="list-style-type: none"> <li>• Neighborhood Planning Framework</li> <li>• Implementation Toolkit</li> </ul>
	Sub-Area	<ul style="list-style-type: none"> <li>• Solidified Brand Concepts</li> <li>• Vision</li> <li>• Converting Vision to Plans</li> </ul>	<ul style="list-style-type: none"> <li>• Draft Sub-Area Plans</li> <li>• Potential Online Survey</li> </ul>

## PHASE 3



### Phase 3: September 2020 - November 2020

The final phase is focused on the writing of the master plan by the consulting team and multiple vetting opportunities for the committees. By the third phase, much of the plan has already been developed. What is left is to tie all previous work—market context, issues/opportunities, planning framework, toolkit, draft sub-area plans—into one cohesive core neighborhoods master plan and add nine neighborhood-specific implementation briefs. The briefs—executive summary type documents with neighborhood-specific information and implementation actions—serve two purposes. First, they leave each neighborhood with something customized out of a process that would otherwise result in a single plan for all of them. Second, they provide clearer and more granular detail for each neighborhood so that the City and residents know what they need to do and can take action..

- We propose to visit Fargo twice during the third phase. The first visit would take place in October and the second in November.
- **October:** czb will present a draft core neighborhoods master plan to the committees for review and feedback. czb will also hold a public open house to share the draft master plan with neighborhood residents, stakeholders, and the general public. Committee and open house feedback will inform final revisions to the master plan. czb and staff will also make arrangements and preparations for the final adoption process.
- **November:** czb will deliver the final core neighborhoods master plan document and make a final presentation to the City Commission or in another venue of the City's choice.

#### Phase 3 Summary:

Visits	Committee(s)	Focus	Deliverables
October November	Both	<ul style="list-style-type: none"> <li>• Review and Feedback on Draft and Final Master Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Draft Core Neighborhoods Master Plan</li> <li>• Open House</li> <li>• Final Core Neighborhoods Master Plan</li> <li>• Final Presentation</li> </ul>



## Residential Property Conditions Survey

We have partnered with local stakeholders to inventory the condition of nearly 300,000 residential properties since 2012 in over a dozen communities. Our technique not only highlights the location of troubled properties and the context of their impact – it also aids in revealing patterns of market health that can be used to devise appropriate interventions at the block level.

Since 2012 nearly

# 300,000

residential properties surveyed  
 in over a dozen communities

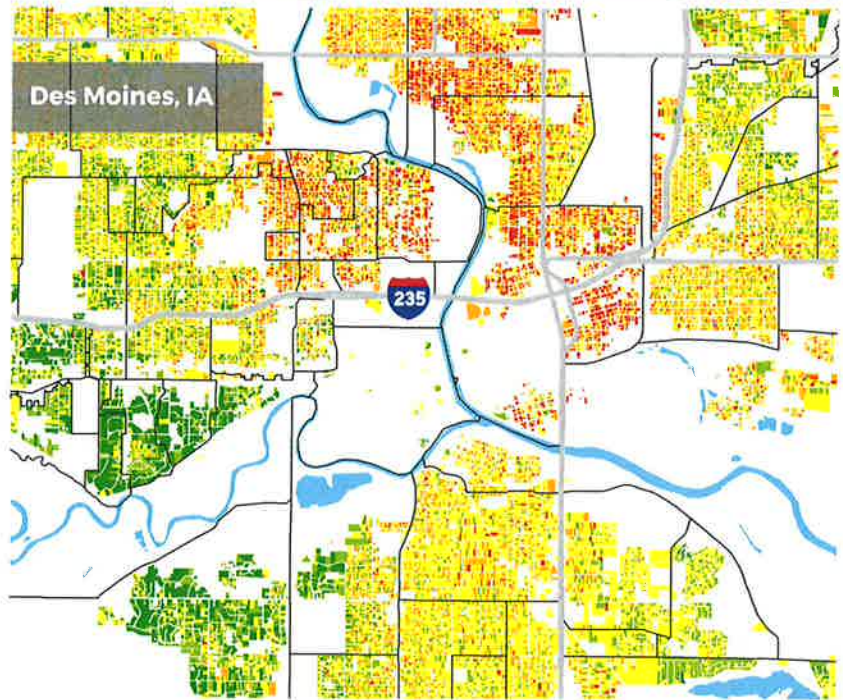
### Field Survey Scoring

VERY  
HEALTHY



VERY  
UNHEALTHY

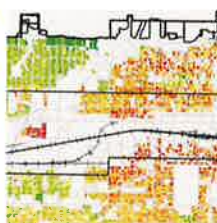
SCORE



Canton, OH



Buffalo, NY



Erie, PA



Geneva, NY



Oswego, NY



Perry, NY



Salisbury, NC



Danville, VA



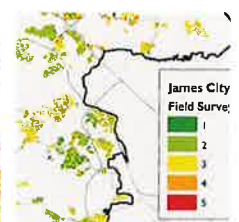
Bay City, MI



Ashland, WI



Bowling Green, OH



James City County, VA

ATTACHMENT "B"

Schedule of Work

[see attached]

## Schedule for Work Program

	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV
<b>Phase 0</b>												
Project Set Up												
<b>Phase 1</b>												
<b>Kickoff</b>												
Consultant Research												
Property Conditions Survey												
Draft Brand Concepts												
Online Survey												
Phase 1 Report												
<b>Open House</b>												
<b>Phase 2</b>												
Core Neighborhoods Framework and Toolkit												
Brand Concepts												
Sub-Area Visions												
Sub-Area Plan Outlines												
Sub-Area Plan Drafts												
Possible Online Survey												
<b>Phase 3</b>												
Draft Master Plan												
<b>Open House</b>												
Final Presentation												
Final Master Plan												
<b>Site Visits</b>												

Master Plan

DRAFT FINAL



ATTACHMENT "C"

Schedule of Rates and Hours

[see attached]



**ATTACHMENT C****TOTAL BUDGET AND ESTIMATED BREAKDOWN OF COSTS**

Lump sum not to exceed amount is \$288,900. All sub-costs are estimates and non-binding.

	Charles Buki	Peter Lombardi	Thomas Eddington	Eric Ameigh	Karen Pooley	Marcia Nedland	Total
Phase 1	120	185	130	60	115	70	680
Phase 2	100	150	100	50	0	70	470
Phase 3	80	100	100	50	20	0	350
Total Hours	300	435	330	160	135	140	1,500
Rate	\$210	\$165	\$165	\$165	\$165	\$150	
Personnel Total	\$64,500	\$71,775	\$54,450	\$26,400	\$22,275	\$21,000	\$260,400
Number of trips	3	7	4	2	0	3	19
Estimated trip cost	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	
Total Travel Costs	\$4,500	\$10,500	\$6,000	\$3,000	\$0	\$4,500	\$28,500
Total Cost							\$288,900

(15)

**MEMORANDUM**

**TO:** City Commission

**FROM:** Mark Williams, Assistant Planning Director *m*

**DATE:** November 26, 2019

**RE:** 2020 and 2021 Parking Rates

Below are our recommendations for monthly parking rates for 2020 and 2021. At the October Parking Commission meeting, the new 2020 and 2021 parking rates were proposed. If approved Interstate Parking will notify the current parkers of the rate change (see attachment).

**2020 and 2021 Monthly Rate Recommendations**

Name	Total Spaces	Available Monthly Spaces	Spaces Rented	% Sold	Existing Monthly Rate \$	Proposed 2020 Monthly Rate \$	Proposed 2021 Monthly Rate \$	Proposed % Rate Increase
Civic Ramp	250	225	245	109%	\$ 106.00	\$ 106.00	\$ 129.00	0%/21.7%
RoCo	454	347	347	100%	\$ 106.00	\$ 106.00	\$ 129.00	0%/21.7%
-Reserved	57	57	61	107%	\$ 130.00	\$ 140.00	\$ 150.00	7.7%/7.1%
NP Ave.	145	85	189	222%	\$ 81.00	\$ 90.00	\$ 99.00	11.1%/10%
GTC	185	185	205	111%	\$ 93.00	\$ 99.00	\$ 106.00	6.5%/7.1%
4th St.	174	174	226	130%	\$ 70.00	\$ 75.00	\$ 75.00	7.1%/0%
3rd St.	145	145	183	126%	\$ 75.00	\$ 75.00	\$ 75.00	0%/0%
Main Ave.	75	75	68	91%	\$ 62.00	\$ 62.00	\$ 62.00	0%/0%
IPR	355	355	202	57%	\$ 59.00	\$ 59.00	\$ 59.00	0%/0%
7th Street	26	26	20	77%	\$ 45.00	\$ 45.00	\$ 45.00	0%/0%
Mercantile	369						\$ 106.00	


With a 4-0 vote, the Parking Commission recommended approval of the parking rates.

**Recommended Action:** Approve the 2020 and 2021 parking rate increase as recommended by the Parking Commission.

(16)

**MEMORANDUM**

**TO:** Fargo City Commission

**FROM:** Nicole Crutchfield, Director of Planning & Development 

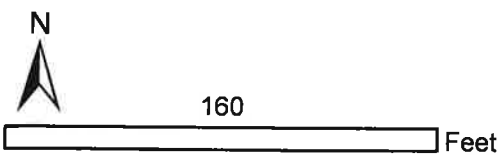
**DATE:** November 27, 2019

**SUBJECT:** Request for Parking Time Zone Change

At the November 21, 2019 Parking Commission meeting, the Parking Commission voted to approve a change in parking time zones along 5<sup>th</sup> Avenue North between 11<sup>th</sup> and 12<sup>th</sup> Street and along 11<sup>th</sup> Street North between 4<sup>th</sup> and 5<sup>th</sup> Avenue. This request came from the Emergency Food Pantry, whose volunteers regularly park along 5<sup>th</sup> Avenue North and 11<sup>th</sup> Street North for several hours at a time while volunteering at the Pantry.

Recommendation: Accept the findings and recommendations of the Parking Commission and change the parking time zone along 5<sup>th</sup> Avenue North between 11<sup>th</sup> and 12<sup>th</sup> Street and along 11<sup>th</sup> Street North between 4<sup>th</sup> and 5<sup>th</sup> Avenue from 90-minute parking to 4-hour parking.





-  Emergency Food Pantry
-  Proposed 4-hr Parking

## **FARGO POLICE DEPARTMENT**

105 25th Street North, Fargo, North Dakota 58102

David E. Todd, Chief of Police

(17)

November 25, 2019

Board of City Commissioners  
City Hall  
Fargo, ND 58102

RE: EMW-2018-SS-00008. The CFDA# is 97.067. City of Fargo Account number 10508, Ad # 2805829-Ballistic Helmets

Dear Commissioners:

The Fargo Police Department has applied for and been awarded a grant from the ND Department of Emergency Services to purchase new ballistic helmets equipped with hearing protection for our Regional SWAT Team. The amount of this grant is \$62,217.00, and the Award Identification number is: EMW-2018-SS-00008. The CFDA# is 97.067. City of Fargo Account number 10508, Ad # 2805829.

The SWAT Team's current ballistic helmets are over a decade old. Helmet technology has improved and new helmets will allow personnel to use other equipment more effectively. New helmets will have a night vision shroud, rail mount set, and updated padding and suspension gear. Ballistic helmets provide protection against handgun bullets, blunt impacts, bomb fragmentation and select small arms (rifle) projectiles.

A Request for Proposals process was completed according to the City of Fargo purchasing policy. Tactical Products and Services Inc, was the only bidder that met our specifications identified through our Request for Proposals process.

The Fargo Police Department would like to purchase 31 ArmorSource AS-600 helmets with Peltor COMTAC 3 Noise Cancelling Headsets from Tactical Products and Services Inc, using the awarded grant funds. This will allow us to equip our entire Regional SWAT Team.

Attached you will find the following documents: The RFP and a bid submission and price quote from Tactical Products and Services Inc. The price quote is for \$65,600. The difference in funds, of \$3,383.00 will be supplemented with funds from The SWAT team's operating budget.

ADMINISTRATION  
Phone: 701-241-1427  
Fax: 701-297-7789

INVESTIGATIONS  
Phone: 701-241-1405  
Fax 701-241-1407

RECORDS  
Phone: 701-241-1420  
Fax: 701-241-8272

NON EMERGENCY  
Phone: 701-235-4493

**Recommended Motion:**

*Accept the request to use the awarded grant funds from ND DES to purchase 31 ArmorSource Ballistic Helmets equipped with Peltor COMTAC 3 noise cancelling headsets from Tactical Products and Services Inc., for use by the RRV SWAT Team.*

Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Todd". The signature is fluid and cursive, with a prominent loop at the end.

David E. Todd  
Chief of Police

Attachments: 2



## **Request for Proposal**

Ballistic Helmets and headsets

November 05<sup>th</sup>, 2019

Fargo Police Department/RRV SWAT

105 25<sup>TH</sup> STREET NORTH

FARGO, ND 58102

(701) 476-4095

### **Application Overview**

The Fargo Police Department/RRV SWAT serving the Cass and Clay County metro area is seeking a Request for Proposal for ballistic helmets and hearing protection. The Fargo Police Department is looking to purchase 31 ballistic helmets equipped with noise cancelling headsets.

### **Products to be Delivered**

(31) Ballistic Helmets with noise cancelling headsets.

- Helmets must meet NIJ Level IIIA Ballistic Standards.
- Helmets must meet Ballistic Performance of 7.62x51mm (147 gr. NATO M80 Ball Round) V0 @ 2100 ft/sec (640 m/sec).
- Helmets must meet Fragment Performance of 17 gr. FSP BL(p) V50 > 3000 ft/sec (914 m/sec).
- Helmets must come in at least 4 different shell sizes.
- Helmet must come with an impact liner system that will provide impact protection, comfort, stability, and heat mitigation.
- Helmets must have the ability to be fitted with skeletonized rails, to ensure Integration with performance enhancing equipment.
- Helmet will come with a NVG shroud, and be capable of being up fitted with full face protection accessories to include but not limited to eye protection and mandible protection.
- Helmet must be equipped with a dial ratchet mechanism to adjust the fit band, and be easily adjustable suspension system for a comfortable fit.
- Helmets must be equipped with rail mounted communication headsets that are compatible with our current push-to-talk units and Motorola radios.
- Included headsets must meet environmental standard MIL-STD-810F.
- Headsets must have adjustable sizing and a gel cushion option for fitment and comfort.
- Headsets must be noise-cancelling, capable of talk-thru functions and radio communications.
- Headsets must have an ambidextrous noise-cancelling boom mic.
- Headsets must meet EMI Standard MIL-STD-461E and be Buy American, TAA, and Berry Amendment Compliant.
- The vendor must provide a sample product for test and evaluation prior to the approval of any contract or purchase.

**RFP Award Process**

Issuance of this RFP does not compel the Fargo Police Department to award. The Fargo Police Department reserves the right to reject any or all proposals, wholly or in part; to waive any technicalities, informalities, or irregularities in any proposal at its sole option and discretion. No modifications to proposal shall be accepted from the Vendor after the Submittal Date and Time. The Fargo Police Department reserves the right to re-solicit for proposals or to temporarily or permanently abandon the procurement process at its discretion. The Fargo Police Department reserves the right to issue an addendum or multiple addendums to the RFP at anytime for any reason. All Vendors will receive any and all addendums issued. After the RFP proposal submission closure date, an award may be made on the basis of the proposals initially submitted, without discussion, clarification or modification. Therefore, the Vendors should make sure their proposals contain the best offer.

**Responsible Proposers**

The Fargo Police Department reserves the right to award contracts only to responsible Proposers. Responsible Proposers are defined as companies that demonstrate the financial ability, resources, skills, capability, willingness, and business integrity necessary to perform on the contract. The Fargo Police Department determination of whether a Vendor is a responsible Proposer is at the Fargo Police Department sole discretion. Upon award of a contract or agreement to purchase the vendor must deliver all products by December 20<sup>th</sup>, 2019.



Tactical Products &  
Services Inc. d.b.a. On Site

14077 Homestead Ave N  
Hugo, MN 55038

# Estimate

Date	Estimate #
11/11/2019	912

Name / Address
Red River SWAT Fargo Police Dept 222 4th st Fargo ND 58102

Project

Description	Qty	Price each	Item total
-Armour Source AS-600 Helmet supplied by American Blast (7.62 rating) OD GREEN COLOR HIGH CUT FIT -R3 Team Wendy BOA 4 point retention system -ASR Armor Source side rail (OD GREEN) -Exterior Loop Fastener kit (OD GREEN) -P4 Team Wendy epic air liner system -Wilcox WIL3 shroud	31	1,600.00	49,600.00
Freight Charges to Customer	1	500.00	500.00
-Peltor Comtac III ACH headset (this must fit our existing PTT's for the XTS5000, and be able to work with our new radio system and PTT at a later date this year) OD GREEN COLOR -ARC Attachment -Single Comm System -COMTAC III SOF ARC Configuration	31	500.00	15,500.00
Freight Charges to Customer	1	0.00	0.00
This bid fully meets the requirements of the Request for Proposal detailed on the Fargo web site. this include the required delivery date.			
<b>Total</b>			<b>\$65,600.00</b>



## PUBLIC WORKS/OPERATIONS

Fleet Management, Forestry,  
Streets & Sewers, Watermeters,  
Watermains & Hydrants  
402 23<sup>rd</sup> STREET NORTH  
FARGO, NORTH DAKOTA 58102  
PHONE: (701) 241-1453  
FAX: (701) 241-8100

(18)

November 26<sup>th</sup>, 2019

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

RE: Piggyback RFP for 2020 Snow Plow, Box and Wing (PBCRFP19171)

Commissioners:

On November 1<sup>st</sup>, 2019, proposals were received for one (1) Snow Plow, Box and Wing. Two proposals were submitted by two separate vendors.

The results were as follows:

<u>Firm</u>	<u>Price</u>
Northern Truck Equipment	\$97,850.00
Bert's Truck Equipment	\$110,469.00

The review committee, consisting of Ben Dow and Tanner Smedshammer, determined that both proposals met the required specifications. Our recommendation after review from the Finance Committee is to purchase based on meeting all specifications with the lowest proposed price utilizing the Piggyback Contract from Northern Truck Equipment Corp. Funding for this project is included in the 2020 Vehicle Replacement budget.

SUGGESTED MOTION:

Approve the recommendation to purchase one (1) Snow Plow, Box and Wing from Northern Truck Equipment for the amount of \$97,850.00.

Respectfully Submitted,

Tanner Smedshammer  
Fleet Management Specialist

**Request for Proposals**  
**2020 Sander Body/Plow/Wing Results**  
**PBCRFP19171**  
**11/1/19**

**Proposal Evaluation Summary**

	<b>Northern Truck</b>	<b>Bert's Truck</b>
<b>Box Make</b>	Monroe	Bonnell
<b>Plow Make</b>	Monroe	Salt Dogg
<b>Wing Make</b>	Monroe	Falls
<b>Total</b>	\$97,850.00	\$110,469.00
<b>Days</b>	150 - 200	120 -180

## FINANCE COMMITTEE

(19)

Location: Solid Waste Division

Type: 2020 Resolution Prescribing Rates and Charges for Solid Waste Services

Date of Hearing: 11/25/19

<u>Routing</u>	<u>Date</u>
City Commission	12/02/19
Project File	

Terry Ludlum, Solid Waste Utility Director, presented the attached Resolution Prescribing Rates and Charges for Solid Waste Services to take effect January 1, 2020. The Resolution reflects an increase in landfill tipping fees from \$43/ton to \$46/ton and was included in the Mayor's 2020 proposed budget. The landfill tipping fee increase is being proposed due to two factors as shown:

**1.) 2019 Cost of Service Analysis**

Solid Waste staff completed a 6-year Cost of Service Analysis of landfill operations which has been attached for your reference. It indicates that the average cost of service (\$/ton) at the landfill over the past 6 years was \$46.10/ton. As such, staff recommends an increase in landfill tipping fees from \$43/ton to \$46/ton to adequately recover the cost of service associated with landfill operations.

**2.) 2019 Market Survey Analysis**

Solid Waste staff also completed a Landfill Market Survey to compare the tipping fee increase with other regional landfills. Results of the survey have been attached and summarized below:

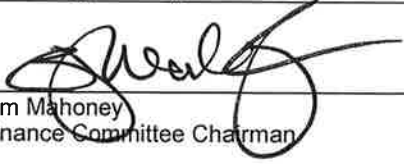
<u>Location</u>	<u>Tipping Fee</u>
Fargo Landfill	\$46.00/ton (Proposed)
Grand Forks Landfill	\$51.36/ton (2020)
Jamestown Landfill	\$78.50/ton (2019)
Dakota Landfill (Gwinner)	\$52.00/ton (2019)
Bismarck Landfill	\$46.00/ton (2019)
Minot Landfill	\$48.00/ton (2020)

Thus, the survey indicates that an increase in the tipping fee to \$46.00/ton is comparable and competitive in the regional marketplace for an MSW landfill. The resolution also includes a \$1.00/month increase in the cost of residential single stream recycling, a \$10.00 per stop fee for commercially collected separated recyclable materials, and an updated commercial fee matrix. The resolution does not include any changes in residential garbage collection fees.

**MOTION:**

On a motion by Bruce Grubb, seconded by Steve Sprague, the Finance Committee voted to approve the attached 2020 Resolution Prescribing Rates and Charges for Solid Waste Services.

<u>COMMITTEE:</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Unanimous</u>
Dr. Tim Mahoney, Mayor	X	X		X
Dave Piepkorn, Commissioner	X	X		
Bruce Grubb, City Administrator	X	X		
Michael Redlinger, Assistant City Admin.	X	X		
Jim Gilmour, Director of Strategic Planning	X	X		
Kent Costin, Director of Finance	X	X		
Steve Sprague, City Auditor	X	X		

  
 Tim Mahoney  
 Finance Committee Chairman

C: Commissioner Gehrig  
 Commissioner Grindberg  
 Commissioner Strand

## ***MEMORANDUM***

**To:** Finance Committee  
**From:** Terry Ludlum, Solid Waste Utility Director (FL)  
**Date:** November 18, 2019  
**Subject:** 2020 Resolution Prescribing Rates and Charges for Solid Waste Services

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### **Introduction**

Attached please find an amended Resolution Prescribing Rates and Charges for Solid Waste Services (Resolution) to take effect on January 1, 2020. The Resolution reflects an increase in landfill tipping fees from \$43/ton to \$46/ton and was included in the Mayor's 2020 proposed budget. The landfill tipping fee increase is being proposed due to two factors identified as follows:

1. 2019 Cost of Service Analysis
2. 2019 Market Survey Analysis

The following sections provide detailed information relative to evaluations of the above referenced factors.

### **2019 Cost of Service Analysis**

Solid Waste staff have completed a 6-year Cost of Service Analysis of landfill operations which has been attached for your reference. It indicates that the average cost of service (\$/ton) at the landfill over the past 6 years was \$46.10/ton. As such, staff recommends an increase in landfill tipping fees from \$43/ton to \$46/ton to adequately recover the cost of service associated with landfill operations.

### **2019 Market Survey Analysis**

Solid Waste staff also completed a Landfill Market Survey to compare the tipping fee increase with other regional landfills. Results of the survey have been attached and summarized below:

<b><u>Location</u></b>	<b><u>Tipping Fee</u></b>
Fargo Landfill	\$46.00/ton (Proposed)
Grand Forks Landfill	\$51.36/ton (2020)
Jamestown Landfill	\$78.50/ton (2019)
Dakota Landfill (Gwinner)	\$52.00/ton (2019)
Bismarck Landfill	\$46.00/ton (2019)
Minot Landfill	\$48.00/ton (2020)

Thus, the survey indicates that an increase in the tipping fee to \$46.00/ton is comparable and competitive in the regional marketplace for an MSW landfill. Please note that the resolution also includes a \$1.00/month increase in the cost of residential single stream recycling and a \$10.00 per stop fee for commercially collected separated recyclable materials.

### **Recommendation**

Therefore, it is the staff recommendation to approve the attached ***Resolution Prescribing Rates and Charges for Solid Waste Services (amended January 1, 2020)*** to reflect a landfill tipping fee increase to \$46/ton, a \$1.00/month increase in single stream recycling, and a fee of \$10.00/stop for commercially collected separated recyclable materials; all effective January 1, 2020.

Your consideration in this matter is greatly appreciated.

**Resolution Prescribing Rates and Charges for Solid Waste Services**  
**(Amended January 1, 2020)**

**BE IT RESOLVED** by the Board of City Commissioners of the City of Fargo, North Dakota, under and pursuant to the provisions of Section 13-0518 of the Fargo Municipal Code of the City of Fargo, as amended, the rates and charges stated in this resolution are established and shall be payable by the owners and occupants of all premises to which garbage and recycling services are furnished and made available by the municipal garbage and recycling utility, effective January 1, 2020, and shall be reflected in the statements for garbage and recycling service prepared after that date; provided, however, that the rates and charges for such service or services in effect prior to January 1, 2020 shall remain in full force and effect:

**RATES ARE NON-NEGOTIABLE.**

1. There shall be collected for each single family dwelling the following monthly charges for garbage service effective January 1, 2020:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

2. There shall be collected from each multiple dwelling and/or apartment dwelling the following monthly charges for garbage service effective January 1, 2020:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

Any multiple dwelling and/or apartment dwelling equipped with a commercial dumpster for garbage shall pay a monthly collection fee as described in paragraph 5. Said changes to be billed to and paid for by the property owner monthly.

3. There shall be collected from each mobile home court the following monthly charges for garbage service per mobile home effective January 1, 2020:

<u>Cart Size (Each)</u>	<u>Charge</u>
Small (48-gallon)	\$ 6.00
Medium (65-gallon)	\$ 9.00
Large (96-gallon)	\$14.00

Any mobile home court equipped with a commercial dumpster shall pay a monthly collection fee as described in paragraph 5. Said charges to be billed to and paid for by the property owner monthly.

4. There shall be collected for each single-family dwelling that chooses to participate in the single-stream recycling program the following monthly charges for recycling service, effective January 1, 2020:

<u>Cart Size (Each)</u>	<u>Charge</u>
Large (96-gallon)	\$4.00

5. There shall be collected from each mobile home court the following monthly charges for recycling service per mobile home that chooses to participate in the single-stream recycling program, effective January 1, 2020:

<u>Cart Size (Each)</u>	<u>Charge</u>
Large (96-gallon)	\$4.00

6. For persons 65 years of age or older who qualify for real estate homestead credit in accordance with section 57-02-08.1 of the North Dakota Century Code, the charge shall be \$2.50 per month for garbage service and \$1.00 per month for single-stream recycling service.

7. There shall be collected for containers the following monthly charges, and for commercial recycling and roll-off services, the following charges effective January 1, 2020.

Cubic Yards	1/wk	2/wk	3/wk	4/wk	5/wk	6/wk	7/wk
2	61.52	123.03	184.55	246.07	307.58	369.10	430.62
3	71.71	143.42	215.12	286.83	358.54	430.25	501.95
4	81.90	163.80	245.70	327.59	409.49	491.39	573.29
6	102.28	204.56	306.84	409.12	511.40	613.68	715.96
8	122.66	245.32	367.99	490.65	613.31	735.97	858.64

\$2.35/CY + \$9.50/PICK-UP

COMPACTED TRASH 1.5 TIMES THE RATES LISTED ABOVE

FLAT GARBAGE CHARGE - \$40.96/MONTH MINIMUM FOR NONCOMMERCIAL CONTAINER ACCOUNTS AS APPROVED BY ROUTE SUPERVISOR.

#### COMMERCIAL RECYCLING SERVICE:

\$10.00 per stop for all commercially separated recyclable materials (cardboard, plastic, glass, etc.)

#### ROLL-OFF SERVICE:

Pulls: \$100.00/pull plus landfill fees

\$85.00/pull plus landfill fees if container is owned by the contractor

\$85.00/pull if load is recycled or incinerated

Rental: \$ 5.00/day excluding week-ends (the rental fee will be waived if one pull is made per week)

**BE IT FURTHER RESOLVED**, that effective January 1, 2020, there shall be charged to all users of the City of Fargo Sanitary Landfill the following charges:

All Landfill Waste	\$46.00/ton
Private Haulers In-City	\$45.00/ton
Inert Waste	\$41.00/ton
Separated Demolition Material (free of debris) Untreated Wood, Trees, Pallets, Concrete	\$41.00/ton
Compost Waste	\$25.00/ton
Special Handling (Asbestos, Contaminated Soil)	\$46.00/ton or \$125.00 Minimum
Minimum Charge	\$12.00/load
Weight Only	\$10.00/each
Industrial Waste – Special Handling (Ash & Powders)*	\$300.00/load - plus tipping fee
Offloading Assistance	\$100.00/hour – ½ hour minimum

\*Assessed if handling of waste results in increased equipment maintenance costs (i.e. air filters)

**BE IT FURTHER RESOLVED**, that effective January 1, 2020, there shall be charged to all conditionally exempt small quantity generators (CESQGs) and those non-resident users not included in current landfill agreements with the City whom utilize the City of Fargo Household Hazardous Waste (HHW) facility, the following charges:

Acids/Bases	\$0.95/lb.	Oxidizers	\$1.04/lb.
Adhesives/Flammable Solids	\$0.76/lb.	Paint (max. 50 1-gal cans/month)	
		Latex	\$0.20/lb.
		Oil-based	\$0.78/lb.
Aerosols	\$1.07/lb.	PCB Ballasts	\$1.28/lb.
		PCB Capacitors	\$3.75/lb.
Anti-freeze* (max. 10-gals/month)	\$0.24/lb.	Poisons/Pesticides	\$0.89/lb.
Cleaners/Solvents	\$0.44/lb.	Used Oil* (max. 10-gals/month)	\$0.12/lb.
Dioxins** (wood preservatives)	\$ (see below)	Mercury**	\$6.00/lb.
Flammable Liquids	\$0.44/lb.		
Electronics	\$1.14/lb.		
Fluorescent Bulbs (max. 36 bulbs/month)			
4 ft. and below	\$1.00/each		
5 ft and above	\$1.17/each		

\*Not included in the 220/lbs./month CESOG limit specified in the North Dakota Solid Waste Management Rules.

\*\*Dioxins, reactives and items not listed will be priced on a case-by-case basis.



## 2019 Cost of Service Analysis

### 6-Year History Summary

Year	Tons	Landfill Expenses	Admin. Expenses	Transfer Expenses	Total Expenses	Cost per Ton
2014	188,766	\$ 5,202,730	\$ 813,534	\$ 1,452,071	\$ 7,468,335	\$ 39.56
2015	172,900	\$ 4,353,633	\$ 624,323	\$ 1,357,867	\$ 6,335,823	\$ 36.64
2016	170,313	\$ 6,020,028	\$ 655,333	\$ 1,720,297	\$ 8,395,658	\$ 49.30
2017	177,644	\$ 6,923,954	\$ 588,565	\$ 1,150,000	\$ 8,662,519	\$ 48.76
2018	174,975	\$ 6,921,140	\$ 811,144	\$ 2,106,100	\$ 9,838,384	\$ 56.23
2019	185,000	\$ 7,609,667	\$ 847,991	\$ 2,366,861	\$ 10,824,519	\$ 58.51
<b>5-Yr. Avg.</b> (2014-2018)						<b>\$ 46.10</b>

**2014**

Tonnage	188,766
Landfill Expenses	\$ 5,202,730
Admin. Expenses (56%)	\$ 813,534
Transfer Expenses (56%)	\$ 1,452,071
Total	\$ 7,468,335

**2017**

Tonnage	177,644
Landfill Expenses	\$ 6,923,954
Admin. Expenses (50%)	\$ 588,565
Transfer Expenses (50%)	\$ 1,150,000
Total	\$ 8,662,519

**2015**

Tonnage	172,900
Landfill Expenses	\$ 4,353,633
Admin. Expenses (52%)	\$ 624,323
Transfer Expenses (52%)	\$ 1,357,867
Total	\$ 6,335,823

**2018**

Tonnage	174,975
Landfill Expenses	\$ 6,921,140
Admin. Expenses (57%)	\$ 811,144
Transfer Expenses (57%)	\$ 2,106,100
Total	\$ 9,838,384

**2016**

Tonnage	179,313
Landfill Expenses	\$ 6,020,028
Admin. Expenses (58%)	\$ 655,333
Transfer Expenses (58%)	\$ 1,720,297
Total	\$ 8,395,658

**2019 (Budgeted)**

Tonnage (Projected )	185,000
Landfill Expenses	\$ 7,609,667
Admin. Expenses (61%)	\$ 847,991
Transfer Expenses (61%)	\$ 2,366,861
Total	\$ 10,824,519

Increase in Landfill Capital budget due to former landfill reclamation projects.

## 2019 Market Survey - Landfill Tipping Fees

### Municipal Solid Waste (Cost per ton)

	2014	2017	2019	2020
<b>Fargo</b>	\$38.00	\$43.00	\$43.00	\$46.00
<b>Jamestown</b>	\$53.55	\$56.23	\$78.50	
<b>Gwinner</b>	\$49.00	\$49.00	\$52.00	
<b>Grand Forks</b>	\$48.00	\$50.00	\$50.36	\$51.36
<b>Bismarck</b>	\$45.00	\$45.00	\$46.00	
<b>Clay County</b>	\$43.00	\$43.00	\$45.00	\$50.00
<b>Minot</b>	\$36.00	\$40.00	\$40.00	\$48.00
<b>Sioux Falls</b>			\$64.00	

### Inert Waste (Cost per ton)

<b>Fargo</b>	\$38.00	\$43.00	\$38.00	\$41.00
<b>Jamestown</b>			\$48.00	
<b>Gwinner</b>				
<b>Grand Forks</b>			\$26.77	
<b>Bismarck</b>			\$26.00	
<b>Clay County</b>				
<b>Minot</b>			\$30.00	
<b>Sioux Falls</b>				

2019 Commercial Pick-up Study

Account Description	Stops/Week	Stops/Year	Expense Budget 6-Yr Average	Cost/Stop 6-Yr Average
General Commercial	1136	59,072		
Park Board	24	1,248		
Fargo Public Schools	128	6,656		
200,300,450 (Multifamily)	111	5,772		
No Charge (City facilities)	44	2,288		
Open Tops (Temporary Service)	7	364		
Projected 3-year Growth (1.0% per year)*		2262		
	1450	77,662	\$ 737,003	\$9.50

\* Based on historical account change.

Cost per cubic yard: tipping fee increase of \$3.00/cy (\$43.00 to \$46.00) = 6.98% x \$2.20/ton (existing) = \$2.35/cy

2019 Rolloff Study

	Stops/Year	Expense Budget	Cost/Pull
Regular	*3606	\$331,139	\$91.83

\* Does not include recycling or compost roll-off activity.

REPORT OF ACTION

(20)

**FINANCE COMMITTEE**

Location: Solid Waste Division - Recycling

Type: 2020 Temporary Surcharge Request  
MinnKota Recycling

Date of Hearing: 10/28/19

Routing	Date
City Commission	12/02/19
Project File	

Terry Ludlum, Solid Waste Utility Director, presented the attached email request and market index background information from MinnKota Recycling which explains the need for a \$30.00/ton surcharge on all comingled recyclables collected by the City of Fargo from January 1, 2020-June 30, 2020. If the cardboard market price remained below \$67.50/ton, the surcharge would extend an additional six months. Should cardboard market values recover and range from \$77.50 to \$107.50 per ton, MinnKota Recycling would rebate/offset the most recent six months of surcharge fees.

Minnkota Recycling and the City of Fargo recently extended their agreement on May 1, 2019, for an additional three years, but the extended decline in recyclable material markets has since caused MinnKota a significant 2019 financial loss. The \$30.00 surcharge is intended to offset the loss and will be applied to all municipalities and entities currently utilizing MinnKota's recycling services.

In addition to the request for an agreement amendment, Mr. Ludlum discussed the need to raise cardboard collection rates from \$5.00/stop to \$10.00/stop to insulate the City of Fargo from a newly proposed \$36.00/ton increase on sorted cardboard collected by or delivered to MinnKota Recycling by entities other than the City of Fargo. The increase per stop would be included in the *2020 Resolution Prescribing Rates and Charges for Solid Waste Services* that will be presented to the Finance Committee and City Commission yet in 2019.

**MOTION:**

On a motion by Michael Redlinger, seconded by Bruce Grubb, the Finance Committee voted to authorize Solid Waste staff to work with the City Attorney's Office to amend the 3-year agreement with MinnKota Recycling to include a 6-month and potentially a 12-month surcharge on comingled material and to include a fee in the *2020 Resolution Prescribing Rates and Charges for Solid Waste Services* of \$10.00 per stop for all commercially collected, separated cardboard.

<u>COMMITTEE:</u>	Present	Yes	No	Unanimous
Dr. Tim Mahoney, Mayor	Via Phone	X		X
Dave Piepkorn, Commissioner	X	X		
Bruce Grubb, City Administrator	X	X		
Michael Redlinger, Assistant City Admin.	X	X		
Jim Gilmour, Director of Strategic Planning	X	X		
Kent Costin, Director of Finance	X	X		
Steve Sprague, City Auditor	X	X		

ATTEST:

  
 Tim Mahoney  
 Finance Committee Chairman

C: Commissioner Gehrig  
 Commissioner Grindberg  
 Commissioner Strand

**AMENDMENT TO  
RECYCLING AGREEMENT**

**THIS AMENDMENT TO RECYCLING AGREEMENT** (this "Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the CITY OF FARGO, a North Dakota municipal corporation, [hereinafter "City" or "Fargo"] and MINNKOTA ENVIROSERVICES, INC., a North Dakota corporation doing business as MINNKOTA RECYCLING [hereinafter "MinnKota"].

**RECITALS:**

**WHEREAS**, the City and MinnKota have entered into a Recycling Agreement dated as of May 1, 2019 [hereinafter "Recycling Agreement"] pertaining to the collection and disposal of recycling certain solid wastes; and,

**WHEREAS**, the parties wish to amend the Recycling Agreement to include certain price adjustments, accordingly;

**NOW, THEREFORE**, in consideration of the foregoing, it is hereby agreed:

**I. ARTICLE 3 of the Recycling Agreement is hereby amended to read as follows:**

3. Fargo shall pay to MinnKota a processing fee of \$22.50/ton for all sorted magazines, \$30.50/ton for all sorted plastics #1-7, and \$30.50/ton for all sorted glass, delivered to MinnKota. Fargo shall also pay to MinnKota a processing fee of \$99.50/ton for all commingled material as described previously which is delivered to MinnKota.

From January 1, 2020, to June 30, 2020, a \$30.00 per ton offset recycling fee will apply to all comingled material delivered to MinnKota. If the Midwest/Chicago old corrugated cardboard (OCC) market price is \$67.50 or higher for the month of July 2020, the offset recycling fee will expire on June 30, 2020. If the OCC price remains below \$67.50 for the month of July 2020, the offset recycling fee will be extended to December 31, 2020. If the OCC market values range from \$77.70 to \$107.50 per ton after expiration of the offset recycling fee and during the term of the Recycling Agreement, expiring on April 30, 2022, MinnKota will refund the offset recycling fee using a 50% rebate method.

**II. In all other respects, the Recycling Agreement shall remain in full force and effect.**

**III. Effective Date. This Agreement shall be deemed to be effective as of the date and year first above-written or, if the date and year is not completed above, then this Agreement shall be deemed effective on the date last signed below (the "Effective Date").**

**IN WITNESS WHEREOF**, the parties hereto execute this Agreement as follows.

**CITY OF FARGO,**  
a North Dakota Municipal Corporation

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

Dated: \_\_\_\_\_

ATTEST:

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


Dated: \_\_\_\_\_

**MINNKOTA ENVIROSERVICES, INC.,**  
a North Dakota corporation d/b/a MINNKOTA RECYCLING

  
\_\_\_\_\_  
Randy Christianson, President

Dated: DEC. 2, 2019

ATTEST:

  
\_\_\_\_\_  
Brad Holm, Vice President/General Manager

Dated: 12/2/2019

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## **MEMORANDUM**

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TO: Finance Committee  
FROM: Terry Ludlum, Solid Waste Utility Director (TL)  
RE: 2020 Temporary Surcharge Request by MinnKota Recycling  
DATE: October 23, 2019

On March 21, 2016, the City of Fargo issued a *Request for Proposals* for the Marketing Services for Recyclable Materials. Proposals were received from Waste Management and MinnKota Enviroservices, Inc. An evaluation committee (Bruce Grubb, Commissioner Tony Gehrig, Recycling Coordinator Jen Pickett, and Terry Ludlum) reviewed the proposals and met with both firms to discuss their submittals. On May 23, 2016, the Commission approved a three-year Recycling Agreement with MinnKota Enviroservices, with an option to extend the contract for an additional three years.

In early 2019, Solid Waste staff met with MinnKota representatives to discuss the three-year extension and were informed that in order to extend the contract, there would need to be price adjustments for all recycled material delivered to MinnKota due to the severely depleted markets. MinnKota prepared a recent history of recycled material market indexes, which warranted the request for price adjustments of recycled materials. The specific price adjustments include processing fees of \$22.50/ton for all sorted magazines (up from \$15.00/ton), \$30.50/ton for all plastics #1-7 (up from \$23.00/ton), \$30.50/ton for all sorted glass (up from \$23.00/ton), and \$99.50/ton for all commingled materials (up from \$92.00/ton). The total annual financial impact of the adjustments was approximately \$36,000.

On October 2, 2019, Randy Christianson (President, MinnKota Recycling) again met with staff to provide a more recent update on recycled material market indexes and provided the attached packet. Indexes show a continued market decline to a 25-year low, which has resulted in a significant financial loss for MinnKota Recycling throughout 2019. To offset the loss, Mr. Christianson asked for a temporary 6-month surcharge of \$30.00 per ton for comingled material collected by the City of Fargo (January 1, 2020 – June 30, 2020). Projected comingled tonnage would require a six-month surcharge of approximately \$64,080. If the cardboard market price remained below \$67.50/ton, the surcharge would extend an additional six months. Should cardboard market values recover and range from \$77.50 to \$107.50 per ton, MinnKota would rebate/offset the most recent six months of surcharge fees.

While the surcharge was not included in the 2020 Solid Waste Expense Budget, a \$1.00/month increase for all comingled recycling users was included. The increase would create approximately \$265,000 in additional revenue, placing the overall recycling budget as neutral.

To fund the six-month or twelve-month surcharge, staff is recommending reallocating funds saved from a landfill capital project that began in 2019 and is scheduled to be completed in August of 2020. The project was budgeted at \$2.7 million and will be completed for approximately \$2.4 - 2.5 million. The Recycling Division would show a budget deficit reflective of the annual surcharge, while the overall 2020 Solid Waste Budget would be positive.

Regionally, similar surcharges will be applied to the City of Moorhead, Clay County, and other entities providing comingled recycling. In addition to the surcharge, MinnKota will also be charging a tipping fee of \$36.00 per ton for loose inbound cardboard material (does not apply to City of Fargo collected material). An adjustment in the commercial cardboard collection rates (from \$5.00/stop to \$10.00/stop) would insulate the City of Fargo against cardboard accounts changing to City of Fargo Recycling collection to avoid MinnKota's proposed tipping fee. The result in additional annual revenue would be approximately \$40,000.

The commercial cardboard collection adjustment could be included in the *2020 Resolution to Prescribe Rates and Charges for Solid Waste Services*, which will be presented to the City Commission for approval in December of 2019. All cardboard recycling accounts affected would be given a 30-day notice with options.

**Recommended Motion:**

Authorize Solid Waste staff to work with the City Attorney's Office to amend the 3-year agreement with MinnKota Recycling to include a 6-month and potentially a 12-month surcharge on comingled material and to include a fee of \$10.00 per stop for all commercially collected separated cardboard that is delivered to MinnKota recycling.

Your consideration in this matter is greatly appreciated.



## Terry Ludlum

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**From:** Randy Christianson <rchristianson@beveragewholesalers.com>  
**Sent:** Friday, October 11, 2019 9:10 AM  
**To:** Terry Ludlum  
**Cc:** Brad Holm; Casey S. Davis  
**Subject:** Comingled Residential Surcharge Proposal  
**Attachments:** 0527\_001.pdf; 0522\_001.pdf; 0523\_001.pdf; 0524\_001.pdf

Terry,

Thank you for the meeting last week. I revised the information and attachments that were included with the October 2<sup>nd</sup> email, so please disregard that information. The new attachments are based on our meeting and using a 2020 budget year. As we discussed, the recycled materials markets continue to decline and there has been a significant change downward again in 2019. We based our comingled contract renewal quote on January 2019 markets, using the now false assumption, that markets had bottomed out and would remain flat for a few months before starting recovery to more normal levels. However, the markets continued to decline and have reached 20 year lows for a number of materials. Glass contamination complicates the value and sorting process/costs for comingled residential. Cardboard (OCC) is a high percentage of reclaimed material volume. OCC has been at \$30 per ton for the past three months. It was at \$70 per ton for the three month period ending January 31, 2019. The Pulp & Paper Midwest/Chicago market drives our mill purchase orders for recycled OCC. We propose using the OCC pricing as the benchmark since it's a stable, easily identifiable grade, and historically represents market trends for all paper fibers.

Our request is a \$30 per ton surcharge on comingled recycling fees for a six month period, commencing January 1, 2020. If the Midwest/Chicago OCC price is \$67.50 or higher the surcharge will expire on June 30, 2020. If, the OCC price remains below \$67.50 the surcharge would be extended for six additional months until December 31, 2020. The surcharge is in addition to the base fee of \$99.50 per ton. Our contract with Moorhead expires December 31, 2019 and the same proposal will be submitted for their consideration. Attached files include:

- 0527 – Table showing the decline in comingled material sales value for the seven month ending August 31, 2019 and 2018, also compared to Budget, and for the years ended December 31, 2018 and 2017. There was a \$129,800 value decline in 2019 from 2018. Comingled net sales revenue is actually a negative value due to glass, residuals and special sorting costs for final processing. Our comingled production costs have stayed in line with budget and prior periods. In addition, our main plant production costs remain fairly consistent per ton at \$52.45 and \$49.12 for the seven months ending in 2019 and 2018. The years ending 2018 and 2017 were \$55.03 and \$54.66, respectively. The big change is market values.
  - Projected surcharge fees presented for Fargo, Moorhead and Other. The average monthly comingled tons are listed. Other comingled contracts were adjusted to \$113 per ton fee plus a \$30 surcharge (six month minimum) effective October 1, 2019.
  - Based on the average per ton volume Fargo would pay a surcharge of approximately \$10,680 monthly, or \$64,080 for six months ending June 30, 2020. If, OCC market has not returned to \$67.50 or higher, the surcharge would extend another six months. Projected for twelve months at \$128,160.
  - Total monthly surcharge of \$17,280 would offset approximately 80% of comingled value decline for 2019 year to date.
  - In addition, effective October 1, 2019 we started charging a \$36 per ton tipping fee for loose inbound OCC. All loose OCC contracts will be adjusted by December 31. This does not impact the City of Fargo contract. We are closing the Moorhead redemption center as of October 31. In addition, we are implementing changes to mixed recycling and compactor route fees.
  - Page two of the attachment outlines a possible refund scenario of the surcharge. We discussed this at our meeting, since Fargo has not budgeted for the surcharge. Using a 50% "rebate" if OCC market values range from \$77.50 to \$107.50 per ton it would take 36 months down to 9 months refunding six months of surcharges.

- 0522 – Updated market value graphs:
  - OCC High Side market for the past 20 years. It's been 10 and 20 years since this low of market values.
  - OCC High Side market from July 2017 to August 2019. Demonstrates the dramatic change in OCC value since start of comingled residential.
  - RecyclingMarkets.Net blended value of comingled residential for 2017, 2018 and 2019. There has been a 47% decline since 2017.
  - Recycled Product Values per Ton based on our primary two markets from July 2017 to August 2019.
- 0523 – PPI Pulp & Paper Week Yellow Sheet - Monthly Recovered Material Paper Prices for the months of August through October 2019. It shows the Midwest/Chicago High Side at \$30 per ton. This publication would be used to base the surcharge outcome at June 30, 2020. Rebates, if used, would also be based on the value report and set monthly.
- 0524 – This report was provided during our contract renewal negotiation last April. It reflects the average tons per month used for our surcharge calculations and reflects the average blended rate for all comingled residential processed at MinnKota since 2017

This is a lot of information, but we are attempting to demonstrate the need for additional tipping fees. Hopefully, 2020 will show return to average markets. Your consideration of the surcharge is very much appreciated.

*Randy Christianson, President*

MinnKota EnviroServices, Inc.

PO Box 1864

Fargo, ND 58107-1864

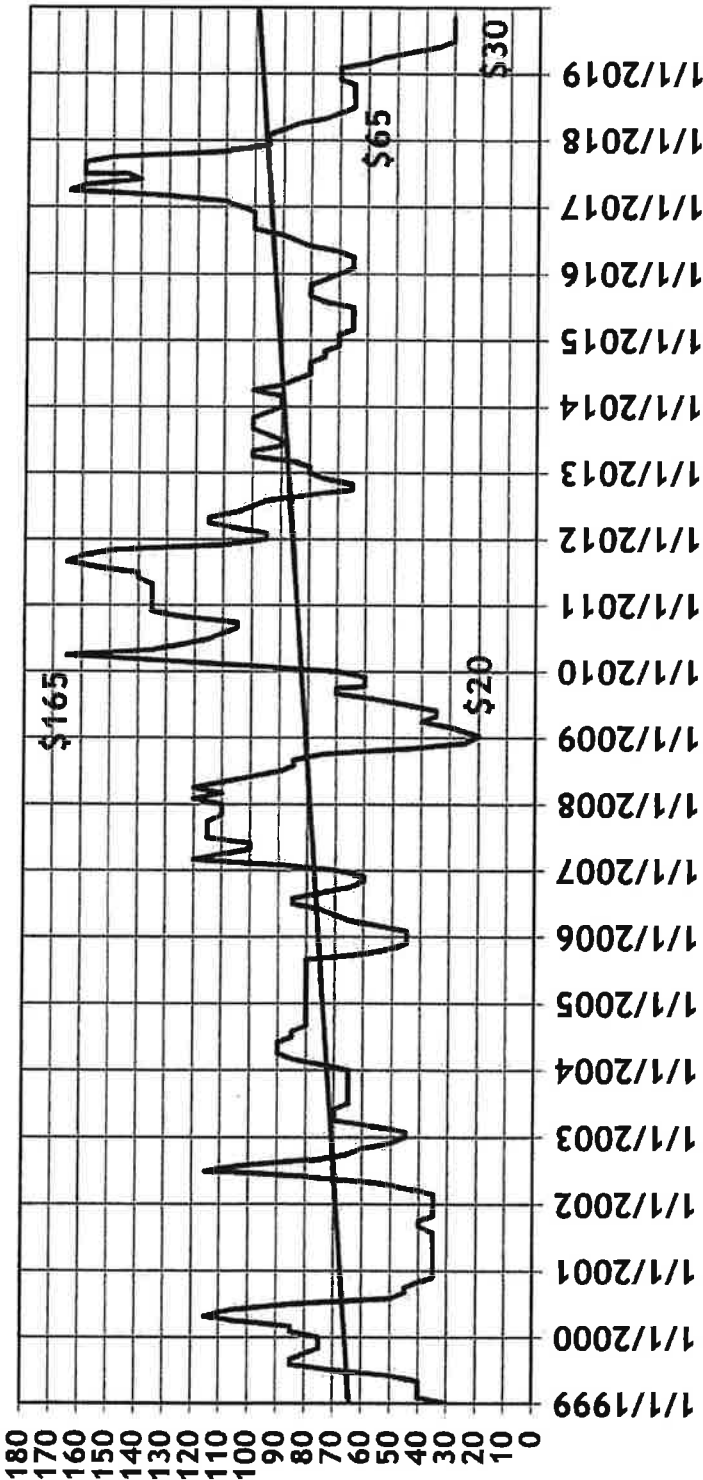
(701) 293-7404 x417

## **Disclaimer**

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	Seven Months Ending August 31			Years Ending December 31		
	Actual 2019	Budget 2019	Actual 2018	Actual 2018	Budget 2018	Actual 2017
Materials & Service Income						
Comingled Sales (Negative Net Sales)	(160,116)	(21,389)	(18,671)	(54,639)	82,659	31,482
Residential Comingled Fees	439,492	469,153	431,066	644,345	772,614	320,152
Cost of Production						
Additional Comingled Production Costs	(130,244)	(139,032)	(133,435)	(194,949)	(206,649)	(85,582)
Net Revenue	149,132	308,732	278,960	394,757	648,624	266,052
Increase (Decrease) from Prior Year Actual	(129,828)			128,705		
Total Production Costs	\$ 1,108,321	\$ 1,064,986	\$ 1,133,813	\$ 1,735,213	\$ 1,692,237	\$ 1,727,479
Total Marketable Tons Processed by Production	21,132	21,801	23,084	31,532	33,882	31,605
Average Production Cost per Ton	\$ 52.45	\$ 48.85	\$ 49.12	\$ 55.03	\$ 49.95	\$ 54.66
(Does not include Route, Sales and General Expenses)						
Projected Residential Comingled Fees 2020						
Average Tons Per Month	356	207	13	576		
Base Fees Per Ton	\$ 99.50	\$ 99.50	\$ 113.00			
Surcharge for Six Months	\$ 30.00	\$ 30.00	\$ 30.00			
Fargo & Moorhead Effective 1/1/2020						
Other Effective 10/1/2019						
Average Surcharge Per Month	\$ 10,680	\$ 6,210	\$ 390	\$ 17,280		
Projected Surcharge for Six Months	\$ 64,080	\$ 37,260	\$ 2,340	\$ 103,680		
Projected Surcharge for Twelve Months	\$ 128,160	\$ 74,520	\$ 4,680	\$ 207,360		
Surcharge repealed if OCC Midwest/Chicago High Side at \$67.50 per Ton or higher July 2020.						
If not, surcharge imposed additional six month period through December 2020.						
A surcharge was applied to Other accounts starting October 1, 2019.						

# Old Corrugated Cardboard Official Board Market (High Side)



Commodity	% of Mixed Recycling	Price Per Ton (\$/ton)			% Change 2017-2019
		Mar-17	Mar-18	Mar-19	
Mixed Paper (54)	45.0%	\$87.50	\$5.00	-\$2.50	-103%
Corrugated Containers (11)	12.5%	\$155.00	\$87.50	\$52.50	-66%
Aluminum	1.5%	\$1,350.00	\$1,480.00	\$1,150.00	-15%
Steel Cans	2.5%	\$187.50	\$225.00	\$190.00	1%
PET (#1 Plastic)	4.5%	\$240.00	\$285.00	\$297.00	23%
HDPE Natural (#2 Plastic)	1.5%	\$695.00	\$750.00	\$445.00	-36%
HDPE Colored (#2 Plastic)_	1.5%	\$475.00	\$350.00	\$285.00	-40%
Mixed Bulky Rigid Plastic	1.0%	\$60.00	\$40.00	\$30.00	-50%
Glass	20.0%	-\$12.50	-\$12.50	-\$12.50	0%
Trash	10.0%	-\$63.00	-\$70.00	-\$75.00	20%
<b>Blended Value of Mixed Ton:</b>		<b>\$94.00</b>	<b>\$68.00</b>	<b>\$50.00</b>	<b>-47%</b>

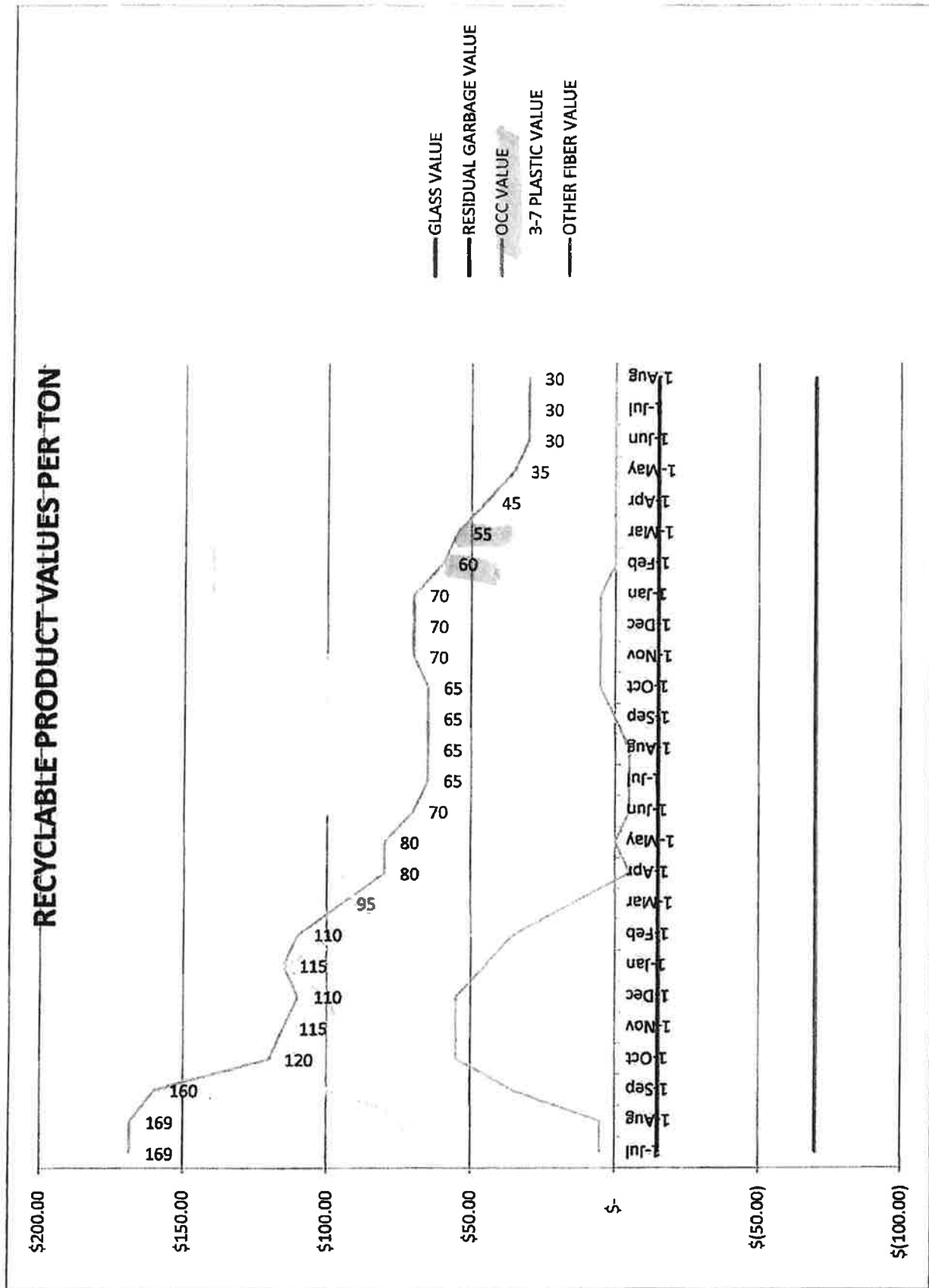
(15% decrease from 2018)

(40% decrease from 2018)

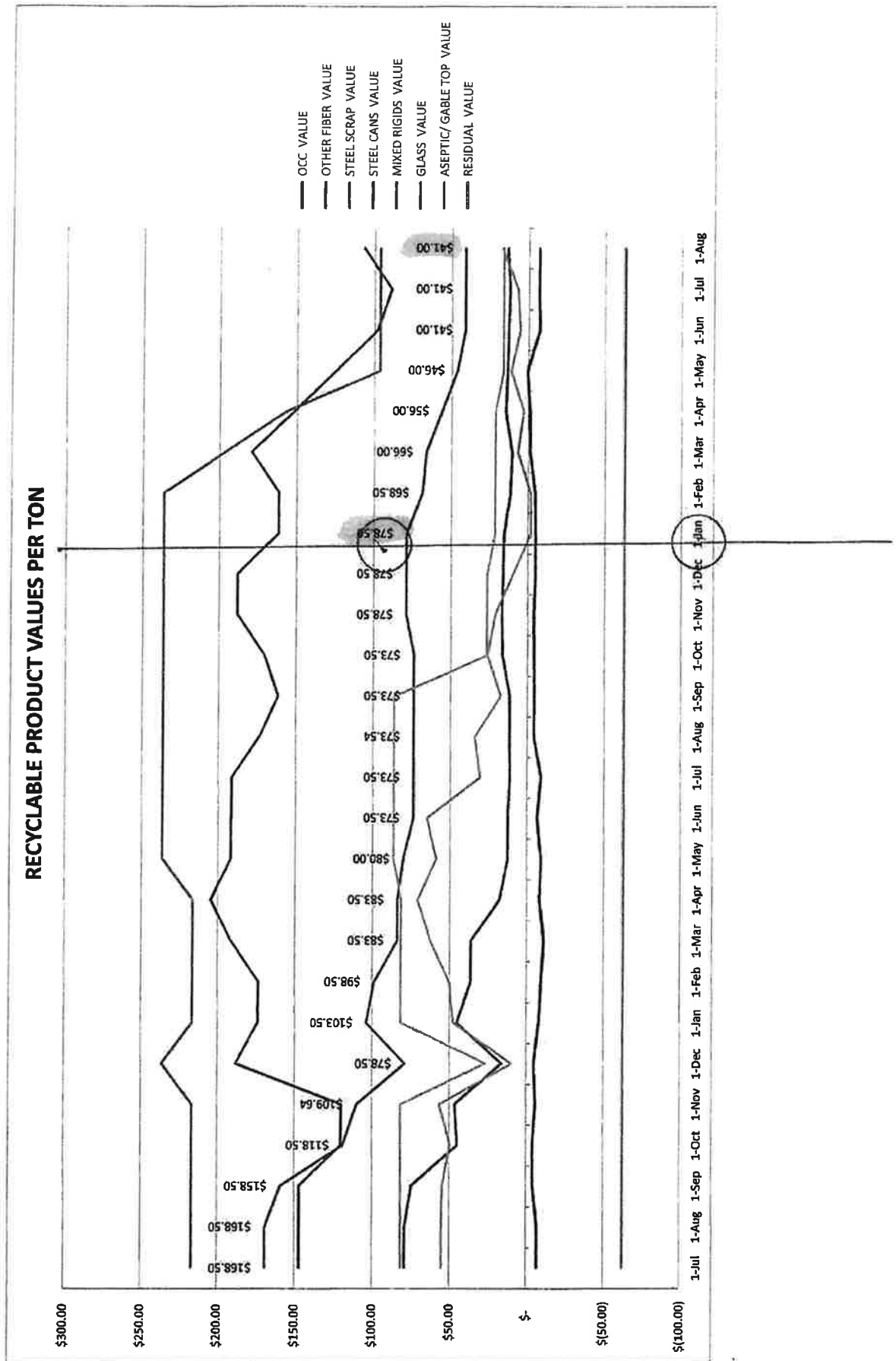
Increase in cost of disposal

Note: Pricing Source: Recyclingmarkets.net

MARKET A



MARKET B





# PPI Pulp & Paper Week

Monthly Recovered Paper Prices

Yellow Sheet

## PRICE WATCH: Recovered Paper - Domestic

October 4, 2019

Incorporating Official Board Markets

US\$ per short ton for open market purchases by mills, FOB seller's dock, for delivery this month. (Further specifications below.)

	Northeast						LA-SF		
	New England	New York	Buffalo	Midwest (Chicago) <sup>2</sup>	Southeast <sup>3</sup>	Southwest <sup>3</sup>	LA	SF	Pacific NW <sup>2</sup>
<b>MIXED PAPER</b>									
Mixed Paper (54)	-5 - 0 (+0)	-5 - 0 (+0)	-5 - 0 (+0)	-5 - 0 (+0)	-5 - 0 (+0)	-5 - 0 (-5)	-5 - 0 (+0)	-5 - 0 (+0)	-5 - 0 (+0)
<b>BROWN GRADES</b>									
Box cut (4) - OBM <sup>4</sup>	20 - 25 (+0)	20 - 25 (+0)	20 - 25 (+0)	20 - 25 (+0)	15 - 20 (+0)	20 - 25 (+0)	10 - 15 (+0)	0 - 5 (+0)	5 - 10 (+0)
OCC (11) - OBM <sup>4</sup>	30 - 35 (+0)	30 - 35 (+0)	30 - 35 (+0)	25 - 30 (+0)	30 - 35 (+0)	25 - 30 (+0)	15 - 20 (+0)	5 - 10 (+0)	10 - 15 (+0)
DLK (13) - OBM <sup>4</sup>		45 - 50 (+0)		40 - 45 (+0)	40 - 45 (+0)	40 - 45 (+0)	25 - 30 (+0)	15 - 20 (+0)	15 - 20 (+0)
<b>GROUNDWOOD</b>									
Sorted Residential Papers & News (56) <sup>4</sup>	5 - 10 (+0)	5 - 10 (+0)	5 - 10 (+0)	15 - 20 (+0)	15 - 20 (+0)	5 - 10 (+0)	5 - 10 (+0)	0 - 0 (+0)	5 - 10 (+0)
	Northeast						LA-SF		
OMG (10)		45 - 50 (+0)		55 - 60 (+0)	55 - 60 (+0)	55 - 60 (+0)	45 - 50 (+0)		45 - 50 (+0)
CGS (44)		45 - 50 (+0)		55 - 60 (+0)	55 - 60 (+0)	55 - 60 (+0)	45 - 50 (+0)		45 - 50 (+0)
SCN (58)		80 - 85 (+0)		85 - 90 (+0)	85 - 90 (+0)	95 - 105 (-5)	75 - 80 (-5)		65 - 70 (-5)
WBN (24)		220 - 250 (+0)		200 - 210 (+0)	195 - 205 (+0)	220 - 230 (+0)	195 - 205 (+0)		165 - 175 (+0)
<b>HIGH GRADES</b>									
SCP (37)		90 - 95 (+0)		90 - 95 (+0)	85 - 90 (+0)	90 - 95 (+0)	95 - 105 (-5)		90 - 95 (+0)
CBS (43)		90 - 95 (+0)		90 - 95 (+0)	85 - 90 (+0)	90 - 95 (+0)	90 - 100 (-5)		90 - 95 (+0)
SBS heavy print (45)		105 - 115 (+0)		105 - 115 (+0)	95 - 105 (+0)		110 - 120 (-5)		
SWL (40)		190 - 200 (-10)		165 - 175 (-10)	185 - 195 (-10)	200 - 210 (-10)	180 - 190 (-5)		150 - 160 (-0)
MWL (41) <sup>1</sup>		120 - 200 (-10)		165 - 175 (-10)	185 - 195 (-10)	205 - 215 (-10)	180 - 190 (-5)		150 - 160 (-5)
SBS light print (45)		160 - 190 (-5)		150 - 160 (-5)	165 - 175 (-5)	175 - 185 (-5)	160 - 170 (-5)		
<b>PULP SUBS</b>									
SBS unprinted (47)		250 - 260 (-5)		245 - 255 (-5)	255 - 265 (-5)	260 - 270 (-5)	245 - 255 (-5)		
HWS (30)		255 - 265 (-5)		260 - 270 (-5)	275 - 285 (-5)	285 - 295 (-5)	270 - 280 (-5)		
HWEC (31)		285 - 295 (-5)		295 - 305 (-5)	295 - 305 (-5)	315 - 325 (-5)	300 - 310 (-5)		260 - 270 (-5)

### \* OBM PRICES

Prices for grades designated "OBM" are a continuation of the prices originally published in Official Board Markets ("OBM", "The Yellow Sheet") and are reported on the same basis as published historically in OBM. See [www.risi.com/RCPmethodology](http://www.risi.com/RCPmethodology) for a complete description of what has and has not changed about OBM prices. (Price not marked \* are consistent with prices published historically in P&PW.)

### SPECIFICATIONS

Prices represent open market board and paper mill purchases agreed to for delivery in the indicated month. Contractually indexed transactions are excluded. Specifications: baled; full-truckload quantities; exclusive of delivery charges, premium or distress lots, and of all subsequent charges for packing, handling, destination considerations, or other special charges. Grades and preparation requirements are as defined in the current ISRI Scrap Specifications Circular.

### NOTES

1. Preconsumer.

2. The price on the low end of the range is for the Bay Area and the price at the top end of the range is for the Los Angeles area.

3. As of Oct 2012, these region names were changed from a city to a region (e.g. "Chicago" to "Midwest"). This is a change in title, not in methodology. All references to the new names (e.g. "Midwest") as they apply to each price series above are consistent with the legacy names (e.g. "Chicago").

4. ONP #18 can be replaced with SRP #56 in formulas used to derive ONP#6 price.

5. Change reflects the difference between the high of the current month and the high of the previous month.

### DISCLAIMER

While the information contained in this report has been obtained from sources believed to be reliable, Fastmarkets RISI does not warrant or guarantee the accuracy and completeness of the information. All prices are best estimates of prices, and are composite prices as opposed to median or average prices.

Mary Aldrich - MINNKOTA RECYCLING 2019-10-04





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**Water Treatment Plant**  
 435 14th Avenue South  
 Fargo, ND 58103  
 Office: 701.241.1469 | Fax: 701.241.8110  
[www.FargoND.gov](http://www.FargoND.gov)

November 27, 2019

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

Dear Commissioners:

Attached please find a tabulation sheet listing all qualified bids received for supplying chemicals to the Water Treatment Plant for 2020. Listed below are the lowest and/or best value bids received for each of the chemicals:

Water Treatment Plant Chemical Bid Results		
Product Name	Vendor	Unit Price
Aluminum Sulfate	Hawkins, Inc.	\$0.13 / pound
Anhydrous Ammonia	Hawkins, Inc.	\$2.06 / pound
Citric Acid, 50%	Hawkins, Inc.	\$0.65 / pound
Hydrofluosilicic Acid	Hawkins, Inc.	\$0.21 / pound
Hydrogen Peroxide, 34%	Hawkins, Inc.	\$0.52 / pound
Lime	Graymont (WI) LLC	\$178.00 / ton
Liquid carbon Dioxide	Praxair, Inc.	\$155.00 / ton
Liquid Chlorine	DPC Industries	\$524.00 / ton
Liquid Oxygen	Praxair, Inc.	\$164.25 / ton
Polyaluminum Chloride	Chemtrade US LLC	\$0.28 / pound
Polyphosphate	Carus Corporation	\$1.17 / pound
Powdered Activated Carbon	Thatcher Company, Inc.	\$1590.00 / ton
Soda Ash	Thatcher Company, Inc.	\$299.45 / pound
Sodium Bisulfite, 38%	Hawkins, Inc.	\$0.306 / pound
Sodium Hydroxide, 50%	Univar Solutions Inc.	\$0.138 / pound
Sodium Hypochlorite, 12.5%	Hawkins, Inc.	\$0.25 / pound
Sulfuric Acid, 40%	Hawkins, Inc.	\$0.34 / pound
Sulfuric Acid, 93%	Hawkins, Inc.	\$0.1023 / pound

The recommendation is to award the 2020 chemical bids as listed above.

The 2020 chemical bid prices and projected chemical usage for 2020 reflect an estimated decrease of 8.42% under 2019.

Sincerely,

Troy B. Hall  
 Water Utility Director

Sincerely,

Brian A. Ward  
 Water Plant Superintendent

**FARGO WATER TREATMENT PLANT**  
**2020 ANNUAL CHEMICAL BIDDING SUMMARY OF QUALIFYING BIDS**

Product Name	Vendor	Estimated Annual	Tons or lbs	Unit Price \$ per	Estimated Annual Cost	Payment Method	Recommendation
Aluminum Sulfate	Chemtrade	84,000	lbs	0.1770	\$14,868.00	PO	Accept
	Hawkins, Inc.	84,000	lbs	0.13	\$10,920.00	PO	
Anhydrous Ammonia	Hawkins, Inc.	54,000	lbs	2.06	\$111,240.00	CC	Accept
Citric Acid, 50%	Hawkins, Inc.	20,000	lbs	0.65	\$13,000.00	CC	Accept
Hydrofluosilicic Acid	DPC Industries	170,000	lbs	0.2190	\$37,230.00	CC	Accept
	Univar Solutions Inc.	170,000	lbs	0.25	\$41,650.00	PO	
	Hawkins, Inc.	170,000	lbs	0.21	\$36,125.00	CC	
Hydrogen Peroxide, 34%	Hawkins, Inc.	3,000	lbs	0.52	\$1,560.00	CC	Accept
Lime	Graymont (WI) LLC	4,312	Tons	178.00	\$767,536.00	PO	Accept
Liquid Carbon Dioxide	Praxair, Inc.	874	Tons	155.00	\$135,470.00	PO	Accept
	Matheson Tri-Gas Inc.	874	Tons	230.00	\$201,020.00	PO	
Liquid Chlorine	DPC Industries	138	Tons	524.00	\$72,312.00	CC	Accept
	Hawkins, Inc.	138	Tons	537.00	\$74,106.00	CC	
Liquid Oxygen	Praxair, Inc.	929	Tons	164.25	\$152,588.25	PO	Accept
	Matheson Tri-Gas Inc.	929	Tons	289.84	\$269,261.36	PO	
Polyaluminum Chloride	Chemtrade US LLC	1,900,000	lbs	0.2800	\$532,000.00	PO	Accept
	Hawkins, Inc.	1,900,000	lbs	0.2976	\$565,440.00	PO	
Polyphosphate	Carus Corporation	90,000	lbs	1.17	\$105,300.00	CC	Accept
Powdered Activated Carbon	Cabot Norit Americas Inc.	20	Tons	1,720.00	\$34,400.00	CC	Accept
	Thatcher Company, Inc	20	Tons	1,590.00	\$31,800.00	PO	
Soda Ash	DuBois	1,976	Tons	309.15	\$610,880.40	CC	Accept
	Univar Solutions Inc.	1,976	Tons	308.50	\$609,596.00	PO	
	Thatcher Company, Inc	1,976	Tons	299.45	\$591,713.20	PO	
	Killoran T&B, Inc.	1,976	Tons	326.30	\$644,768.80	PO	
Sodium Bisulfite, 38%	Univar	40,000	lbs	0.4764	\$19,056.00	PO	Accept
	Hawkins, Inc.	40,000	lbs	0.306	\$12,240.00	CC	
Sodium Hydroxide, 50%	Univar Solutions Inc.	1,000,000	lbs	0.138	\$137,600.00	CC	Accept
	Hawkins, Inc.	1,000,000	lbs	0.1650	\$165,000.00	CC	
Sodium Hypochlorite, 12.5%	Hawkins, Inc.	70,000	lbs	0.25	\$17,500.00	CC	Accept
Sulfuric Acid, 40%	Hawkins, Inc.	10,000	lbs	0.34	\$3,400.00	CC	Accept
Sulfuric Acid, 93%	Univar Solutions Inc.	600,000	lbs	0.105	\$63,000.00	CC	Accept
	Hawkins, Inc.	600,000	lbs	0.1023	\$61,380.00	PO	

**2020 Estimated Chemical Cost of Bid Chemicals = \$2,793,684.45**

Chemical costs listed below this line are for informational use. The recommendation is to accept bid chemicals as listed above.

Membrane Antiscalant	Avista	64,000	lbs	3.35	\$214,400.00	PO	Sole Source
Low pH Membrane Cleaner	Avista	21,000	lbs	3.6	\$75,600.00	PO	Sole Source
High pH Membrane Cleaner	Avista	18,900	lbs	3.4	\$64,260.00	PO	Sole Source

**2020 Estimated Chemical Costs Sole Source = \$354,260.00**

\* Anionic polymer for residuals facility will be bid at a later date during 2020. Trials will be conducted starting January 2020 to determine the best product for this facility. The additional coagulant residuals from membrane plant have increased the polymer use at the residuals facility during 2019. For budget purposes it is estimated we will use 76,000 lbs of anionic polymer at a cost of approximately \$95,000.00.

22

November 27, 2019

Honorable Board of City Commissioners

City of Fargo

Commissioners,

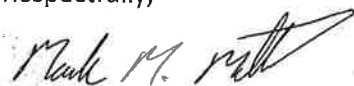
The following is in Reference to City Auditors Ad number **AFB19176**.

Please find attached the bid tabulation sheet listing all bids received for supplying chemicals to the Wastewater Utility for 2020. Listed below are the low bid received for each chemical.

City of Fargo Wastewater Utility Chemical Bid 2020				
item #	Product Name	Vendor	price	unit
19	Azone - 15	Hawkins	\$1.67	/gallon
20	Pretreat Plus Antiscalant	Hawkins	\$18.94	/gallon
21	Caustic Soda, 30%	Hawkins	\$3.53	/gallon
22	Ferric Chloride, 35%	Hawkins	\$0.49	/lb
23	Ammonium Hydroxide, 19%	Hawkins	\$0.44	/lb
24	Sulfuric Acid, 40%	Hawkins	\$0.16	/lb
25	Citric Acid, 50%	Hawkins	\$0.95	/lb
26	Calcium Nitrate/Bulk	Hawkins	\$2.55	/gallon
26	Calcium Nitrate/Tote	Hawkins	\$3.95	/gallon
27	Cationic Flocculant	SNF - Polydyne	\$1.30	/pound
28	Ferrous Chloride Bulk	PVS Technologies	\$1.35	/lb
29	Ferrous Chloride/ mini-bulk	Hawkins	\$0.31	/lb
31	Non-Selective Herbicide	<b>no bids</b>		/gallon
32	Selective Herbicide	<b>no bids</b>		/gallon
33	Odor Media/H2S	MX	\$88.00	ft <sup>3</sup> - media
34	Odor Media/Broad Specrum	MX	\$88.00	ft <sup>3</sup> - media
35	Sodium Hypochlorite, 12%	Hawkins	\$1.49	/gallon

Wastewater Staff recommendation to City Commission is to award the 2020 chemical bids to the included vendors and their respective chemicals.

Respectfully,



Mark M Miller

Wastewater Utility Superintendent



2020 Bid Tabulation Form Final Results					
Item #	Item	Bidder	Acknowledgement of bid specifications (x)	Guaranteed Bid Price Per Unit	
				Credit card payment	Purchase order payment
1	Aluminum Sulfate			\$/pound=	\$/pound=
		Chemtrade Chemicals US LLC	X	NA	0.177
		Hawkins	X	0.1325	0.13
*	Chemical bid specifications not met	AquaPure Inc.	X	NA	0.129
2	Anhydrous Ammonia			\$/pound=	\$/pound=
		Hawkins	X	2.06	2.06
3	Citric Acid, 50%			\$/pound=	\$/pound=
		Hawkins	X	0.65	0.65
4	Hydrofluosilicic Acid			\$/pound=	\$/pound=
		DPC Industries Inc.	X	0.219	0.219
		Hawkins	X	0.2125	0.2125
		Univar Solutions USA Inc.	X	NA	0.245
5	Hydrogen Peroxide, 34%			\$/pound=	\$/pound=
		Hawkins	X	0.52	0.52
6	Lime			\$/ton=	\$/ton=
		Graymont (WI) LLC	X	NA	178.00
7	Liquid Carbon Dioxide			\$/ton=	\$/ton=
		Matheson Tri-Gas Inc.	X	230.00	230.00
		Praxair Inc.	X	NA	155.00
8	Liquid Chlorine			\$/ton=	\$/ton=
		Hawkins	X	537.00	537.00
		DPC Industries Inc.	X	524.00	524.00
9	Liquid Oxygen			\$/ton=	\$/ton=
		Matheson Tri-Gas Inc.	X	289.84	289.84
		Praxair Inc.	X	NA	164.25
10	Polyaluminum Chloride			\$/pound=	\$/pound=
		Chemtrade Chemicals US LLC	X	NA	0.28
		Hawkins	X	0.3052	0.2976
*	Chemical bid specifications not met	AquaPure Inc.	X	NA	0.309
*	Chemical bid specifications not met	AquaPure Inc.	X	NA	0.299
*	Chemical bid specifications not met	AquaPure Inc.	X	NA	0.299
*	Chemical bid specifications not met	AquaPure Inc.	X	NA	0.299
11	Polyphosphate			\$/pound=	\$/pound=
		Carus LLC (f/k/a Carus Corporation)	X	1.17	1.17
*	Chemical bid specifications not met	Chemrite Inc.	X	NA	1.164
12	Powdered Activated Carbon			\$/ton=	\$/ton=
		Cabot Norit Americas Inc.	X	1720.00	1720.00
*	Chemical bid specifications not met	Chemrite Inc.	X	1510.00	1472.00
		Thatcher Company of Montana Inc.	X	1632.00	1590.00

2020 Bid Tabulation Form					
Item #	Item	Bidder	Acknowledgement of bid specifications (x)	Guaranteed Bid Price Per Unit	
				Credit card payment	Purchase order payment
13	Soda Ash			\$/ton=	\$/ton=
		DuBois Chemicals Inc.	X	309.15	309.15
		Killoran Trucking & Brokerage Inc.	X	NA	326.30
		Thatcher Company of Montana Inc.	X	307.385	299.45
		Univar Solutions USA Inc.	X	NA	308.50
14	Sodium Bisulfite, 38%			\$/pound=	\$/pound=
		Hawkins	X	0.306	0.306
		Univar Solutions USA Inc.	X	NA	0.4764
15	Sodium Hydroxide, 50%			\$/pound=	\$/pound=
		Hawkins	X	0.1695	0.165
		Univar Solutions USA Inc.	X	NA	0.1376
16	Sodium Hypochlorite, 12.5%			\$/pound=	\$/pound=
		Hawkins	X	0.25	0.25
17	Sulfuric Acid, 40%			\$/pound=	\$/pound=
		Hawkins	X	0.34	0.34
18	Sulfuric Acid, 93%			\$/pound=	\$/pound=
		Hawkins	X	0.105	0.1023
		Univar Solutions USA Inc.	X	NA	0.105
19	Azone 15 / Sodium Hypochlorite 12%			\$/gallon=	\$/gallon=
		Hawkins	X	1.67	1.67
20	Pretreat Plus Antiscalant			\$/gallon=	\$/gallon=
		Hawkins	X	18.94	18.94
21	Caustic Soda, 30%			\$/gallon=	\$/gallon=
		Hawkins	X	3.53	3.53
22	Ferric Chloride, 35%			\$/pound=	\$/pound=
		Hawkins	X	0.49	0.49
23	Ammonium Hydroxide, 19%			\$/pound=	\$/pound=
		Hawkins	X	0.44	0.44
24	Sulfuric Acid, 40%			\$/pound=	\$/pound=
		Hawkins	X	0.16	0.16
25	Citric Acid, 50%			\$/pound=	\$/pound=
		Hawkins	X	0.95	0.95
26	Calcium Nitrate/Bulk			\$/gallon=	\$/gallon=
		Hawkins	X	2.55	2.485
	Calcium Nitrate/Tote			\$/gallon=	\$/gallon=
		Hawkins	X	3.95	3.95
27	Cationic Flocculant			\$/pound=	\$/pound=
		SNF Polydyne Inc.	X	1.3	1.28

2020 Bid Tabulation Form					
Item #	Item	Bidder	Acknowledgement of bid specifications (x)	Guaranteed Bid Price Per Unit	
				Credit card payment	Purchase order payment
28	Ferrous Chloride/Bulk			\$/pound iron=	\$/pound iron=
		PVS Technologies Inc.	X	NA	1.35 / lb. Iron
29	Ferrous Chloride/Mini-bulk			\$/pound=	\$/pound=
		Hawkins	X	0.31	0.31
30	Non-selective Herbicide			\$/gallon=	\$/gallon=
		No Bids			
31	Selective Herbicide			\$/gallon=	\$/gallon=
		No Bids			
32	Odor Control/Hydrogen Sulfide			\$/FT³ media=	\$/FT³ media=
		MNX Inc.	X	88.00	88.00
33	Odor Control/Broad Spectrum			\$/FT³ media=	\$/FT³ media=
		MNX Inc.	X	88.00	88.00
34	Sodium Hypochlorite, 12%			\$/gallon=	\$/gallon=
		Hawkins	X	1.49	1.45

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(24)

Improvement District No. BN-18-F2

Type: Change Order #3

Location: Madelyn's Meadow

Date of Hearing: 11/25/2019

RoutingDate

City Commission

12/2/2019

PWPEC File

X

Project File

Jason Leonard

The Committee reviewed the accompanying correspondence from Project Manager, Jason Leonard, regarding Change Order #3 in the amount of \$4,325.40, bringing the total contract amount to \$1,944,851.22, to accommodate spring runoff and the revised tracer wire specification.

Staff is recommending approval of Change Order #3.

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Change Order #3.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #3 in the amount of \$4,325.40 to Northern Improvement.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: CRWUD & 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"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input 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:

C: Kristi Olson

B E D  
Brenda E. Derrig, P.E.  
City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Jason Leonard, Project Engineer  
**Date:** November 14, 2019  
**Re:** Improvement District No. BN-18-F2 – Change Order #3

---

### **Background:**

Improvement District No. BN-18-F2 is for the new construction of underground utilities, asphalt pavement, street lights and incidentals on 72<sup>nd</sup> Avenue South, 73<sup>rd</sup> Avenue South, 26<sup>th</sup> Street South, 30<sup>th</sup> Street South and Madelyn Way South.

Northern Improvement Company is the Prime Contractor for this project.

In preparation for the spring flood of 2019, a levee was constructed around the expanded Golden Valley pond, which cut off field drainage. The Contractor excavated a swale to accommodate the existing runoff drainage area.

To comply with the revised water service tracer wire specification after the project was bid, the Contractor added Snake Pit water boxes to each service location as requested by Engineering Staff.

### **Recommended Motion:**

Approve Change Order #3 in the amount of \$4,325.40.

JTL\klb

Attachments



Improvement District No	BN-18-F2	Change Order No	3
Project Name	Sanitary Sewer, Water Main, Storm Sewer, Concrete Curb & Gutter, Asphalt Pavement, Site Grading, Str		
Date Entered	11/14/2019	For	Northern Improvement Co

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

**EXPLANATION OF CHANGE:** Change Order # 3

In preparation for the spring flood of 2019 a levee was constructed around the expanded Golden Valley pond which cut off field drainage. The Contractor excavated a swale to accommodate re-establish the existing runoff drainage area.  
To comply with the revised water service tracer wire specification after the project was bid, the Contractor added Snake Pit water boxes to each service location as requested by Engineering Staff.

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 (\$)
Cass Rural Water District Water Main	107	Extra - WaterMains	LS	0.00	0.00	0.00	0.00	1.00	2,564.90	2,564.90
Storm Sewer	108	Site Grading	LS	0.00	0.00	0.00	0.00	1.00	1,760.50	1,760.50
Cass Rural Water District Water Main Sub Total (\$)									2,564.90	2,564.90
Storm Sewer Sub Total (\$)									1,760.50	1,760.50

**Summary**

Source Of Funding: Cass Rural WUD Funds, Special Assessments

Net Amount Change Order # 3 (\$)	4,325.40
Previous Change Orders (\$)	112,027.44
Original Contract Amount (\$)	1,828,498.38
Total Contract Amount (\$)	1,944,851.22

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

**CONTRACT TIME**

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
08/13/2019	09/12/2019	0.00	0.00	08/13/2019	09/12/2019
Description					



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

APPROVED		APPROVED DATE	
For Contractor	Department Head		
<i>[Signature]</i>	<i>[Signature]</i>		11/26/19
Title	Mayor		
VICE PRESIDENT	Attest		

Change order #3



HOME OFFICE  
FARGO, NORTH DAKOTA  
4000 13th Avenue N.W.  
58108-2646  
P.O. Box 2846  
Phone 701-277-1225  
Fax 701-277-1518

OFFICE AT  
BISMARCK, NORTH DAKOTA  
58502-1254  
P.O. Box 1254  
Phone 701-223-6095  
Fax 701-224-0937

OFFICE AT  
DICKINSON, NORTH DAKOTA  
58602-1035  
P.O. Box 1035  
Phone 701-225-5197  
Fax 701-225-0207

## IMPROVEMENT COMPANY

Thomas McCormick, President/CEO  
Steve McCormick, Executive Vice-President

DATE: 10/29/2019

TO: City of Fargo Engineering Department  
Jason Leonard

RE: Imp Dist BN-18-F2; Extra Work 11/20/18  
Connect Field Drain

Northern Improvement Company is requesting that additional compensation be paid base on the following:

Description	Qty.	Unit	Unit Price	Price
<u>Includes:</u>				
Foreman	1.0	HR	\$90.00	\$90.00
Cat 336 Excavator	2.0	HR	\$200.00	\$400.00
Rip Rap	25.41	TON	\$40.00	\$1,016.40
			25% O & P	\$254.10

Lump Sum Total: \$1,760.50

Respectfully Submitted,  
NORTHERN IMPROVEMENT COMPANY

Scott J. Pederson  
Estimator/Project Manager

Change Order #3



HOME OFFICE  
FARGO, NORTH DAKOTA  
4000 12th Avenue N.W.  
58108-2848  
P.O. Box 2846  
Phone 701-277-1225  
Fax 701-277-1518

OFFICE AT  
BISMARCK, NORTH DAKOTA  
58502-1264  
P.O. Box 1264  
Phone 701-223-6695  
Fax 701-224-0937

OFFICE AT  
DICKINSON, NORTH DAKOTA  
58502-1035  
P.O. Box 1035  
Phone 701-225-5197  
Fax 701-225-0207

## NORTHERN IMPROVEMENT COMPANY

Thomas McCormick, President/CEO  
Steve McCormick, Executive Vice-President

DATE: 11/6/2019

TO: City of Fargo Engineering Department  
Jason Leonard

RE: Imp Dist BN-18-F2  
Fox Extra Work Order 6

Northern Improvement Company is requesting that additional compensation be paid base on the following:

Description	Qty.	Unit	Unit Price	Price
<u>Includes:</u>				
Fox Work Order 6	1	LS		\$2,331.73
10% Subcontractor Markup	1	LS		<u>\$233.17</u>
			Lump Sum Total:	\$2,564.90

Respectfully Submitted,  
NORTHERN IMPROVEMENT COMPANY

Scott J. Pederson  
Estimator/Project Manager



PO Box 739 - West Fargo, ND 58078 - 701.361.1919

**Extra Work 6**

Snake Pits

**PROJECT:** Fargo BN-18-F2 - Maddies Meadows

**LOCATION:** 25th St S & 73rd Ave S

**Date** 9/3/2019

No.	Price Breakdown	QUAN	UNIT	PRICE	EXTENSION
<b>Equipment</b>					
					-
					-
				<b>Equipment Total</b>	-
<b>Labor</b>					
	Scott Peterson	4.00	hrs	26.00	104.00
	Mitch Thom	6.00	hrs	24.00	144.00
	Prince	6.00	hrs	18.50	111.00
	Brodie	6.00	hrs	24.00	144.00
	Hudson	4.00	hrs	18.50	74.00
					-
				<b>Sub-Total</b>	577.00
				<b>Payroll Taxes at 20%</b>	115.40
				<b>Sub-Total</b>	692.40
				<b>25% Overhead and Profit</b>	173.10
				<b>Labor Total</b>	750.10
<b>Material</b>					
	Core & Main - Inv#137362	1.00	Isun	1,265.30	1,265.30
				<b>Sub-Total</b>	1,265.30
				<b>25% Overhead and Profit</b>	316.33
				<b>Material Total</b>	1,581.63
<b>Subcontractor</b>					
				<b>Sub-Total</b>	-
				<b>10% Subcontractor Allowance</b>	-
				<b>Subcontractor Total</b>	-
				<b>Equip Total</b>	-
				<b>Labor Total</b>	750.10
				<b>Material Total</b>	1,581.63
				<b>Subcontractor Total</b>	-
				<b>Extra Work Total</b>	2,331.73



1810 Craig Park Court  
St. Louis, MO 63146

## INVOICE

Invoice # L137362  
Invoice Date 9/04/19  
Account # 239343  
Sales Rep FARGO HOUSE  
Phone # 701-219-7480  
Branch #251 Fargo, ND  
Total Amount Due \$1,362.63

Remit To:  
CORE & MAIN LP  
PO BOX 28330  
ST LOUIS, MO 63146

Shipped To:  
CUSTOMER PICK-UP

FOX UNDERGROUND INC  
PO BOX 739  
WEST FARGO ND 58078 0739

000/0000  
00000

CUSTOMER JOB- 18-129 18-129 BN-18-F2

Thank you for the opportunity to serve you! We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO #	Job Name	Job #	Bill of Lading	Shipped Via	Invoice#
9/03/19	9/03/19	WPJ-010429	18-129 BN-18-F2	18-129		WILL CALL	L137362

Product Code	Description	Quantity		Price	UM	Extended Price
		Ordered	Shipped B/O			
96TWBOXLITEDUTY	SNAKE PIT LITE DUTY BOX WATER	42	42	30.18000	EA	1,267.56

39 lots - 39 (30.18) = 1177.02

come in packs of  
14 so there's 3 extra

1177.02

+ 88.28

1265.30

18-129

10,101

1362.63

9-17-19

Freight	Delivery	Handling	Restock	Misc	Subtotal:	1,267.56
					Other:	.00
					Tax:	95.07
Invoice Total:						\$1,362.63

Terms: NET 30  
Ordered By: WILL

This transaction is governed by and subject to Core & Main's standard terms and conditions, which are incorporated by reference and accepted.  
To review these terms and conditions, please visit: <http://tandc.coreandmain.com/>

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(25)

Improvement District No. BN-17-A1

Type: Change Order #8

Location: 19<sup>th</sup> Ave N from 45<sup>th</sup> St to 57<sup>th</sup> St

Date of Hearing: 11/25/2019

RoutingDate

City Commission

12/2/2019

PWPEC File

X

Project File

Jason Leonard

The Committee reviewed the accompanying correspondence from Project Manager, Jason Leonard, for Change Order #8 in the amount of \$28,461.00, bringing the total contract amount to \$8,067,770.95, for additional work as requested.

Staff is recommending approval of Change Order #8.

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Change Order #8 to Master Construction.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #8 in the amount of \$28,461.00 to Master Construction.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Special Assessments

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

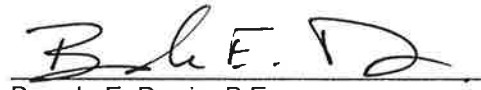
Yes	No
N/A	
N/A	
N/A	

COMMITTEE

Tim Mahoney, Mayor  
 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

  
 Brenda E. Derrig, P.E.  
 City Engineer

C: Kristi Olson

## Memorandum

**To:** Members of PWPEC  
**From:** Jason Leonard, Project Manager  
**Date:** November 18, 2018  
**Re:** Improvement District No. BN-17-A1 - Change Order # 8

---

I concur with KLJ's recommendation for the Change Order for Improvement District No. BN-17-A1 as requested by Master Construction Inc. Please see attached documentation supporting the Change Order request.

**Recommended Motion:**

Approve Change Order #8 in the amount of \$28,461.00.

JTL/klb  
Attachment

C: Scott Middaugh





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

Improvement District No	BN-17-A1	Change Order No	8
Project Name	Sanitary Sewer, Water Main, Storm Sewer, Site Grading, PC Concrete Paving, Street Lighting & Inciden		
Date Entered	11/18/2019	For	Master Construction Co Inc

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

**EXPLANATION OF CHANGE:** Change Order # 8

During construction of the ID # BN-17-A1, it was requested that Master Construction complete the asphalt paving on 57th Street North to help with the coordination of traffic control. This asphalt was removed from the WW1705 - West Fargo Wastewater Meter connection project.

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	15	Construction Signing	SF	75.00	0.00	75.00	23.00	98.00	11.00	253.00
Miscellaneous Sub Total (\$)										253.00
Paving	89	Remove Pavement All Thicknesses All Types	SY	330.00	0.00	330.00	328.00	658.00	10.00	3,280.00
	94	Subgrade Preparation	SY	37,500.00	0.00	37,500.00	328.00	37,828.00	1.00	328.00
	168	F&I Pavement 8" Thick Asph	SY	0.00	0.00	0.00	328.00	328.00	75.00	24,600.00
Paving Sub Total (\$)										28,208.00

**Summary**

**Source Of Funding**

Sales Tax Funds - Wastewater - 455, Special Assessments

Net Amount Change Order # 8 (\$)

28,461.00

Previous Change Orders (\$)

-5,458.50

Original Contract Amount (\$)

8,044,768.45

Total Contract Amount (\$)

8,067,770.95




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

**CONTRACT TIME**

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
-------------------------------------	-------------------------------	--	----------------------------------	---------------------------------	---------------------------



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

08/20/2018		0.00	0.00	08/20/2018
<b>APPROVED</b>				
<b>APPROVED DATE</b>				
For Contractor	<div> <div>  </div> <div> <b>Jason Winter</b> Project Manager                 </div> </div>			
Title	<div> <div>  </div> <div> <b>Department Head</b> Mayor                 </div> </div>			
	<div> <div>  </div> <div> <b>Attest</b> 11/26/19                 </div> </div>			



3203 32nd Avenue South, Suite 201  
Fargo, ND 58103-6242  
701 232 5353  
KLJENG.COM

November 18, 2019

Jason Leonard  
City of Fargo  
225 4th Street North  
Fargo, ND 58102

**Re: BN-17-A1 – 57th Street Paving Change Order**

Dear Mr. Leonard:

During construction of the referenced project, it was requested that Master Construction complete HMA paving on 57<sup>th</sup> Street. This work has since been completed. The table below summarizes the quantities and prices that were negotiated to complete the work:

Bid Item	Unit	Quantity	Unit Price	Total
Remove Pavement All Thicknesses All Types	SY	328	\$10.00	\$3,280.00
Subgrade Preparation	SY	328	\$1.00	\$328.00
Construction Signing	SF	23	\$11.00	\$253.00
*F&I Pavement 8" Thick Asph	SY	328	\$75.00	\$24,600.00
<b>Total</b>				<b>\$28,461.00</b>

\* bid item added for change order

As shown above, this work will add an additional \$28,461.00 to the contract. We recommend a change order be completed for this work.

If you have any questions or comments, please feel free to contact me at 701.271.4871 or [scott.middaugh@kljeng.com](mailto:scott.middaugh@kljeng.com).

Sincerely,

KLJ

A handwritten signature in black ink, appearing to read 'Scott Middaugh'.

Scott Middaugh  
Project Manager

Enclosure(s): none  
Project #: 14417100  
cc:

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(26)

Improvement District No. DN-18-A1

Type: Change Order #5 &amp; Time Extension

Location: Grayland 1<sup>st</sup> Addition

Date of Hearing: 11/25/2019

Routing

City Commission

Date  
12/2/2019

PWPEC File

X

Project File

Roger Kluck

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, regarding Change Order #5 in the amount of \$10,100.00, bringing the total contract amount to \$1,976,557.02, for the installation of a temporary special inlet and drain pipe and a time extension to the Final Completion Date to allow the work to take place.

Staff is recommending approval of Change Order #5 and the associated time extension adjusting the Final Completion Date to December 7, 2019.

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Change Order #5 and the associated time extension of December 7, 2019 to Key Contracting.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #5 in the amount of \$10,100.00 and time extension to Key Contracting.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Water Utility Funds & Special Assessments

Developer meets City policy for payment of delinquent specials

Yes No

Agreement for payment of specials required of developer

N/A

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

N/AN/ACOMMITTEEPresent Yes No Unanimous17

Tim Mahoney, Mayor

☐ ☐ ☐

Nicole Crutchfield, Director of Planning

☒ ☒ ☐

Steve Dirksen, Fire Chief

☒ ☒ ☐Ryan Erickson

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

## Memorandum

**To:** Members of PWPEC

**From:** Roger E. Kluck, PE, CFM, Civil Engineer II

**Date:** November 20, 2019

**Re:** Improvement District No. DN-18-A1 – Change Order #5 & Time Extension  
Drain Improvements and Incidentals

---

### **Background:**

Improvement District No. DN-18-A1 was bid on September 5, 2018, with the bid awarded on September 13, 2018. The project began the week of September 24, 2018. The project documents identified Substantial Completion for all work except cleanup and punch list items for September 1, 2019. Key Contracting, Inc. was awarded the project and subsequently given a notice to proceed. After completion of construction of the project early this fall and after the unseasonable amount of rain, we found an area on City property between the entrance to the City recycling center on 63<sup>rd</sup> Street South south of 53<sup>rd</sup> Avenue South that no longer drained into the improved ditch due to the installation of the levees. Because this area is primarily grass and will not be improved in the near future, it was deemed prudent to install a temporary special inlet and drain pipe to dewater the area. The attached letter and Contractor's quote describes in detail the proposed work.

The attached Change Order #5 is in the amount of \$10,100.00 and is based upon the pricing provided by Key Contracting and has been reviewed and approved by the City's Consultant AE2S. Additionally, the Final Completion Date has been extended from October 23, 2019 to December 7, 2019 to allow this owner requested work to take place this fall. Engineering recommends approval.

Water Utility and Special Assessments will provide the project funding.

### **Recommended Motion:**

Approve Change Order #5 in the amount of \$10,100.00 and the associated time extension to the Final Completion Date to Key Contracting.

REK/klb  
Attachment

C: Tom Knakmuhs, Assistant City Engineer  
Jody Bertrand, Storm Sewer Division Engineer



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

Improvement District No	DN-18-A1	Change Order No	5
Project Name	Drain Improvements & Incidentals	For	Key Contracting Inc
Date Entered	11/20/2019		

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

**EXPLANATION OF CHANGE:** Add inlet and pipe connection

Add inlet to drain area between Recycling Site entrance and new Drain 27 on the south side of the drain off 63rd St S south of 53rd Ave S.

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 (\$)
Storm Sewers	85	F&I Inlet - Special (SPI) Reinf Conc	EA	0.00	0.00	0.00	1.00	1.00	10,100.00	10,100.00
<b>Storm Sewers Sub Total (\$)</b>									<b>10,100.00</b>	<b>10,100.00</b>

**Summary**

Source Of Funding

Special Assessments, Utility Funds - Water - 501

Net Amount Change Order # 5 (\$)

Previous Change Orders (\$)

Original Contract Amount (\$)

Total Contract Amount (\$)

10,100.00  
547,223.52  
1,419,233.50  
1,976,557.02

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	09/15/2019	Current Final Completion Date	10/23/2019	Additional Days Substantial Completion	0.00	Additional Days Final Completion	45.00	New Substantial Completion Date	09/15/2019	New Final Completion Date	12/07/2019
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Description

APPROVED

APPROVED DATE



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

For Contractor *Cheryl Biesinger*  
Title *Office Manager*  
*11-20-19*

Department Head  
*F. Cee*  
Mayor *11/26/19*  
Attest



November 19, 2019

Attn: Mr. Roger Kluck  
City of Fargo – Engineering Department  
200 N 3<sup>rd</sup> St  
Fargo, ND 58102

**Re: City of Fargo Improvement District DN-18-A1, Water Utility Project No. WA1852  
Construction Change Order No. 5**

Dear Mr. Kluck:

Enclosed please find a cost proposal (herein after referred to as Change Order. No. 5) from Key Contracting, Inc. for the above referenced project for your review and considerations. During construction is was discovered that a low-lying area adjacent to the drain berm was holding rainwater runoff from the recycling receptacle area. To mediate the standing water, Key proposed three options as shown on the attachment. At this time AE2S is recommending Option 2 which includes extension of a 4" PVC drain pipe and inlet to a low point near the recycling receptable area that currently holds rainwater runoff and snowmelt. Specifics items can be found on the attached cost proposal provided by the contractor.

Change Order No. 5 would result in an increase of \$10,100.00 to the construction contract. Completion of this work is anticipated prior to December 2<sup>nd</sup>, 2019.

Upon the City's review and approval of Change Order No. 5, please scan an executed copy of the change order to my attention. AE2S will forward an executed copy to the North Dakota Department of Health for approval as required by the DWSRF program. If you have any questions or need additional information, please do not hesitate to contact me.

AE2S greatly appreciates the opportunity to assist the City with construction phase services for the project. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

**AE2S**

A handwritten signature in black ink, appearing to read "Brian Gaddie", is written over a faint, light-colored signature line.

Brian Gaddie  
Project Engineer

Attachment



**Key Contracting, Inc.**

245 7th Avenue NE

West Fargo, North Dakota 58078

Phone: (701) 238-8192

Fax: (701) 356-0166

Internet: keycontracting.com

**CHANGE ORDER REQUEST # 7**

Submitted To: AE2S  
 Attention: Clarence  
 Date: 10/7/2019  
 Project: City of Fargo DN-18-A1  
 Description: Address Low Lying Area Near Recycle Center

1500-FW2C-00000

Key Contracting, Inc., hereby submits an estimate for all labor and materials for:

Description	Measure	Quantity	Unit Price	Amount
<b>Option 1 - set 48" MH and 12" PVC</b>				
Mobilization	LS	1	\$ 2,400.00	\$ 2,400.00
F&I 4' Manhole	EA	1	\$ 3,135.00	\$ 3,135.00
F&I Gate Valve 12"	EA	1	\$ 4,180.00	\$ 4,180.00
F&I 12" PVC	LF	95	\$ 79.20	\$ 7,524.00
F&I Rip Rap Pre Cast	SY	45	\$ 107.80	\$ 4,851.00
Site Restoration, ECB, Seeding and Hydromulch	LS	1	\$ 4,200.00	\$ 4,200.00
				<b>\$ 26,290.00</b>
<b>Option 2 - Tie 4" PVC int existing inlet</b>				
Mobilization	LS	1	\$ 2,400.00	\$ 2,400.00
Connect 4" PVC to Existing	EA	1	\$ 1,650.00	\$ 1,650.00
F&I 4" PVC	LF	50	\$ 55.00	\$ 2,750.00
PVC Catch Basin	EA	1	\$ 900.00	\$ 900.00
Site Restoration, Seeding and Hydromulch	LS	1	\$ 2,400.00	\$ 2,400.00
				<b>\$ 10,100.00</b>
RECOMMENDED OPTION				
<b>Option 3 - Fill approx. 80' x 40'</b>				
Mobilization	LS	1	\$ 1,200.00	\$ 1,200.00
Supply and Install Top Soil	CY	80	\$ 45.00	\$ 3,600.00
Site Restoration, Seeding and Hydromulch	LS	1	\$ 1,600.00	\$ 1,600.00
				<b>\$ 6,400.00</b>

All materials are guaranteed as specified.

All work shall be completed in a workman like manner and according to standard practice.

Dated as noted above.

Accepted on: \_\_\_\_\_

Steve Carr

Key Contracting, Inc. S:\Major Projects - 2019\Fargo DN-18-A1 Drain Improvements\Change Order  
 Contact: Steve Carr

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(27)

Improvement District No. PN-18-B1

Type: Time Extension (CO #1)

Location: 23 Ave S, 42 to 38 St &amp; 41 St, 23 to 24 Ave S

Date of Hearing: 11/25/2019

RoutingDate

City Commission

12/2/2019

PWPEC File

X

Project File

Jeremy Engquist

The Committee reviewed the accompanying correspondence from Project Manager, Jeremy Engquist, regarding a time extension (CO #1) requested by Dakota Underground for delays related to the pipeline relocation and supplier related delays for the traffic signal poles.

Staff is recommending approval of the time extension (CO #1) to the Substantial and Final Completion Dates and an added Interim Completion Date as shown below:

Original Completion Dates	Revised this Memo
Substantial Completion Date – September 6, 2019	Interim (Traffic Signals) – May 1, 2020
Final Completion Date – October 6, 2019	Substantial Completion Date – June 1, 2020
	Final Completion Date – June 15, 2020

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of the time extension (CO #1) as described above to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve time extension (CO #1) to the Substantial and Final Completion Dates and the addition of an Interim Completion Date as shown above.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Infrastructure Funds & Special Assessments

	Yes	No
Developer meets City policy for payment of delinquent specials	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Agreement for payment of specials required of developer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Letter of Credit required (per policy approved 5-28-13)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

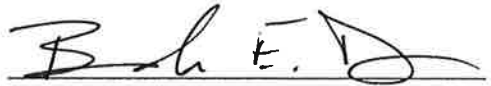
COMMITTEE

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Jeremy Engquist, Project Manager  
**Date:** November 13, 2019  
**Re:** Improvement District No. PN-18-B1 – Change Order #1 (Time Extension)

### **Background:**

Improvement District No. PN-18-B1 is for new construction of paving and incidentals on 23rd Avenue South from 42nd Street to 38th Street and on 41st Street South from 100' north of 23rd Avenue to 24th Avenue.

Dakota Underground is the Prime Contractor for this project.

The attached Change Order #1 provides for a time extension due to delays beyond control of the Contractor. A detailed explanation of the delays are noted below:

- **Pipeline Relocation delays** – Earlier you may recall, NuStar Energy requested to relocate their high-pressure 10" petroleum pipeline out of the roundabout portion of 23<sup>rd</sup> Avenue prior to the Contractor installing pavement. Nustar had previously indicated they would be able to relocate the pipeline this last spring or early summer at the latest, but due to other internal commitments, they were not able to start relocating until September 9, 2019, following completion on September 27, 2019. This pipeline work delayed Dakota Underground from finishing the project by the September 6, 2019 Substantial Completion. Staff is recommending a new completion date of June 1, 2020 to complete pavement markings, final grading and seeding.
- **Traffic Signal Pole delays** – Among other City projects this last construction season, the delivery of traffic signal poles for this project (42<sup>nd</sup> Street intersection) were also delayed due to supplier production issues. The Supplier has given the Contractor a revised delivery date of approximately February 1, 2020, which risks the ability for installation due to unfavorable weather conditions for the Contractor and our Staff that time of year. Staff is recommending a new interim completion date of May 1, 2020 to have a fully functional traffic signal system in operation.

At present time, the street and sidewalk installations are complete and the project is open to the public. Two-way stop signs have been temporarily added for 23<sup>rd</sup> Avenue east/west traffic at 42<sup>nd</sup> Street until traffic signals are installed. The project will remain open to public during the installation of traffic signals and other miscellaneous work items this spring.

### **Recommended Motion:**

Approve Change Order #1 for the time extension to the Substantial and Final Completion Dates and an added Interim Completion Date as shown below:

Original Completion Dates	Revised this Memo
Substantial Completion Date – September 6, 2019 Final Completion Date – October 6, 2019	Interim (Traffic Signals) – May 1, 2020 Substantial Completion Date – June 1, 2020 Final Completion Date – June 15, 2020

JJE/klb  
Attachment

C: Brenda Derrig, City Engineer  
Tom Knakmuhs, Assistant City Engineer

Improvement District No	PN-18-B1	Change Order No	1
Project Name	PC Concrete Paving, Concrete Curb and Gutter, Asphalt Pavement & Incidentals		
Date Entered	11/13/2019	For	Dakota Underground Co Inc

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

**EXPLANATION OF CHANGE:** Change Order # 1 Time Extension

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
<b>Summary</b>										
<b>Source Of Funding</b>										
Net Amount Change Order # 1 (\$)										
Previous Change Orders (\$)										
Original Contract Amount (\$)										
Total Contract Amount (\$)										
0.00										
2,802,227.40										
2,802,227.40										

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

**CONTRACT TIME**

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
09/06/2019	10/06/2019	269.00	283.00	06/01/2020	06/15/2020

**Description**

This Change Order provides for a time extension due to delays beyond control of the Contractor. A detailed explanation of the delays are noted below:

- Pipeline Relocation delays – NuStar Energy requested to relocate their high-pressure 10" petroleum pipeline out of the roundabout portion of 23rd Avenue prior to our Contractor installing pavement. Nustar had previously indicated they would be able to relocate the pipeline this last spring or early summer at the latest, but due to other internal commitments, they weren't able to start relocating until September 9, 2019, following completion on September 27, 2019. This pipeline work delayed Dakota Underground from finishing up the project by the September 6, 2019 Substantial Completion. Staff is recommending a new completion date of June 1, 2020 to complete pavement markings, final grading and seeding.

- Traffic Signal Pole delays – Among other City projects this last construction season, the delivery of traffic signal poles for this project (42nd Street intersection) were also delayed due to supplier production issues. The Supplier has given the Contractor a revised delivery date of approximately February 1, 2020, which risks the ability for installation due to unfavorable weather conditions for the Contractor and our Staff that time of year. Staff is recommending a new interim completion date of May 1, 2020 to have a fully functional traffic signal system in operation.

Original Substantial – September 6, 2019  
Original Final – October 6, 2019

Revised Substantial – June 1, 2020  
Revised Final – June 15, 2020

Added Interim Completion for Traffic Signal Installation - May 1, 2020

**APPROVED**

*Bob Nelson* 11-13-19  
For Contractor  
Dakota Underground Company  
Title: Project Manager

**APPROVED DATE**

Department Head  
*[Signature]* 11/26/19  
Mayor

Attest

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(28)

Improvement District No. FM-17-C1

Type: Final Balancing Change Order #4

Location: Bison Meadows

Date of Hearing: 11/25/2019

City Commission	<u>Date</u>
PWPEC File	<u>12/2/2019</u>
Project File	<u>X</u>
	<u>Roger Kluck</u>

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, related to Final Balancing Change Order #4 in the amount of \$77,345.57, bringing the total contract amount to \$1,341,398.11, for additional fill as measured in the field and removal of additional trees that were not previously identified.

Staff is recommending approval of Final Balancing Change Order #4 to KPH, Inc.

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

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Final Balancing Change Order #4 in the amount of \$77,345.57 to KPH, Inc.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Diversion Sales Tax & Special Assessments

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

Yes	No
N/A	
N/A	
N/A	

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

ATTEST:

C: Kristi Olson



Brenda E. Derrig, P.E.  
 City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Roger E. Kluck, PE, CFM, Civil Engineer II  
**Date:** November 20, 2019  
**Re:** Improvement District No. FM-17-C1 – Final Balancing Change Order #4  
Bison Meadows Levee and Pond Project

---

### **Background:**

Attached is Final Balancing Change Order #4 for \$77,345.57 for Improvement District No. FM-17-C1 Bison Meadows Levee and Pond Project. Please refer to the attached Final Balancing Change Order #4, which reconciles the estimated quantities used in the contract with the final quantities measured in the field.

Original Contract:	\$ 1,070,655.00
Change Order #1:	\$ 95,552.50
Change Order #2:	\$ -2,151.96
Change Order #3:	\$ 99,997.00
<u>FBCO #4:</u>	<u>\$ 77,345.57</u>
Total Contract:	\$ 1,341,398.11

The primary increase in cost involved additional fill-haul and fill-impervious based upon actual survey in place measurement versus using GIS information. We also encountered more trees inside the tree grove to be removed than was identified from the GIS aerial information.

### **Recommended Motion:**

Approve Final Balancing Change Order #4 in the amount of \$77,345.57 to KPH, Inc.

REK/klb  
Attachment

C: Brenda Derrig, City Engineer  
Jody Bertrand, Storm Sewer Division Engineer  
Dan Eberhardt, Special Assessments Coordinator



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

Improvement District No	FM-17-C1	Change Order No	4
Project Name	Bison Meadows Levee and Pond Project		
Date Entered	11/20/2019	For	KPH, Inc.

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

**EXPLANATION OF CHANGE: Final Balancing**

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

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Removals	11	Remove Tree	EA	26.00	0.00	26.00	75.00	101.00	210.00	15,750.00
								<b>Removals Sub Total (\$)</b>		15,750.00
Erosion & Sediment Control	15	Sediment Control Log 6" to 8" Dia	LF	200.00	0.00	200.00	-200.00	0.00	2.10	-420.00
	16	Silt Fence - Standard	LF	3,200.00	0.00	3,200.00	150.00	3,350.00	1.60	240.00
	17	Temp Construction Entrance	EA	2.00	0.00	2.00	-2.00	0.00	1,000.00	-2,000.00
	18	Concrete Washout Area	EA	1.00	0.00	1.00	-1.00	0.00	1,150.00	-1,150.00
	19	F&I Rip Rap Rock	CY	125.00	0.00	125.00	188.50	313.50	64.00	12,084.00
								<b>Erosion &amp; Sediment Control Sub Total (\$)</b>		8,734.00
Flood Mitigation	21	Fill - Haul	CY	19,000.00	0.00	19,000.00	6,851.00	25,851.00	4.10	28,089.10
	22	Fill - Impervious	CY	19,000.00	0.00	19,000.00	6,851.00	25,851.00	2.00	13,702.00
								<b>Flood Mitigation Sub Total (\$)</b>		41,791.10
Site Restoration	24	Seeding Type A	SY	27,000.00	0.00	27,000.00	5,961.00	32,961.00	0.20	1,192.20
	25	Mulching Type 1 - Hydro	SY	27,000.00	-17,933.00	9,067.00	23,894.00	32,961.00	0.30	7,168.20
								<b>Site Restoration Sub Total (\$)</b>		8,360.40
Bison Meadows District	37	F&I Rip Rap Rock	CY	150.00	0.00	150.00	-150.00	0.00	64.00	-9,600.00
	38	F&I Pipe 12" Dia	LF	485.00	0.00	485.00	17.04	502.04	38.00	647.52
	39	F&I Pipe 15" Dia	LF	805.00	0.00	805.00	-16.02	788.98	40.00	-640.80
								<b>Bison Meadows District Sub Total (\$)</b>		-9,593.28





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

Miscellaneous	40	Fill - Random	CY	51,650.00	0.00	51,650.00	5,991.00	57,641.00	1.85	11,083.35
<b>Miscellaneous Sub Total (\$)</b>										11,083.35
Pond Area Path Paving	52	Fill - Random	CY	300.00	0.00	300.00	200.00	500.00	6.10	1,220.00
<b>Pond Area Path Paving Sub Total (\$)</b>										1,220.00
<b>Summary</b>										
<b>Source Of Funding</b>										
<b>Net Amount Change Order # 4 (\$)</b>										77,345.57
<b>Previous Change Orders (\$)</b>										193,397.54
<b>Original Contract Amount (\$)</b>										1,070,655.00
<b>Total Contract Amount (\$)</b>										1,341,398.11

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

**CONTRACT TIME**

Description	Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
	09/21/2018	09/01/2019	0.00	0.00	09/21/2018	09/01/2019

**APPROVED**

For Contractor

Title

President

**APPROVED DATE**

Department Head

Mayor

Attest

11/25/19

REVISED FINAL  
ESTIMATE 11-20-19



# ENGINEERING DEPARTMENT

## PAY ESTIMATE SHEET

Improvement District No. FM-17-C1

Project Name Bison Meadows Levee and Pond Project

Type Flood Mitigation

### Description

This project is planned to build the flood control levee for the Bison Meadows housing development. This project will complete excavation of the regional storm water detention ponds north of Bison Meadows, create a park area with a recreation path, trees, and native grasses around the regional detention ponds, and build a recreation path across the Park Land that the new levee will be built upon, along the west side of University Drive.

Pay Estimate Number 15 - FINAL

From Date 11/06/2019

To Date 11/20/2019

The Honorable Board of City Commissioners

Dear Commissioners,

Be advised that KPH, Inc. has performed the work to date shown on this statement

### Contract

Contract	Unit	Previous		Current		To Date		Percentage Complete(%)
		Quantity	Unit Price (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
Miscellaneous								
1 Mobilization	LS	1.00	5,000.00	1.00	5,000.00	0.00	0.00	100.00
2 Topsoil - Strip	CY	15,000.00	1.25	15,000.00	18,750.00	0.00	0.00	100.00
3 Topsoil - Spread	CY	21,700.00	1.75	21,700.00	37,975.00	0.00	0.00	100.00
4 Topsoil - Import	CY	20,500.00	0.01	0.00	0.00	20,500.00	205.00	100.00
5 Traffic Control - Minor	LS	1.00	1,100.00	1.00	1,100.00	0.00	0.00	100.00
6 F&I Gate	EA	1.00	2,500.00	1.00	2,500.00	0.00	0.00	100.00
7 Temp Pumping	LS	1.00	10,000.00	1.00	10,000.00	0.00	0.00	100.00
8 Repair Outfall	EA	1.00	12,250.00	1.00	12,250.00	0.00	0.00	100.00

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Page 1 of 6

Improvement District No: FM-17-C1



**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Previous		Current		To Date		Percentage
		Quantity	Amount (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
40 Fill - Random	CY	51,650.00	1.85	57,641.00	106,635.85	0.00	0.00	111.60*
<b>Removals</b>		<b>Removals Sub Total</b>			<b>194,210.85</b>		<b>203.90</b>	<b>194,415.85</b>
9 Clear & Grub	LS	1.00	2,125.00	1.00	2,125.00	0.00	0.00	100.00
10 Remove Pavement All Thicknesses All Types	SY	5,000.00	4.50	5,000.00	22,500.00	0.00	0.00	100.00
11 Remove Tree	EA	26.00	210.00	101.00	21,210.00	0.00	0.00	388.46*
<b>Pond Area Path Paving</b>		<b>Removals Sub Total</b>			<b>45,835.00</b>		<b>0.00</b>	<b>45,835.00</b>
12 F&I Shared Use Path 5" Thick Reinf Conc	SY	11,190.00	35.00	11,190.00	391,650.00	0.00	0.00	100.00
42 Mobilization	LS	1.00	500.00	1.00	500.00	0.00	0.00	100.00
44 F&I Pipe 12" Dia	LF	33.00	38.00	33.00	1,254.00	0.00	0.00	100.00
46 F&I Flared End Section 12" Dia Reinf Conc	EA	2.00	1,100.00	2.00	2,200.00	0.00	0.00	100.00
48 Topsoil - Strip & Spread	CY	100.00	3.00	100.00	300.00	0.00	0.00	100.00
50 Topsoil - Import Special	CY	300.00	5.00	300.00	1,500.00	0.00	0.00	100.00
52 Fill - Random	CY	300.00	6.10	500.00	3,050.00	0.00	0.00	166.67*
54 Mulching Type 1 - Hydro	SY	2,010.00	0.30	2,010.00	603.00	0.00	0.00	100.00
57 Seeding Type A	SY	2,010.00	0.20	2,010.00	402.00	0.00	0.00	100.00
<b>Pond Area Path Paving Sub Total</b>					<b>401,459.00</b>		<b>0.00</b>	<b>401,459.00</b>



**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Previous		Current		To Date		Percentage Complete(%)
		Quantity	Unit Price (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
Park District Path Paving								
13 F&I Shared Use Path 5" Thick Reinf Conc	SY	3,200.00	35.00	3,200.00	112,000.00	0.00	0.00	100.00
43 Remove Pavement All Thicknesses All Types	SY	210.00	4.50	210.00	945.00	0.00	0.00	100.00
45 F&I Pipe 12" Dia	LF	32.00	38.00	32.00	1,216.00	0.00	0.00	100.00
47 F&I Flared End Section 12" Dia Reinf Conc	EA	2.00	1,100.00	2.00	2,200.00	0.00	0.00	100.00
49 Topsoil - Strip & Spread	CY	160.00	3.00	160.00	480.00	0.00	0.00	100.00
51 Topsoil - Import Special	CY	520.00	5.00	520.00	2,600.00	0.00	0.00	100.00
53 Fill - Random	CY	520.00	6.10	520.00	3,172.00	0.00	0.00	100.00
55 Mulching Type 1 - Hydro	SY	1,750.00	0.30	1,750.00	525.00	0.00	0.00	100.00
58 Seeding Type A	SY	1,750.00	0.20	1,750.00	350.00	0.00	0.00	100.00
		Park District Path Paving Sub Total			123,468.00		0.00	
Erosion & Sediment Control								
14 Stormwater Management	LS	1.00	500.00	1.00	500.00	0.00	0.00	100.00
15 Sediment Control Log 6" to 8" Dia	LF	200.00	2.10	0.00	0.00	0.00	0.00	0.00
16 Silt Fence - Standard	LF	3,200.00	1.60	3,350.00	5,360.00	0.00	0.00	104.69
17 Temp Construction Entrance	EA	2.00	1,000.00	0.00	0.00	0.00	0.00	0.00
18 Concrete Washout Area	EA	1.00	1,150.00	0.00	0.00	0.00	0.00	0.00
19 F&I Rip Rap Rock	CY	125.00	64.00	313.50	20,064.00	0.00	0.00	250.80*
20 Inlet Protection - New Inlet	EA	9.00	130.00	9.00	1,170.00	0.00	0.00	100.00
		Erosion & Sediment Control Sub Total			27,094.00		0.00	



## ENGINEERING DEPARTMENT

## PAY ESTIMATE SHEET

Contract	Unit	Previous		Current		To Date		Percentage Complete(%)		
		Quantity	Unit Price (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)			
Flood Mitigation										
21 Fill - Haul	CY	19,000.00	4.10	25,851.00	105,989.10	0.00	0.00	25,851.00	105,989.10	136.06*
22 Fill - Impervious	CY	19,000.00	2.00	25,851.00	51,702.00	0.00	0.00	25,851.00	51,702.00	136.06*
23 Inspection Trench	CY	7,000.00	3.00	7,000.00	21,000.00	0.00	0.00	7,000.00	21,000.00	100.00
				Flood Mitigation Sub Total	178,691.10		0.00		178,691.10	
Site Restoration										
24 Seeding Type A	SY	27,000.00	0.20	30,539.00	6,107.80	2,422.00	484.40	32,961.00	6,592.20	122.08*
25 Mulching Type 1 - Hydro	SY	9,067.00	0.30	30,539.00	9,161.70	2,422.00	726.60	32,961.00	9,888.30	363.53*
26 F&I Decid Tree 2" Dia	EA	98.00	400.00	50.00	20,000.00	48.00	19,200.00	98.00	39,200.00	100.00
41 Mulching Type 2 - Straw	SY	17,933.00	0.18	17,933.00	3,227.94	0.00	0.00	17,933.00	3,227.94	100.00
				Site Restoration Sub Total	88,437.44		20,411.09		58,908.44	
Bison Meadows District										
27 Topsoil - Strip	CY	15,000.00	0.01	15,000.00	150.00	0.00	0.00	15,000.00	150.00	100.00
28 Fill - Haul	CY	77,400.00	2.95	77,400.00	228,330.00	0.00	0.00	77,400.00	228,330.00	100.00
29 Topsoil - Spread	CY	15,000.00	0.01	15,000.00	150.00	0.00	0.00	15,000.00	150.00	100.00
30 Seeding Type A	SY	25,000.00	0.01	25,000.00	250.00	0.00	0.00	25,000.00	250.00	100.00
31 Mulching Type 1 - Hydro	SY	25,000.00	0.01	25,000.00	250.00	0.00	0.00	25,000.00	250.00	100.00
32 F&I Flared End Section 15" Dia Reinf Conc	EA	1.00	1,165.00	1.00	1,165.00	0.00	0.00	1.00	1,165.00	100.00
33 F&I Flared End Section 12" Dia Reinf Conc	EA	2.00	1,100.00	2.00	2,200.00	0.00	0.00	2.00	2,200.00	100.00
34 F&I Manhole 8' Dia Reinf Conc	EA	1.00	9,700.00	1.00	9,700.00	0.00	0.00	1.00	9,700.00	100.00



**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Quantity	Unit Price (\$)	Previous		Current		To Date		Percentage Complete(%)
				Quantity	Amount (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
35 F&I Manhole 4' Dia Reinf Conc	EA	3.00	2,260.00	3.00	6,780.00	0.00	0.00	3.00	6,780.00	100.00
36 F&I Inlet - Round (RDI) Reinf Conc	EA	5.00	2,075.00	4.00	8,300.00	1.00	2,075.00	5.00	10,375.00	100.00
37 F&I Rip Rap Rock	CY	150.00	64.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
38 F&I Pipe 12" Dia	LF	485.00	38.00	502.04	19,077.52	0.00	0.00	502.04	19,077.52	103.51
39 F&I Pipe 15" Dia	LF	805.00	40.00	788.98	31,559.20	0.00	0.00	788.98	31,559.20	98.01
56 Mulching Type 2 - Straw	SY	4,000.00	0.18	4,000.00	720.00	0.00	0.00	4,000.00	720.00	100.00
59 Seeding Type A	SY	4,000.00	0.20	4,000.00	800.00	0.00	0.00	4,000.00	800.00	100.00
<b>Bigon Meadows District Sub Total</b>					<b>309,431.72</b>		<b>2,075.00</b>		<b>311,506.72</b>	
<b>Summary</b>										
1. Original Contract Amount										\$ 1,070,655.00
2. Net Change by Change Order										\$ 193,397.54
3. Contract Amount To Date										\$ 1,264,052.54
4. Total Work Completed to Date										\$ 1,341,398.11
5. Retainage @ 0.00 % to Date										\$ 65,935.36
6. Previous Retainage										\$ 65,935.36
7. Retainage This Period										\$ 0.00
8. Liquidated Damages										\$ 0.00
0.00 Days to Date										\$ 0.00
0.00 Days to Previous										\$ 0.00
0.00 Days This Period										\$ 0.00



ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET

9. Material on Hand (Payment)	\$ 0.00
10. Material on Hand (Recovery)	\$ 0.00
11. Adjustments	\$ 0.00
12. Total Due to Date	\$ 1,341,398.11
13. Previous Payments	\$ 1,252,771.75
14. Payment Due This Estimate	\$ 88,626.36
15. Amount allowed Pay Estimate # 15 - FINAL	\$ 88,626.36

Workflow History

Status	Pending On:	Date	User	Action	Action User	Action Date	Action Notes
Draft	Administrator, Division Head, Project Manager	11/20/2019	rtkuck	StageInitialized			

*[Signature]*  
11-20-2019

(29)

## REPORT OF ACTION

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-19-E1 Type: Negative Final Balancing Change Order #2

Location: Citywide Date of Hearing: 11/25/2019

<u>Routing</u>	<u>Date</u>
City Commission	<u>12/2/2019</u>
PWPEC File	<u>X</u>
Project File	<u>Jason Leonard</u>

The Committee reviewed the accompanying correspondence from Project Manager, Jason Leonard, regarding Negative Final Balancing Change Order #2 in the amount of \$-12,136.24, bringing the total contract amount to \$512,647.46.

Staff is recommending approval of Negative Final Balancing Change Order #2.

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Negative Final Balancing Change Order #2 to Dakota Underground.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #2 in the amount of \$-12,136.24 to Dakota Underground.

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  
 50% escrow deposit required

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>

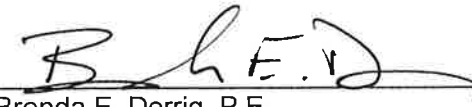
COMMITTEE

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ryan Erickson
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 City Engineer



## Memorandum

**To:** Members of PWPEC  
**From:** Jason Leonard, Project Engineer  
**Date:** November 13, 2019  
**Re:** Improvement District No. BN-19-E1 – Negative Final Balancing Change Order #2

---

### **Background:**

Improvement District No. BN-19-E1 is for the new construction of underground utilities, asphalt pavement, street lights and incidentals on 16<sup>th</sup> Street South and 67<sup>th</sup> Avenue South in Bison Meadows 2<sup>nd</sup> Addition.

The attached Negative Final Balancing Change Order #2, in the amount of -\$12,136.24, reconciles the estimated quantities used in the contract with the final quantities as measured in the field.

The original contract bid price for this project was \$524,783.70 and this FBCO #2 will bring the project final amount to \$512,647.46 (2.31% Decrease). This Improvement District is 100% Special Assessed.

### **Recommended Motion:**

Approve Negative Final Balancing Change Order #2 in the amount of -\$12,136.24 to Dakota Underground Inc.

JTL\klb

Attachments

<b>Improvement District No</b>	BN-19-E1	<b>Change Order No</b>	2
<b>Project Name</b>	Sanitary Sewer, Storm Sewer, Water Main, Paving, Street Lighting & Incidentals		
<b>Date Entered</b>	11/13/2019	<b>For</b>	Dakota Underground Co Inc

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

**EXPLANATION OF CHANGE: FINAL BALANCING CHANGE ORDER**

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

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Storm Sewer	20	F&I Pipe 15" Dia Reinf Conc	LF	594.00	0.00	594.00	36.00	630.00	44.00	1,584.00
	21	F&I Pipe w/GB 15" Dia Reinf Conc	LF	133.00	0.00	133.00	-37.00	96.00	52.00	-1,924.00
<b>Storm Sewer Sub Total (\$)</b>										-340.00
Paving	22	Remove Pavement All Thicknesses All Types	SY	100.00	0.00	100.00	-75.00	25.00	10.00	-750.00
	27	Subcut	CY	1,100.00	0.00	1,100.00	-490.00	610.00	5.00	-2,450.00
	31	F&I Curb & Gutter Mountable (Type I)	LF	1,698.00	0.00	1,698.00	10.40	1,708.40	16.00	166.40
	32	F&I Edge Drain 4" Dia PVC	LF	1,698.00	0.00	1,698.00	10.40	1,708.40	6.50	67.60
	33	Remove Curb & Gutter	LF	40.00	0.00	40.00	-40.00	0.00	10.00	-400.00
	34	F&I Sidewalk 4" Thick Reinf Conc	SY	120.00	0.00	120.00	65.20	185.20	48.00	3,129.60
	35	F&I Sidewalk 6" Thick Reinf Conc	SY	9.00	0.00	9.00	8.67	17.67	55.00	476.85
	36	F&I Det Warn Panels Cast Iron	SF	16.00	0.00	16.00	24.00	40.00	50.00	1,200.00
	37	F&I Aggregate for Asph Pavement FAA 43	TON	1,016.00	0.00	1,016.00	-110.24	905.76	43.00	-4,740.32
	38	F&I Asphalt Cement PG 58-34	GAL	14,176.00	0.00	14,176.00	-2,720.17	11,455.83	2.60	-7,072.44
Street Lighting	45	Mulching Type 1 - Hydro	SY	5,490.00	0.00	5,490.00	-2,153.13	3,336.87	0.32	-689.00
	46	Seeding Type C	SY	5,490.00	0.00	5,490.00	-2,153.13	3,336.87	0.32	-689.00
	48	F&I Conductor #6 USE Cu	LF	2,616.00	0.00	2,616.00	-16.00	2,600.00	1.57	-25.12
<b>Paving Sub Total (\$)</b>										-11,750.32



CITY OF FARGO  
ENGINEERING DEPARTMENT  
CHANGE ORDER REPORT

Street Lighting	49	F&I Innerduct 1.5" Dia	LF	764.00	0.00	764.00	-4.00	760.00	5.20	-20.80
Street Lighting Sub Total (\$)										-45.92
Summary										
Source Of Funding										
Net Amount Change Order # 2 (\$)										-12,136.24
Previous Change Orders (\$)										0.00
Original Contract Amount (\$)										524,783.70
Total Contract Amount (\$)										512,647.46

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

CONTRACT TIME

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
07/29/2019	08/28/2019	0.00	0.00	07/29/2019	08/28/2019

Description

APPROVED

APPROVED DATE

For Contractor

Department Head Mayor

Title President

Attest

(30)

## REPORT OF ACTION

## PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. NN-18-A1 Type: Negative Final Balancing Change Order #4

Location: Citywide Date of Hearing: 11/25/2019

<u>Routing</u>	<u>Date</u>
City Commission	12/2/2019
PWPEC File	X
Project File	Roger Kluck

The Committee reviewed the accompanying correspondence from Project Manager, Roger Kluck, regarding Negative Final Balancing Change Order #4 in the amount of \$-3,706.96, bringing the total contract amount to \$1,515,622.49.

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

On a motion by Steve Sprague, seconded by Nicole Crutchfield, the Committee voted to recommend approval of Negative Final Balancing Change Order #4 to CC Steel LLC.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Negative Final Balancing Change Order #4 in the amount of \$-3,706.96 to CC Steel LLC.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Water Utility & Special Assessments

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

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

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

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 City Engineer

## Memorandum

**To:** Members of PWPEC

**From:** Roger E. Kluck, PE, CFM, Civil Engineer II

**Date:** November 19, 2019

**Re:** Improvement District No. NN-18-A1 – Negative Final Balancing Change Order #4  
Storm Sewer Lift Station, Storm Sewer & Incidentals

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### Background:

Attached is Negative Final Balancing Change Order #4 in the amount of \$-3,706.96 for Improvement District No. NN-18-A1 Storm Sewer Lift Station, Storm Sewer & Incidentals. Please refer to the attached Negative Final Balancing Change Order #4, which reconciles the estimated quantities used in the contract with the final quantities measured in the field.

Original Contract:	\$ 1,498,468.20
Change Order #1:	\$ 1,773.75
Change Order #2:	\$ 19,087.50
Change Order #3:	\$ 0.00 (Contractor did not sign)
FBCO #4:	\$ -3,706.96
<u>Adjustment</u>	<u>\$ -25,158.00 *</u>
Total Contract:	\$ 1,490,464.49

- Change Order #3 was for City consultant costs for engineering & testing repairs to faulty concrete wall. The Contractor would not sign the Change Order, so did the adjustment administratively to contract.

### Recommended Motion:

Approve Negative Final Balancing Change Order #4 in the amount of \$-3,706.96 to CC Steel.

REK/klb  
Attachment

C: Brenda Derrig, City Engineer  
Jody Bertrand, Storm Sewer Division Engineer  
Dan Eberhardt, Special Assessments Coordinator



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

Improvement District No	NN-18-A1	Change Order No	4
Project Name	Storm Sewer Lift Station, Storm Sewer & Incidentals		
Date Entered	11/19/2019	For	CC Steel, LLC

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

**EXPLANATION OF CHANGE:** Final Balancing

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

Section	Line No	Item Description	Unit	Orig Cont Qty	Prev C/O Qty	Prev Cont Qty	Curr C/O Qty	Tot Cont Qty	Unit Price (\$)	C/O Ext Price (\$)
Sanitary Sewer	5	Remove Pipe All Sizes All Types	LF	35.00	0.00	35.00	-25.00	10.00	25.00	-625.00
Storm Sewers	11	F&I Pipe 24" Dia Reinf Conc	LF	178.00	0.00	178.00	-18.00	160.00	135.00	-625.00
	12	F&I Rip Rap Rock	CY	80.00	0.00	80.00	11.00	91.00	80.00	-2,430.00
	15	F&I Box Culvert 8'x4' Wide Reinf Conc	LF	195.00	0.00	195.00	4.30	199.30	1,100.00	880.00
										4,730.00
Excavation, Filling and Subgrade Preparation	17	Fill - Import	CY	1,000.00	0.00	1,000.00	-370.00	630.00	13.00	3,180.00
	33	Topsoil - Import	CY	625.00	0.00	625.00	66.00	691.00	8.94	-4,810.00
										590.04
Turf Establishment	24	Mulching Type 1 - Hydro	SY	6,710.00	0.00	6,710.00	1,612.00	8,322.00	1.00	-4,219.96
	25	Seeding Type B	SY	8,050.00	0.00	8,050.00	2,486.00	10,536.00	0.75	1,612.00
										1,864.50
Erosion and Sediment Control	29	F&I Erosion Control Blanket Type 1	SY	1,340.00	0.00	1,340.00	874.00	2,214.00	2.25	3,476.50
	30	Sediment Control Log 10" to 15" Dia	LF	3,175.00	0.00	3,175.00	-2,495.00	680.00	3.00	1,966.50
										-7,485.00
										-5,518.50

**Summary**



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

**Source Of Funding**

Net Amount Change Order # 4 (\$)	-3,706.96
Previous Change Orders (\$)	20,861.25
Original Contract Amount (\$)	1,498,468.20
Total Contract Amount (\$)	1,515,622.49

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

**CONTRACT TIME**

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
08/15/2019	09/01/2019	0.00	0.00	08/15/2019	09/01/2019

**Description****APPROVED**

For Contractor

Title

President

**APPROVED DATE**

Department Head

Mayor

Attest

## Roger Kluck

---

**From:** mike@ccsteel.com  
**Sent:** Tuesday, November 19, 2019 12:34 PM  
**To:** Roger Kluck  
**Cc:** Kevin Morlan; Jody Bertrand  
**Subject:** RE: Fargo NN-18-A1 final balancing change order  
**Attachments:** Final Balancing Change order NN18A1-MC executed.pdf

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

Roger-

See attached. Thank you.

----- Original Message -----

**Subject:** RE: Fargo NN-18-A1 final balancing change order  
**From:** Roger Kluck <[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)>  
**Date:** Tue, November 19, 2019 12:26 pm  
**To:** "mike@ccsteel.com" <[mike@ccsteel.com](mailto:mike@ccsteel.com)>  
**Cc:** Kevin Morlan <[kmorlan@FargoND.gov](mailto:kmorlan@FargoND.gov)>, Jody Bertrand <[JBertrand@FargoND.gov](mailto:JBertrand@FargoND.gov)>

Please sign and return today. Thank you

**Roger E. Kluck, PE, CFM**  
Engineer II Storm Water  
City of Fargo  
200 N 3<sup>rd</sup> Street  
Fargo, ND 58102

701- 241-1537(work)  
701-361-5354 (cell)  
[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)

**From:** [mike@ccsteel.com](mailto:mike@ccsteel.com) <[mike@ccsteel.com](mailto:mike@ccsteel.com)>  
**Sent:** Tuesday, November 19, 2019 11:22 AM  
**To:** Roger Kluck <[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)>  
**Subject:** RE: Fargo NN-18-A1

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Roger-

See attached. We are good with the numbers and understand our warranty obligations. Thank you much appreciated.



----- Original Message -----

Subject: RE: Fargo NN-18-A1

From: Roger Kluck <[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)>

Date: Tue, November 19, 2019 10:51 am

To: "[mike@ccsteel.com](mailto:mike@ccsteel.com)" <[mike@ccsteel.com](mailto:mike@ccsteel.com)>

Cc: Kevin Morlan <[kmorlan@FargoND.gov](mailto:kmorlan@FargoND.gov)>, Jody Bertrand  
<[JBertrand@FargoND.gov](mailto:JBertrand@FargoND.gov)>, Brian Gaddie <[Brian.Gaddie@AE2S.com](mailto:Brian.Gaddie@AE2S.com)>

Mike as requested by Jody we have finalized the draft final estimate and it is attached. I have also included Kevin's final pay quantity report highlighting the items you have been working with him on last week when I was gone. If you agree with the final estimate sign and return today so I can get on Mondays PWPEC and on December 2 commission to pay out this year. Otherwise the closeout and acceptance will be delayed 2 weeks. Once you sign the draft final estimate I do a final change order to account for all pluses and minuses which also has to be signed by you to go forward with the final estimate and final closeout.

Known warranty items for spring addressing.

1. Remove and replace cracked concrete road panel
2. Inspect seal installed around sluice gate for product performance over the winter and spring thaw
3. Inspect culvert joint repairs for product performance over the winter and spring thaw

If you have any questions please feel free to contact me.

**Roger E. Kluck, PE, CFM**

Engineer II Storm Water

City of Fargo

200 N 3<sup>rd</sup> Street

Fargo, ND 58102

701- 241-1537(work)

701-361-5354 (cell)

[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)

**From:** Kevin Morlan <[kmorlan@FargoND.gov](mailto:kmorlan@FargoND.gov)>

**Sent:** Tuesday, November 12, 2019 2:47 PM

**To:** Jody Bertrand <[JBertrand@FargoND.gov](mailto:JBertrand@FargoND.gov)>; [mike@ccsteel.com](mailto:mike@ccsteel.com)

**Cc:** Roger Kluck <[rkluck@FargoND.gov](mailto:rkluck@FargoND.gov)>

**Subject:** RE: Fargo NN-18-A1

Mike,

After comparing the two surfaces the result was 630 CY of imported fill. The bid item was at \$13.00 per CY. Let me know if you have any other questions on that.

Kevin Morlan

Stormwater Inspector

City of Fargo

Engineering Department

225 4th St N

City of Fargo, ND 58102

PH 701-476-6667  
CELL 701-730-8655  
FAX 701-241-8401

**From:** Jody Bertrand <[JBertrand@FargoND.gov](mailto:JBertrand@FargoND.gov)>  
**Sent:** Friday, November 08, 2019 2:18 PM  
**To:** [mike@ccsteel.com](mailto:mike@ccsteel.com)  
**Cc:** Kevin Morlan <[kmorlan@FargoND.gov](mailto:kmorlan@FargoND.gov)>  
**Subject:** RE: Fargo NN-18-A1

I appreciate your efforts to complete the project. For a path forward these are the steps and items I see which need to be addressed by the city or contractor prior to project closeout/warranty period commencement.

#### **City**

Monday - Holiday

Tuesday and Wednesday – Kevin and another city staff person will take the project surfaces in CADD and determine the CY volume from the finish surface to calculate if an “imported fill” quantity needs payment.

Thursday – Kevin can send over fill quantities calculated

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Items remaining

Sealant literature for application procedures, temperatures being of concern (some sealant have minimum temperatures required) – repair sluice gate leakage

Generator receptacle (prove if specifications are incorrect this item can be moved to warranty work)

Light automatic switch (on/off), LS screen ID change would be a very quick modification complete with switch install)

Return signed Final estimate - quantities for payment processing

#### **Warranty**

Concrete slab crack (spring 2020)

Grout shaded areas at new hatch install (spring 2020)

Verify joints of culvert sealant material (spring 2020)

Estimate #9 was processed for \$53,000 and should be making its way through the account department next week.

Hopefully this gives everyone a path forward to completion.

Jody Bertrand  
Division Engineer  
City of Fargo  
701-241-1548 (w)  
[jbertrand@cityoffargo.com](mailto:jbertrand@cityoffargo.com)

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**Subject:** Fargo NN-18-A1

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Jody-

I am getting extremely frustrated with Roger not closing out this job. I have and will continue to take care of any issue down there, but this is getting out of hand. This needs to end to start our warranty period and to clear the space for our boding capacity. Is there anything else I can do? We have a strong desire to keep everyone happy but I am at my wits end.

**Mike Cebulla**

President- CC Steel, LLC

Mobile: 612-964-6351

Shop Address: 1841 43rd St N Suite B Fargo, ND 58102

Office Address: 5303 Creekeview Grn Maple Plain, Mn 55359

Email: [mike@ccsteel.com](mailto:mike@ccsteel.com)

## Roger Kluck

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**Sent:** Tuesday, November 19, 2019 11:22 AM  
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**Subject:** RE: Fargo NN-18-A1  
**Attachments:** Draft Final Est NN18A1 (2)-MC signed.pdf

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From: Roger Kluck <rkluck@FargoND.gov>  
Date: Tue, November 19, 2019 10:51 am  
To: "mike@ccsteel.com" <mike@ccsteel.com>  
Cc: Kevin Morlan <kmorlan@FargoND.gov>, Jody Bertrand <JBertrand@FargoND.gov>, Brian Gaddie <Brian.Gaddie@AE2S.com>

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President- CC Steel, LLC  
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Office Address: 5303 Creekeview Grn Maple Plain, Mn 55359  
Email: [mike@ccsteel.com](mailto:mike@ccsteel.com)



## ENGINEERING DEPARTMENT

## PAY ESTIMATE SHEET

**DRAFT**  
**FINAL**

Improvement District No. NN-18-A1  
 Project Name Storm Sewer Lift Station, Storm Sewer & Incidentals  
 Type Lift Station New  
 Description Project installs a lift station on the new west expansion of Drain 27 to connect to Grayland Addition and to provide flow conduit for future transmission of water from Sheyenne River into Red River thru existing Drain 27.  
 Pay Estimate Number 10 - FINAL  
 From Date 11/06/2019 To Date 11/19/2019

The Honorable Board of City Commissioners

Dear Commissioners,

Be advised that CC Steel, LLC has performed the work to date shown on this statement

## Contract

Contract	Unit	Previous		Current		To Date		Percentage Complete(%)
		Quantity	Unit Price (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
Miscellaneous								
1 Mobilization	LS	1.00	50,000.00	1.00	50,000.00	0.00	0.00	100.00
2 F&I Swing Gate	EA	1.00	3,200.00	1.00	3,200.00	0.00	0.00	100.00
3 F&I Fence Ornamental	LF	90.00	245.00	90.00	22,050.00	0.00	0.00	100.00
31 F&I Lift Station	LS	1.00	1,773.75	1.00	1,773.75	0.00	0.00	100.00
		Miscellaneous Sub Total			77,023.75		0.00	77,023.75
Sanitary Sewer								
4 Plug Pipe 10" Dia	EA	2.00	1,500.00	2.00	3,000.00	0.00	0.00	100.00
5 Remove Pipe All Sizes All Types	LF	35.00	25.00	10.00	250.00	0.00	0.00	28.57
		Sanitary Sewer Sub Total			3,250.00		0.00	3,250.00



**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Previous		Current		To Date		Percentage Complete(%)		
		Quantity	Amount (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)			
Storm Sewers										
6 F&I Trash Guard	EA	2.00	950.00	2.00	1,900.00	0.00	0.00	2.00	1,900.00	100.00
7 Abandon Gatewell	EA	1.00	15,000.00	1.00	15,000.00	0.00	0.00	1.00	15,000.00	100.00
8 F&I Lift Station	LS	1.00	832,649.90	0.98	811,833.65	0.03	20,816.25	1.00	832,649.90	100.00
9 F&I Lift Station Pumps & Controls	LS	1.00	171,410.80	1.00	171,410.80	0.00	0.00	1.00	171,410.80	100.00
10 Remove Pipe All Sizes All Types	LF	401.00	55.00	401.00	22,055.00	0.00	0.00	401.00	22,055.00	100.00
11 F&I Pipe 24" Dia Reinf Conc	LF	178.00	135.00	160.00	21,600.00	0.00	0.00	160.00	21,600.00	89.89
12 F&I Rip Rap Rock	CY	80.00	80.00	91.00	7,280.00	0.00	0.00	91.00	7,280.00	113.75*
13 Remove Rip Rap Rock	LS	1.00	2,500.00	1.00	2,500.00	0.00	0.00	1.00	2,500.00	100.00
14 F&I Flared End Section 24" Dia Reinf Conc	EA	2.00	1,500.00	2.00	3,000.00	0.00	0.00	2.00	3,000.00	100.00
15 F&I Box Culvert 8'x4' Wide Reinf Conc	LF	195.00	1,100.00	199.30	219,230.00	0.00	0.00	199.30	219,230.00	102.21
32 Modify Gatewell	EA	1.00	13,500.00	1.00	13,500.00	0.00	0.00	1.00	13,500.00	100.00
		Storm Sewers Sub Total		1,289,309.45		20,816.25		1,310,125.70		
Excavation, Filling and Subgrade Preparation										
16 Topsoil - Strip & Spread	CY	1,065.00	24.00	1,065.00	25,560.00	0.00	0.00	1,065.00	25,560.00	100.00
17 Fill - Import	CY	1,000.00	13.00	0.00	0.00	630.00	8,190.00	630.00	8,190.00	63.00
33 Topsoil - Import	CY	625.00	8.94	400.00	3,576.00	291.00	2,601.54	691.00	6,177.54	110.56*
		Excavation, Filling and Subgrade Preparation Sub Total		29,136.00		10,791.54		39,927.54		
Geotextiles and Geogrids										
18 F&I NonWoven Geotextile	SY	95.00	3.00	95.00	285.00	0.00	0.00	95.00	285.00	100.00





**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Quantity	Unit Price (\$)	Previous		Current		To Date		Percentage Complete(%)
				Quantity	Amount (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
19 F&I Woven Geotextile	SY	1,790.00	3.00	1,790.00	5,370.00	0.00	0.00	1,790.00	5,370.00	100.00
<b>Aggregate Bases</b>				<b>Geotextiles and Geogrids Sub Total</b>	<b>5,370.00</b>		<b>0.00</b>		<b>5,370.00</b>	
20 F&I Class 5 Agg - 9" Thick	SY	480.00	12.00	480.00	5,760.00	0.00	0.00	480.00	5,760.00	100.00
21 F&I Class 5 Agg - 7" Thick	SY	850.00	10.00	850.00	8,500.00	0.00	0.00	850.00	8,500.00	100.00
22 F&I Traffic Surface Gravel	TON	76.00	15.00	76.00	1,140.00	0.00	0.00	76.00	1,140.00	100.00
<b>Concrete Paving and Curbs &amp; Gutters</b>				<b>Aggregate Bases Sub Total</b>	<b>15,400.00</b>		<b>0.00</b>		<b>15,400.00</b>	
23 F&I Pavement 8" Thick Reinf Conc	SY	435.00	77.00	435.00	33,495.00	0.00	0.00	435.00	33,495.00	100.00
<b>Turf Establishment</b>				<b>Concrete Paving and Curbs &amp; Gutters Sub Total</b>	<b>33,495.00</b>		<b>0.00</b>		<b>33,495.00</b>	
24 Mulching Type 1 - Hydro	SY	6,710.00	1.00	8,322.00	8,322.00	0.00	0.00	8,322.00	8,322.00	124.02*
25 Seeding Type B	SY	8,050.00	0.75	10,536.00	7,902.00	0.00	0.00	10,536.00	7,902.00	130.88*
<b>Erosion and Sediment Control</b>				<b>Turf Establishment Sub Total</b>	<b>16,224.00</b>		<b>0.00</b>		<b>16,224.00</b>	
26 Stormwater Management	LS	1.00	2,500.00	1.00	2,500.00	0.00	0.00	1.00	2,500.00	100.00
27 Temp Construction Entrance	EA	1.00	2,500.00	1.00	2,500.00	0.00	0.00	1.00	2,500.00	100.00
28 Concrete Washout Area	EA	1.00	2,500.00	0.00	0.00	1.00	2,500.00	1.00	2,500.00	100.00
29 F&I Erosion Control Blanket Type 1	SY	1,340.00	2.25	2,214.00	4,981.50	0.00	0.00	2,214.00	4,981.50	165.22*



**ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET**

Contract	Unit	Quantity Unit Price (\$)		Previous		Current		To Date		Percentage Complete(%)
		Quantity	Unit Price (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	Quantity	Amount (\$)	
30	Sediment Control Log 10" to 15" Dia LF	3,175.00	3.00	680.00	2,040.00	0.00	0.00	680.00	2,040.00	21.42
		Erosion and Sediment Control Sub Total			12,921.58		2,500.00		14,521.58	
Summary										
1. Original Contract Amount		\$ 1,498,468.20								
2. Net Change by Change Order		\$ 20,861.25								
3. Contract Amount To Date		\$ 1,519,329.45								
4. Total Work Completed to Date		\$ 1,515,622.49								
5. Retainage @ 0.00 % to Date		\$ 74,075.74								
6. Previous Retainage		\$ 74,075.74								
7. Retainage This Period		\$ 0.00								
8. Liquidated Damages		\$ 0.00								
0.00 Days to Date		\$ 0.00								
0.00 Days to Previous		\$ 0.00								
0.00 Days This Period		\$ 0.00								
9. Material on Hand (Payment)		\$ 0.00								
10. Material on Hand (Recovery)		\$ 0.00								
11. Adjustments		\$ 0.00								
12. Total Due to Date		\$ -25,158.00								
13. Previous Payments		\$ 1,490,464.49								
14. Payment Due This Estimate		\$ 1,382,280.96								
		\$ 108,183.53								



ENGINEERING DEPARTMENT  
PAY ESTIMATE SHEET

15. Amount allowed Pay Estimate # 10 - FINAL

\$ 108,183.53

WorkFlow History

Status	Pending On	Date	User	Action	Action User	Action Date	Action Notes
Draft	Administrator,Division Head,Project Manager	11/19/2019	rtluck	StageInitialized			

*APL* 11/19/2019