FARGO CITY COMMISSION AGENDA
Monday, July 26, 2021 - 5:00 p.m.

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

A. Pledge of Allegiance.

B. Roll Call.

C. Approve Order of Agenda.

D. Minutes (Regular Meeting, July 12, 2021).

CONSENT AGENDA – APPROVE THE FOLLOWING:

1. 2nd Reading and final adoption of the following Ordinances:
   a. Relating to Classification of Ordinance Violations (tobacco products to minors).
   b. Relating to Classification of Ordinance Violations (minors in liquor establishments).
   c. Relating to Ordinances – Violation.
   d. Rezoning Certain Parcels of Land Lying in Valley View Estates Second Addition.
   e. Rezoning Certain Parcels of Land Lying in Eagle Valley Fifth Addition.

2. Findings of Fact, Order and Notice for property located 305 University Drive South.

3. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at Brewtus Clubhouse.

4. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at the Avalon.

5. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at Chipotle.

6. Concur with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at West Acres Bowl/Cactus Jacks.

7. Amended Gaming Site Authorization for Metro Sports Foundation at Brewtus Clubhouse.

8. Application for Games of Chance for bingo and a calendar raffle at Holy Spirit Catholic Church from 9/15/21 to 10/10/21.

9. Milestone No. 1 (Change Order No. 1) for a time extension to 8/20/21 for Project No. FM-19-A3.

10. Pipeline Easement with Northern States Power Company (Xcel Energy).

11. Land Use Agreement with Epic Gateway East Real Estate Holdings, LLC.

12. Payment to Dirt Dynamics in the revised amount of $116,138.87 for emergency sanitary sewer repair at 23rd Street and 1st Avenue South.

13. Receive and file General Fund – Budget to Actual through June 2021 (unaudited).

14. Bid award for a Technology Consultant for planning and management of the financial operating systems upgrade project (RFP21029).

15. Agreement with Center Point Tactical LLC.

16. Notice of Grant Award with the ND Department of Health for water pollution – EPA block (CFDA #66.605).

17. Financial Award from the ND Department of Commerce/Division of Community Services for a ND Homeless Grant at the Gladys Ray Shelter.

18. Notice of Grant Award from the ND Department of Health and Human Services for gardening in the child care setting (CFDA #93.898).

19. Request for out-of-grade pay for Michael Sanden at the Police Department effective 7/12/21.

20. Proposal from NewIntelligence for the conversion of the COGNOS report writing software (SSP21093).

21. Bid award for conduit and fiber for the City of Fargo (RFV21124).

22. Set August 9, 2021 at 5:15 p.m. as the date and time for a Hearing on a dangerous building at 711 10th Avenue North.

23. Change Order No. 1 in the amount of $5,160.00 and No. 2 in the amount of $60,000.00 for the Mid America Steel demolition.

24. Bid award for 2022 spring tree order (RFP21122).

25. Bid award for fuel purchase for the 1st and 2nd quarters of 2022 (RFV21123).

26. Task Order No. 2 with AE2S in the amount of $39,500.00 related to the development of a Revenue Adequacy Model for the Solid Waste Division.

27. ND Department of Transportation Section 5310 Transit Grant Agreement for mobility management activities (Contract No. 38210812).

28. Bills.

29. Change Order Nos. 1-5 in the amount of $221,143.38 ($112,321.69-City Portion) for Improvement District No. FM-20-C0.

30. Bid award for Improvement District No. BN-21-K1.

31. Contracts and bonds for Improvement District Nos. NR-20-A2 and NR-20-A3.

REGULAR AGENDA:

32. **RESIDENT COMMENTS (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).**
    a. Mayor Mahoney would like to have a discussion on the Resident Comment period.

33. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**

a. CONTINUE to 8/9/21 – Application for a Class "GH" Alcoholic Beverage License for Youngblood Coffee Roasters d/b/a Youngblood Coffee to be located at 623 2nd Avenue North.

b. CONTINUE to 8/9/21 – Application for a Class "A-Club" Alcoholic Beverage License for Touchmark at Harwood Groves, LLC d/b/a Touchmark at Harwood Groves to be located at 1200 Harwood Drive South.

c. Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) Amendments to the 2020 Action Plan, 2019 Action Plan (CDBG-CV) and Citizen Participation Plan.

d. Application filed by Tecton Products, LLC for a Payment in Lieu of Tax Exemption (PILOT) for a project located at 4401 15th Avenue North which the applicant will use in the operation of design and manufacturing custom fiberglass pultrude parts.

34. Drought Status and Water Supply Project Update:

a. Recommendation to approve the Interim Financing Agreement, Series C with Garrison Diversion Conservancy District, Lake Agassiz Water Authority, City of Fargo and Grand Forks.

35. Construction Update.

36. COVID-19 Update.

37. Request for a new Alcoholic Beverage License Classification.

38. Receive and file the Brownfield Assessment Report for the Mid America Steel site.

39. Recommendation to Adopt a Resolution Approving the 2021-2022 Wildlife Management Program.

40. Recommendation to Adopt a Resolution Authorizing the Sale of the Island Park Parking Ramp at 500 Main Avenue.

41. Letter from the City Attorney regarding his opinion on the City's term limits Ordinance.

42. Request from Commissioner Preston to develop a Rental Licensure Program.

43. Applications for property tax exemptions for improvements made to buildings:

a. RT Sliwinkski, 2831 27th Street South (3 year).
b. ADOC Property II LLC, 2901 12th Avenue North (3 year).
c. Nicole Mord, 1617 2nd Street North (5 year).

44. Appointments to the Library Board.

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

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1a

AN ORDINANCE AMENDING SECTION 10-0103 AND 10-0105 OF ARTICLE 10-01 OF CHAPTER 10 OF THE FARGO MUNICIPAL CODE RELATING TO THE SALE OF TOBACCO PRODUCTS TO MINORS AND USE AND POSSESSION BY MINORS PROHIBITED, SECTION 10-1002 OF ARTICLE 10-10 OF CHAPTER 10 OF THE FARGO MUNICIPAL CODE RELATING TO SALE OF TOBACCO PRODUCTS THROUGH VENDING MACHINES, SECTION 35-0103 OF ARTICLE 35-01 OF CHAPTER 35 OF THE FARGO MUNICIPAL CODE RELATING TO SUSPENSION OF AUTHORITY TO SELL TOBACCO PRODUCTS AND IMPOSITION OF ADMINISTRATIVE PENALTIES, AND SECTION 1-0305 OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS.

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

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

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

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

NOW, THEREFORE,

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

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

Section 1. Amendment.

10-0103. - Sale of tobacco to ~~minors~~ individuals under twenty-one (21) years of age and use and possession by ~~minors~~ individuals under 21 years of age prohibited.

A. For purposes of this section the definitions in 10-1001 shall apply.

B. No person shall sell or furnish to an ~~minor~~ individual under 21 years of age, or procure for an ~~minor~~ individual under 21 years of age, cigarettes, including clove cigarettes, cigarette papers, cigars, e-cigarettes, snuff, or tobacco products in any other form in which it may be utilized for smoking, vaping, or chewing. As used in this section, "sell" includes dispensing from a vending machine under the control of the vendor. ~~It shall be a defense to this subsection if the person furnishing tobacco to a minor did so as part of a cultural or religious practice; provided, however, that in no event shall any sale or other exchange for value be lawful.~~ A person in violation of this subsection shall be guilty of an infraction.

C. No person under the age of ~~18~~ 21 shall sell, possess, purchase, attempt to purchase, smoke, or use cigarettes, including clove cigarettes, cigars, cigarette papers, e-cigarettes, snuff, or tobacco products in any other form in which it may be utilized for smoking, vaping, or chewing.

1. Subsections (B) and (C) shall not apply to persons under the age of ~~18~~ 21 who purchase or attempt to purchase said tobacco products listed in this subsection while under the direct supervision of the police department, the city health department, or the city attorney's office, for training, education, research, or enforcement purposes.

2. ~~Subsection (B) shall further not apply to an employee less than 18 years of age employed by a licensed tobacco dealer or distributor where said employee under the age of 18 years handles tobacco products listed in this subsection as part of that the employee's employment.~~ Subsections (B) and (C) do not apply to an individual under 21 years of age who possesses cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be used for smoking or chewing, electronic smoking devices, or alternative nicotine products when required in the performance of the individual's duties as an

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employee, however, in no event shall any sale or other exchange for value with a person under 21 years of age be lawful.

3. It shall be a defense to subsections (B) and (C)~~, above,~~ if the ~~minor's~~ individual under 21 years of age ~~possession or use~~ possesses or uses ~~of~~ tobacco ~~relates~~ related to a cultural or religious practice; including, without limitation, the use or possession of tobacco during any religious or cultural ceremony~~.~~ , however, in no event shall any sale or other exchange for value with a person under 21 years of age be lawful.

4. Non-criminal violation. ~~Minors fourteen (14) years of age or older~~ A person found to have violated subsection ~~(B) or~~ (C)~~, above,~~ and is at least 14 years of age ~~must pay a fee of $25 and~~ must attend and complete within sixty (60) days of the date of offense a tobacco education program or cessation class approved by the Fargo Municipal Court.

5. Payment procedure. Any individual who has been cited for a violation of subsection ~~(B)~~(C) must post bond in the amount stated on the citation within fourteen (14) days of the date of the citation and must also, within said fourteen (14) day period, notify the Fargo Municipal Court whether he or she requests a hearing before one of the judges of the Fargo Municipal Court. At such hearing, the individual who has been cited for a violation of subsection ~~(B)~~(C) may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited elects to forfeit the bond or fails to appear before the Fargo Municipal Court at a time scheduled for a hearing, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court is the same as the fee schedule set forth in subparagraph 4, above. This section does not allow a citing officer to receive the fee or bond.

(a) If an individual cited for a violation of subsection ~~(B)~~(C) requests a hearing on the issue of the commission of the violation cited, the clerk of court will schedule a hearing date no later than 90 days after the citation was issued. If said individual has not already done so, at the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an

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appearance bond equal to the fee for the violation cited.

(b) The failure to post bond or to pay an assessed fee, or attend a tobacco education or tobacco cessation class when required to do so is punishable as contempt of court. Such person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco education class or tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco education class or tobacco cessation class, to an alternative sentence or a sanction including community service. An ~~minor~~ individual under 21 years of age may not be imprisoned for the contempt.

6. Burden of proof. The prosecution must prove the commission of a cited violation under subsection ~~(B)~~(C), above, by a preponderance of the evidence.

7. Notice to parent or legal guardian. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten (10) days of the citation.

8. Penalty for contempt. A person adjudged guilty of contempt for failure to pay a fee or fine or to attend a tobacco education class or tobacco cessation class when required to do so may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or attendance at a tobacco cessation class to an alternative sentence or sanction including community service and may require the person to pay an additional fee or fine of up to $500.

Section 2. Amendment.

10-0105. - Sale of flavored e-liquids to ~~minors~~ individuals under 21 years of age prohibited.

1. No person shall sell, offer for sale, or distribute in this city any flavored e-liquid or electronic smoking device containing flavored e-liquid to an ~~minor~~ individual under 21 years of age.

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Section 3. Amendment.

10-1002. - Sale of tobacco products through vending machines limited.

No person shall sell or dispense any tobacco product through the use of a vending machine, except as follows:

A. A vending machine may be used to dispense tobacco products on the premises of an establishment licensed to sell alcoholic beverages, either on-sale or off-sale; provided, that if an on-sale establishment is also a restaurant where minors are permitted as provided in § 25-1509(C) of the Fargo Municipal Code, a vending machine located in that portion of the premises where ~~minors~~ individuals under 21 years of age are allowed must be operable only by activation of an electronic switch operated by an employee of the establishment before each sale, or by insertion of tokens provided by an employee of the establishment before each sale.

B. A vending machine which was in place prior to August 1, 1992, may be used to dispense tobacco products in an area within a factory, business, office or other place not open to the general public or to which persons under ~~18~~ 21 years of age are not generally permitted access.

In the event of violation of this ordinance, the owner of the vending machine and the owner of the premises where the vending machine is located will both be deemed to have committed an infraction, as defined in § 1-0301 of Fargo Municipal Code.

Section 4. Amendment.

35-0103. - Suspension of authority to sell tobacco products and imposition of administrative penalties.

The authority granted under this chapter shall be suspended and administrative penalties imposed for violation of §§ 10-0103 or 10-0105 of the Fargo Municipal Code or North Dakota Century Code §§ 12.1-31-03 or 12.1-31-03.3 prohibiting the sale of tobacco, e-liquids and

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other tobacco products to ~~minors~~ individuals under 21 years of age, or for a violation of the provisions of this chapter, as follows:

A. First offense — A $500 administrative penalty shall be assessed to the business~~.~~ and the probationary period as defined in section 35-0101(5) shall commence.

B. Second offense — Three-day suspension: In the event of a second offense within the probationary period, the court shall suspend the person's authority to sell tobacco, e-liquids, and tobacco products for a period of three days. A $500 administrative penalty shall be assessed to the business if the offense involves the sale to an ~~minor.~~ individual under 21 years of age.

C. Third offense — Ten-day suspension: In the event of a third offense within the probationary period the court shall suspend the person's authority to sell tobacco, e-liquids, and tobacco products for a period of 10 days. A $500 administrative penalty shall be assessed to the business if the offense involves the sale to an ~~minor.~~ individual under 21 years of age.

D. Subsequent offenses — Thirty-day suspension: In the event of an offense occurring after a third offense within the probationary period the court shall suspend the person's authority to sell tobacco, e-liquids, and tobacco products for a period of 30 days. A $500 administrative penalty shall be assessed to the business if the offense involves the sale to an ~~minor.~~ individual under 21 years of age.

E. Offenses during periods of suspension. In the event an offense is committed by a person while that person's authority to sell tobacco, e-liquids, or other tobacco products is under suspension, the authority to sell granted in this article shall be suspended for one year from the sale that occurred during the period of suspension.

F. One offense per 24 hours. For purposes of establishing the number of offenses committed by a person who has been granted the authority to sell tobacco, e-liquids, or tobacco products a person is deemed to have committed only one offense during any 24-hour period.

Section 5. Amendment.

1-0305. - Classification of ordinance violations.

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* * * *

(C)(3). For a violation of the following ordinance, a fee of $25.00.

Section 10-0103(~~B~~C) (tobacco possession by ~~minors~~ an individual under 21 years of age prohibited).

* * * *

Section 6. Penalty.

Every person, firm or corporation violating 10-0103(B) and 10-1002 shall be guilty of an infraction and shall be punished by a fine not to exceed $1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

Every person, firm or corporation violating 10-0103(C) shall be guilty of a noncriminal offense and punished by a fee of $25.

Every person, firm or corporation violating 10-0105 shall be guilty of an infraction and shall be punished by a $500 fine; the court to have power to suspend said sentence and to revoke the suspension thereof.

Section 7. Effective Date.

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

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

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Publication and Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 10-0102 OF ARTICLE 10-01 OF CHAPTER 10 RELATING TO UNLAWFUL FOR MINORS TO ENTER LIQUOR OR BEER ESTABLISHMENTS, 25-1509 AND 25-1520 OF ARTICLE 25-15 OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE RELATING TO RESTRICTIONS ON SALE, SERVICE OR DISPENSING OF ALCOHOLIC BEVERAGES AND PENALTY, AND SECTION 1-0305 OF ARTICLE 1-03 OF CHAPTER 1 OF THE FARGO MUNICIPAL CODE RELATING TO CLASSIFICATION OF ORDINANCE VIOLATIONS

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

10-0102. - Unlawful for minors to enter liquor or beer establishments.

It shall be unlawful for any person under the age of 21 years to enter, or attempt to enter, any establishment in the city where intoxicating liquor or beer is sold, served, or dispensed~~.~~, unless otherwise permitted under § 25-1509.

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Section 2. Amendment.

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

* * * *

C. Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold if the restaurant is separated from the ~~room~~ designated area in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. Any person who is employed by the restaurant as a food waiter, food waitress, busboy or busgirl may not engage in the sale, dispensing, delivery or consumption of alcoholic beverages; provided, that any person who is between 18 and 21 years of age may be employed by the restaurant to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person 21 or more years of age. A law enforcement officer, or person cooperating with and under the control of such law enforcement officer, under the age of 21 years may enter premises where alcoholic beverages are sold, dispensed, or consumed in the performance of an official duty. Any establishment where alcoholic beverages are sold may employ persons from 18 to 21 years of age to work in the capacity of musicians under the direct supervision of a person over 21 years of age. Any person under 21 years of age may enter and remain on the license premises if the person is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering or consuming alcoholic beverages, or if the individual enters the premises for training, education, or research purposes under the supervision of an individual ~~twenty-one~~ 21 or more years of age with prior notification of the local licensing authority. Any person under 21 years of age may remain in the area of and event where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to § 5-02-01.1, N.D.C.C., and the city comparable ordinance § 25-1506(G)(4).

D. ~~Any person under 21 years of age may enter and remain in a restaurant where alcoholic beverages are being sold when accompanied by a parent or legal guardian, whether or not the restaurant is separated from the room in which alcoholic beverages are opened or mixed and whether or not gross sales of food are equal to gross sales of alcoholic beverages.~~

At the discretion of the owner of the licensed premises, an individual under 21 years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

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a. Is accompanied by a parent or guardian;
b. Is not seated at or within three feet [0.91 meters] of the bar counter; and
c. Does not enter or remain in the designated area after ten p.m.

For purposes of this subsection, a restaurant shall be any establishment which serves prepared food and holds a restaurant license or permit pursuant to the provisions of article 13-04 of the Fargo Municipal Code.

* * * *

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

* * * *

Section 3. Amendment.

25-1520. - Penalty.

Any person, firm or corporation violating §§ 25-1509(A), ~~or~~ 25-1518(C), or 25-1518(D) of this article is guilty of a Class B misdemeanor. Every person, firm or corporation violating an ordinance which is punishable as a Class B misdemeanor shall be punished by a fine not to exceed $1,500, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof. In addition to such fine and/or imprisonment, the court, in its discretion, may assess a fee in an amount not to exceed $25.00 as provided in section 27-01-10, N.D.C.C.

Unless otherwise indicated, every person, firm or corporation violating any other sections of this article shall, upon conviction thereof, be punished by a fine not to exceed $1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

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Section 4. Amendment.

1-0305. Classification of ordinance violations.

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as provided in this article:

Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - $150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property), section 8-0809 (false reports), section 10-0101 (minor using alcohol), 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal mischief), section 10-0322 (harassment), section 10-0323 (simple assault), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 10-1202(2) (≥½ oz. marijuana) and 10-1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G) (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic beverage to minor), section 25-1513~~3~~8(C) (minor misrepresenting age), and section 25-1513~~3~~8(D) (delivery of alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-36 (tanning facilities).

* * * *

C. 7. For a violation of the following ordinances, a fee of $100.00.

Section 8-1003(K) (parking in areas reserved handicap), 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~~3~~8(A) (selling/consuming alcohol in public), section 25-1513~~3~~8(B) (possessing/consuming alcohol in public building).

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ORDINANCE NO. _____

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Section 5. Penalty.

A person, firm, or corporation who violates §§ 25-1509(A), 25-1518(C), or 25-1518(D) of article 25-15 is guilty of a Class B misdemeanor and shall be punished by a fine not to exceed $1,500.00, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.

A person who violates section 10-0102, 25-1509(C), 25-1509(D), or 25-1509(F) is guilty of an infraction. Every person, firm, or corporation violating an ordinance which is punishable as an infraction shall be punished by a fine not to exceed $1,000; the court to have power to suspend said sentence and to revoke the suspension thereof.

A person who violates section 25-1518(A) or 25-1518(B) is guilty of non-criminal offense and shall be punished with a $100 fee.

Section 6. 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:

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

HOUSE BILL NO. 1184
(Representatives Louser, Becker, Lefor, Richter, Schatz)
(Senators Meyer, Vedaa)

AN ACT to amend and reenact subsection 3 of section 5-02-06 of the North Dakota Century Code, relating to prohibitions for an individual under twenty-one years of age; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

3. a. At the discretion of the owner of the licensed premises, an individual under twenty-one years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

   (1) Is accompanied by a parent or guardian;

   (2) Is not seated at or within three feet [0.91 meters] of the bar counter; and

   (3) Does not enter or remain in the designated area after ten p.m.

   b. An individual under twenty-one years of age may ~~not~~be permitted to remain in a restaurant where alcoholic beverages are being sold ~~except~~ if the restaurant is separated from the ~~room~~designated area in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one ~~or more~~ years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1184.

House Vote:	Yeas 90	Nays 2	Absent 2
Senate Vote:	Yeas 31	Nays 15	Absent 1

Chief Clerk of the House

Received by the Governor at _____M. on _____, 2021.

Approved at _____M. on _____, 2021.

Governor

Filed in this office this _____day of _____, 2021,

at _____ o'clock _____M.

Secretary of State

Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2220
(Senators Meyer, Holmberg, Poolman, K. Roers)
(Representatives Howe, Mock)

AN ACT to amend and reenact subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and section 5-02-05 of the North Dakota Century Code, relating to the dispensing and selling of alcoholic beverages on Sunday; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. The tax commissioner may issue special events permits for not more than forty events per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at off-premises events. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

SECTION 2. AMENDMENT. Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94635 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between ~~twelve noon~~eight a.m. and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue event permits for not more than forty event days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at off-premises events. A domestic distillery may not engage in any wholesaling activities. Except as provided by section 5-01-19.1, all sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery

if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

SECTION 3. AMENDMENT. Section 5-02-05 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty.

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and ~~eleven a.m. on Sundays, between the hours of two a.m. and~~ eight a.m. ~~on all other days of the week, or~~, on Christmas Day, or after six p.m. on Christmas Eve. In addition, a person may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and ~~noon~~eight a.m. on Sundays. A person that violates this section is guilty of a class A misdemeanor.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2220.

Senate Vote:	Yeas 24	Nays 22	Absent 1
House Vote:	Yeas 49	Nays 41	Absent 4

Secretary of the Senate

Received by the Governor at _____M. on _____, 2021.

Approved at _____M. on _____, 2021.

Governor

Filed in this office this _____day of _____, 2021,

at _____ o'clock _____M.

Secretary of State

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

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

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

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

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

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

NOW, THEREFORE,

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

Section 1. Amendment.

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

1-0305. Classification of ordinance violations.

A. Violations of the following ordinances are Class B misdemeanors, subject to punishment as provided in this article:

1. Section 1-0306(D) (failure to appear or post bond on a non-criminal, non-traffic offense), section 8-0305(A)(2) (fictitious registration), section 8-0305(A)(3) (lending registration plates), section 8-0308 (reproducing operator's or driver's license or permit), section 8-0309 (driving under suspension), section 8-0310 (driving under the influence), section 8-0314 (reckless driving), section 8-0320 (driving without liability insurance - $150.00 minimum fine), section 8-0803 (accidents involving damage to vehicle), section 8-0804 (duty to give information and render aid), section 8-0805 (duty upon striking fixture or other property),

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

section 8-0809 (false reports), section 10-0101 (minor using alcohol), 10-0104 (curfew), section 10-0201 (indecent exposure), section 10-0301 (disorderly conduct), section 10-0317 (resisting police officer), section 10-0319 (incendiary devices), section 10-0320 (registration in schools), section 10-0321 (criminal mischief), section 10-0321.1 (criminal mischief-hate crime), section 10-0322 (harassment), section 10-0322.1 (harassment-hate crime), section 10-0323 (simple assault), section 10-0323.1 (simple assault-hate crime), section 10-0324 (aiding and abetting), section 10-0601 (shoplifting), section 10-0602 (theft), section 10-0702 (order to disperse), section 10-0703 (tenant/owner cooperation required), section 10-1202(2) (≥½ oz. marijuana) and 10-1202(3) (under 21 in possession of marijuana), section 12-0117(C) and 12-0117(G) (potentially dangerous and dangerous dogs), section 13-0511 (removal of wastes), section 13-0513 (fee/permit for hauling waste), section 13-0529 (misuse of compost sites), article 13-13 (drug lab cleanup), chapter 17 (sewers and sewerage), article 18-09 (excavation code), section 25-1509(A) (selling alcoholic beverage to minor), section 25-1513(C) (minor misrepresenting age), and section 25-1513(D) (delivery of alcoholic beverage to minor), article 25-33 (tattoos, body art and body piercing), article 25-36 (tanning facilities).

***

Section 2. Effective Date.

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

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:
Publication:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1d

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN VALLEY VIEW ESTATES SECOND 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 Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 6, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on July 12, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Nineteen (19), Block One (1); Lots One (1) through Sixteen (16), Block Two (2); Lots One (1) through Sixteen (16), Block Three (3); and Lots One (1) through Twenty-six (26), Block Six (6) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "SR-4", Single-Dwelling Residential, District and "MR-2", Multi-Dwelling Residential, District with a "C-O", Conditional Overlay to "SR-4", Single-Dwelling Residential, District.

Section 2. The following described property:

Lots One (1) through Twelve (12), Block Four (4) and Lots One (1) through Ten (10), Block Five (5) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

is hereby rezoned from "SR-4", Single-Dwelling Residential, District and "MR-2", Multi-Dwelling Residential, District with a "C-O", Conditional Overlay District to "SR-5", Single-Dwelling Residential, District.

Section 3. The following described property:

Lot Twenty (20), Block One (1) of Valley View Estates Second Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "MR-2", Multi-Dwelling Residential with a "C-O", Conditional Overlay, District, and "MR-1", Multi-Dwelling Residential, District to "MR-1", Multi-Dwelling Residential, District.

Section 4. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

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

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

AN ORDINANCE REZONING CERTAIN PARCELS OF LAND
LYING IN EAGLE VALLEY FIFTH 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 Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on April 6, 2021; and,

WHEREAS, the rezoning changes were approved by the City Commission on July 12, 2021,

NOW, THEREFORE,

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

Section 1. The following described property:

Lots One (1) through Twenty-seven (27), Block Two (2) of Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "LC", Limited Commercial, District and "MR-3", Multi-Dwelling Residential, District to "SR-4", Single-Dwelling Residential, District.

Section 2. The following described property:

Lot One (1), Block One (1) of Eagle Valley Fifth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "LC", Limited Commercial, District and "MR-3", Multi-Dwelling Residential, District to "LC", Limited Commercial, District with a "C-O", Conditional Overlay, District as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1. This Conditional Overlay is intended to provide for a higher quality of design than is afforded by the City of Fargo Land Development Code regarding future commercial and residential development within the described property.

2. All primary buildings shall be constructed or clad with materials that are durable, economically-maintained, and of a quality that will retain their appearance over time, including but not limited to natural or synthetic stone; brick; stucco; integrally-colored, textured or glazed concrete masonry units; high-quality prestressed concrete systems; EIFS (exterior insulation finishing system), glass, metal panes similar to 'Aluco Bond' and synthetic panels similar to 'Trespa'. Natural wood or wood paneling shall not be used as a principal exterior wall material, but durable synthetic materials with the appearance of wood may be used. Horizontal metal lap siding and vertical metal batten shall be allowed on residential and commercial structures but shall not exceed 75% of the building elevation for residential structures and 60% for commercial.

3. Color schemes shall tie building elements together, relate pad buildings within the same development to each other, and shall be used to enhance the architectural form of a building.

4. All building facades greater than 150 feet in length, measured horizontally, shall incorporate wall plane projections, architectural material changes, or recesses having a depth of at least three percent of the length of the facade, and extending at least 20 percent of the length of the facade. No uninterrupted length of any facade shall exceed 150 horizontal feet. An articulated façade would emphasis elements on the face of a wall including change in setback, materials, roof pitch or height.

5. Flat roofs and rooftop equipment, such as HVAC units, shall be concealed from public view by parapets, including but not limited to the back of the structure. The average height of such parapets shall not exceed one third of the height of the supporting wall, and such parapets shall not be of a constant height for a distance of greater than 150 feet. View line shall be measured from property line.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

6. Dumpsters and outdoor storage areas must be completely screened from view. Collection area enclosures shall contain permanent walls on at least three (3) sides. The fourth side shall incorporate a metal gate to visually screen the dumpster or compactor; however, if the service side does not face any public right-of-way or residentially zoned property the metal gate shall not be required.

7. Separate vehicular and pedestrian circulation systems shall be provided. An onsite system of pedestrian walkways shall be designed to provide direct access and connections to and between the following:

    a. The primary entrance or entrances to each commercial building, including pad site buildings.
    b. Any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the commercial development.
    c. Parking areas or structures that serve such primary buildings.
    d. Connections between the on-site (internal) pedestrian walkway network and any public sidewalk system located along adjacent perimeter streets shall be provided at regular intervals along the perimeter street as appropriate to provide easy access from the public sidewalks to the interior walkway network.
    e. Any public sidewalk system along the perimeter streets adjacent to the commercial development.
    f. Where practical and appropriate, adjacent land uses and developments, including but not limited to residential developments, retail shopping centers, office buildings.

8. A minimum of 5% of the internal surface area of the parking lot shall be landscaped. The cumulative open space (green space) of each property shall consist of at least 10% of the total property acreage.

9. The following use(s) are prohibited:

    a. Detention Facilities
    b. Self Service Storage
    c. Adult Entertainment Center

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

d. Off-Premise Advertising Signs. However, directional signs that are less than 50 square feet in size are allowed.
e. Portable Signs shall be prohibited except for the period commencing the effective date of this ordinance and ending upon the earlier to occur of the following two dates: (a) June 30, 2025 and (b) the date upon which development has been completed. Development shall be deemed to have been completed when certificates of occupancy have been issued for all building permits issued prior to June 30, 2025, for buildings within the area of this Conditional Overlay District.
f. Vehicle Repair
g. Industrial Service
h. Manufacturing and Production
i. Warehouse and Freight Movement
j. Aviation/Surface Transportation

10. Multi-tenant buildings or developments may have one monument or ground mounted sign per street frontage listing all of the tenants. Monument or ground mounted signs for individual buildings in multi-tenant buildings or developments are prohibited. Monument-type signs are the preferred alternative for business identification whenever possible.

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

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

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

(SEAL)

Attest:

_____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

THE CITY OF Fargo FAR MORE

(2)

Office of the City Attorney

City Attorney
Erik R. Johnson

Assistant City Attorney
Nancy J. Morris

July 22, 2021

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

RE: Dangerous Building located at 305 University Drive South, Fargo, North Dakota

Dear Commissioners,

Enclosed for your review and approval are proposed Findings of Fact and an Order regarding the dangerous building proceeding for the property at 305 University Drive South. At its July 12th, 2021 meeting, the report presented by Bruce Taralson, city of Fargo Building Official, was approved by the Board. As such, the City Attorney's Office was directed to prepare the appropriate Findings of Fact, Order, and Notice.

Suggested Motion: I move to approve the Findings of Fact, Order, and Notice as presented.

Sincerely,

Alissa R. Farol
Assistant City Attorney

Enclosure

cc: Bruce Taralson, Inspections Department

FINDINGS OF FACT AND ORDER
of the
BOARD OF CITY COMMISSIONERS
OF THE CITY OF FARGO

Property Address: 305 University Drive South, Fargo, North Dakota

Owner: Peter James Haddeland & Jesse Michael Haddeland

A hearing was held before the Board of City Commissioners of the City of Fargo on the 13th day of July, 2021 regarding property located at 305 University Drive South, Fargo, North Dakota. Bruce Taralson, Building Official, appeared on behalf of the city of Fargo Inspections Department and provided testimony as to the condition of the property. Ashley Champ of Anderson, Bottrell, Sanden & Thompson Law Firm, the legal representative for owner Peter James Haddeland, additionally appeared and provided testimony.

The Board heard the testimony offered by the inspections department and owner's attorney, considered the reports, evidence and other information presented, and hereby makes the following Findings of Fact:

FINDINGS OF FACT

1. That Peter James Haddeland and Jesse Michael Haddeland are the owners of the following described real property located in the City of Fargo, County of Cass and State of North Dakota:

Lot D, Block Thirty-two (32) of Eddy & Fuller's Addition to the city of Fargo.

The street address for which is: 305 University Drive South, Fargo, North Dakota, 58103.

2. That the subject property is vacant and uninhabitable.

3. That on April 22nd, 2021, Lynne Olson, Rental Housing Inspector to the city of Fargo, inspected the property and found the building, consisting of a two-story, wood-framed structure to be a dangerous building within the standards set forth in Article 21-04 of the Fargo Municipal Code

and Section 108.1.5 of the International Property Maintenance Code concerning dangerous structures.

4. That the building is unsafe and is a dangerous building in the following respects: (a) building is unsecure; (b) hole/damaged roof causing interior water damage; (c) inoperative roof drainage system; (d) hole in foundation of building; (e) graffiti on exterior of building; and (f) history of squatters.

5. Further, the City Commission finds that the following conditions exist with respect to the subject property:

a. The building is unsafe, fails to provide the amenities essential to decent living, and is unfit for human habitation; and

b. The building it is unsafe or dangerous to the health, moral safety or general welfare of the people of the City of Fargo.

6. That the information in the files of the Inspection Department stemming from various inspections of the property on or before April 22nd, 2021 with respect to the subject property is hereby accepted as true and correct.

7. That the building located at 305 University Drive South, Fargo, North Dakota 58103, is hereby found to be a "dangerous building."

8. Notice of Dangerous Building was posted on the property on or about April 27th, 2021 in accordance with Municipal Code § 21-0404. The Notice of Dangerous Building informed the owners and all occupants, if any, that the "dangerous building" must be vacated and the building demolished within 20 days from the date of the notice.

9. The owners have not sufficiently presented cause why the "dangerous building" should not be demolished.

10. That Inspections Department may secure the removal of this building if the owner fails to comply with city ordinances and demolish the property by October 1st, 2021.

11. Any cost of demolition shall be assessed against the subject property in accordance with Fargo Municipal Code §21-0405(E).

ORDER

Based on the foregoing Findings of Fact, it is hereby ORDERED that Peter James Haddeland, Jesse Michael Haddeland, or anyone else claiming an ownership interest, shall demolish the "dangerous building" located at 305 University Drive South, Fargo, North Dakota by October 1st, 2021.

It is further ordered that if the owners fail to demolish said "dangerous building," the City Auditor, Building Inspector and City Attorney are directed to act on behalf of the city of Fargo to cause the "dangerous building" to be demolished, and the cost of said demolition to be assessed against the subject property as provided in Section 21-0405 of the Fargo Municipal Code.

DATED this _____ day of July, 2021.

BOARD of CITY COMMISSIONERS of the CITY OF FARGO,
a North Dakota Municipal Corporation

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

ATTEST:

_____
Steven Sprague, City Auditor

NOTICE OF ENTRY OF ORDER

TO: PETER JAMES HADDELAND, JESSE MICHAEL HADDELAND, AND ALL OTHER PERSONS HAVING INTEREST IN THIS PROPERTY

RE: PROPERTY AT 305 UNIVERSITY DRIVE SOUTH, FARGO, NORTH DAKOTA 58103

YOU ARE HEREBY GIVEN NOTICE that you shall have 30 days from the date of service of Findings of Fact and Order of the Board of City Commissioners of the City of Fargo ("Order") upon you in which to appeal the Order to the District Court of Cass County, North Dakota, or to take such other legal action to enjoin the enforcement of this Order as you deem proper, all in accordance with the appeal procedure set forth in Fargo Municipal Code § 21-0412. You are further given notice that the "dangerous building" on the subject property may be demolished by the city of Fargo at any time on or after October 1st, 2021.

DATED this _____ day of July, 2021.

BOARD OF CITY COMMISSIONERS
CITY OF FARGO, a North Dakota Municipal Corporation

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

ATTEST:

_____
Steven Sprague, City Auditor

THE CITY OF Fargo FAR MORE

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

3

July 15, 2021

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Brewtus Clubhouse

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1512 of the Fargo Municipal Code. The Liquor Control Board meet on June 29 at 2 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Auditor's office and recommended following the established penalty matrix. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at Brewtus Clubhouse

THE CITY OF Fargo FAR MORE

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

4

July 15, 2021

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Avalon

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1504.3 of the Fargo Municipal Code. The Liquor Control Board meet on June 29 at 2 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Auditor's office and recommended following the established penalty matrix. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at Avalon

THE CITY OF Fargo FAR MORE

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

5

July 15, 2021

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: Chipotle

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1504.3 of the Fargo Municipal Code. The Liquor Control Board meet on June 29 at 2 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Auditor's office and recommended following the established penalty matrix. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at Chipotle

THE CITY OF Fargo FAR MORE

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

(6)

July 15, 2021

To: Board of City Commissioners

From: Steven Sprague, City Auditor

Re: West Acres Bowl/Cactus Jacks

The above named licensee has been provided a notice by the City Auditor's office of a liquor license compliance violation under section 25-1518 of the Fargo Municipal Code. The Liquor Control Board meet on June 29 at 2 p.m. in the City Commission Chambers of City Hall, 225 4th Street North, Fargo ND to consider the violation.

The Liquor Control Board concurred with the Auditor's office and recommended following the established penalty matrix. The licensee agreed with the findings and has chosen not to appeal the finding.

Recommended Motion

Agree with the findings of staff and the Liquor Control Board and apply the penalty matrix to the liquor license violations identified at West Acres Bowl/Cactus Jacks

Amended

GAMING SITE AUTHORIZATION
OFFICE OF ATTORNEY GENERAL
SFN 17996 (02/2018)

(1)

G-_____(____)__
Site License Number
(Attorney General Use Only)

Full, Legal Name of Gaming Organization
Metro Sports Foundation

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

Name of Location: Brewhus Clubhouse			
Street: 4400 Clubhouse Dr	City: Fargo	ZIP Code: 58104 ~~AND~~ 38	County: Cass
Beginning Date(s) Authorized: 7-1-21	Ending Date(s) Authorized: 6-30-22		Number of twenty-one tables if zero, enter "0": 0
Specific location where games of chance will be conducted and played at the site (required): East side of Bar middle wall between doors			
If conducting **Raffle** or **Poker** activity provide date(s) or month(s) of event(s) if known			

RESTRICTIONS (City/County Use Only)

Days of week of gaming operations (If restricted)	Hours of gaming (If restricted)

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

- [ ] Bingo
- [ ] **ELECTRONIC** Quick Shot Bingo
- [ ] Raffles
- [ ] **ELECTRONIC** 50/50 Raffle
- [ ] Pull Tab Jar
- [x] Pull Tab Dispensing Device
- [x] **ELECTRONIC** Pull Tab Device
- [ ] Club Special
- [ ] Tip Board
- [ ] Seal Board
- [ ] Punchboard
- [ ] Prize Board
- [ ] Prize Board Dispensing Device
- [ ] Sports Pools
- [ ] Twenty-One
- [ ] Poker
- [ ] Calcuttas
- [ ] Paddlewheels with Tickets
- [ ] Paddlewheel Table

APPROVALS

Attorney General	Date
Signature of City/County Official	Date 7/26/2021
PRINT Name and official position of person signing on behalf of city/county above: Steve Sprague/City Auditor	

INSTRUCTIONS:

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

RETURN ALL DOCUMENTS TO:

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

✓12543
25.00
7/12/21

APPLICATION FOR A LOCAL PERMIT OR CHARITY LOCAL PERMIT

OFFICE OF ATTORNEY GENERAL
SFN 9338 (08/2016)

(8)

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

Name of Non-profit Organization: Holy Spirit Catholic Church	Date(s) of Activity: 9-15-21 to 10-10-21	For a raffle, provide drawing date(s): 9-15, 9-22, 9-29, 10-6, 10-10	
Person Responsible for the Gaming Operation and Disbursement of Net Income: Barbara Sternberg	Title: Business mgr	Business Phone Number: 701-232-5900	
Business Address: 1420 7th St N	City: Fargo	State: ND	Zip Code: 58102
Mailing Address (if different)	City	State	Zip Code
Name of Site Where Game(s) will be Conducted: Holy Spirit Catholic Church	Site Address: 1420 7th St N		
City	State: ND	Zip Code: 58102	County: Cass

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

☒ 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
Raffle	cash	1,000
Raffle	cash	700
Raffle	cash	500
Raffle	cash	250
Raffle	Week one	100
Raffle	Week two	100
Raffle	Week three	100
Raffle	Week four	100

Game Type	Description of Prize	Retail Value of Prize
Bingo	10 Turkey/Ham	300

Total: (Limit $12,000 per year) $ 3150.00

Intended uses of gaming proceeds: General Fund use for St. Vincent and families in need, Catholic School

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

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

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

Signature of Organization's Top Executive Official	Date	Title	Business Phone Number
Barbara Sternberg	7-8-21	Bus mgr	701-232-5900

RECEIVED 7/12/21

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(9)

Project No. FM-19-A3 Type: Milestone No. 1 Time Extension (Change Order #1)

Location: Riverwood Addition Date of Hearing: 7/19/2021

Routing	Date
City Commission	7/26/2021
PWPEC File	X
Project File	Rob Hasey

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, regarding a Milestone No. 1 time extension (Change Order #1) requested by Sellin Brothers, Inc. In the project specifications, Milestone No. 1 was limited to 45 calendar days for construction to occur, however, due to private utility delays, the Contractor sought approval from the homeowners to allow construction to exceed 45 calendar days.

Staff is recommending approval of the Milestone No. 1 time extension (Change Order #1) adjusting the Milestone No. 1 dates as shown below:

Original Completion Dates:	Revised This Memo:
Milestone No. 1 – 45 calendar days	Milestone No. 1 – August 20, 2021

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

RECOMMENDED MOTION

Concur with the recommendation of PWPEC and approve the Milestone No. 1 time extension to August 20, 2021 (Change Order #1) to Sellin Brothers, Inc.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax

	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
				☑
Tim Mahoney, Mayor	☑	☑	☐	
Nicole Crutchfield, Director of Planning	☑	☑	☐	Mark Williams
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:

Brenda E. Derrig, P.E.
City Engineer

C: Kristi Olson

THE CITY OF Fargo FAR MORE

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

Memorandum

To: Members of PWPEC

From: Rob Hasey, Project Manager

Date: July 19, 2021

Re: Project No. FM-19-A3 – Milestone No. 1 Time Extension (CO #1)

Background:

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

In the project specifications, Milestone No. 1 was limited to 45 calendar days for construction to occur behind 910 41st Avenue North & 914 41st Avenue North. Due to delays associated with private utilities between these addresses and 40th Avenue North, the Contractor sought approval from the homeowners to allow construction in their rear yards to exceed 45 calendar days.

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

Recommended Motion:

Approve changes to Milestone No. 1 dates as shown below:

Original Completion Dates:	Revised This Memo:
Milestone No. 1 – 45 calendar days	Milestone No. 1 – August 20, 2021

Attachments

HOUSTON
engineering, inc.

Fargo Office | P | 701.237.5065
1401 21st Avenue North | Fargo, ND 58102

July 12, 2021

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

Subject: FM-19-A3 Riverwood Flood Risk Management Project
Milestone No. 1 Time Extension

Mr. Hasey:

Sellin Brothers, Inc. is requesting a time extension to Milestone No. 1 for work on 910 and 914 41st Ave N. The contract documents state that once work commences on these properties, the contractor shall be substantially complete with the work within 45 days. As outlined in the attached Request for Time Extension dated June 30, 2021, the Contractor is requesting an extension of this milestone due to delays associated with CenturyLink cables in the 40th Ave N right-of-way. The cables are in conflict with the levee being constructed and need to be relocated. As Milestone No. 1 was intended to limit the duration of construction on 910 and 914 41st Ave N, the contractor has discussed this request with the property owners and received their written consent to the extension. This extension is only being requested for the work on 910 and 914 41st Ave N and not for 4301 Rivewood Dr N.

We have reviewed the attached request and agree that extending Milestone No. 1 to August 20, 2021, for the work on 910 and 914 41st Ave N is reasonable. Therefore, we recommend approving this request.

Sincerely,

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

Sellin BROTHERS, INC.

1204 Hobart Street • PO Box 159
Hawley, MN 56549
Phone: (218) 483-3522
Fax: (218) 483-4678
www.sellinbrothers.com
Equal Opportunity Employer

June 30, 2021

Houston Engineering Inc.
1401 21st Ave N
Fargo, ND 58102

Attn: Mike Love

RE: Request for Time Extension
Riverwood Flood Risk Management Project
City of Fargo
Project No. FM-19-A1

Dear Mr. Love,

Sellin Brothers, Inc. (SBI) requests a time extension for the milestone 1 work within 910 41st Ave N and 914 41st Ave N until 8/20/2021. An unknown Century Link cable was discovered on 6/22/2021. This time extension will allow for installation of the storm sewer system and levee between the lift station and 40th Ave N at one time upon completion of utility relocations.

At this time, a schedule for utility relocations is unknown. The date requested above is assuming Century Link utility relocations are completed in a timely fashion.

Please contact me with any questions at 218-483-3522 or chase@sellinbrothers.com.

Respectfully,

Chase Zeller

Sellin Brothers, Inc.
Project Manager

910 41st Ave N: _____ Date: 30 June 2021

914 41st Ave N: _____ Date: 30 Jun 2021

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Project No	FM-19-A3	**Change Order No**	1
Project Name	Riverwood Flood Risk Management Project - General		
Date Entered	7/13/2021	**For**	Sellin Brothers, 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: Milestone No. 1 Time Extension

Rear yards of 910 41st Ave N and 914 41st Ave N

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 ($)	C/O Ext Price ($)

Summary

Source Of Funding	
Net Amount Change Order # 1 ($)	0.00
Previous Change Orders ($)	2,855,927.00
Original Contract Amount ($)	2,855,927.00
Total Contract Amount ($)	

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

CONTRACT TIME

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
09/15/2021		0.00	0.00	09/15/2021	

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Description

Sellin Brothers, Inc. is requesting a time extension to Milestone No. 1 for work on 910 and 914 41st Ave N. The contract documents state that once work commences on these properties, the contractor shall be substantially complete with the work within 45 days. As outlined in the attached Request for Time Extension dated June 30, 2021, the Contractor is requesting an extension of this milestone due to delays associated with CenturyLink cables in the 40th Ave N right-of-way. The cables are in conflict with the levee being constructed and need to be relocated. As Milestone No. 1 was intended to limit the duration of construction on 910 and 914 41st Ave N, the contractor has discussed this request with the property owners and received their written consent to the extension. This extension is only being requested for the work on 910 and 914 41st Ave N and not for 4301 Rivewood Dr N.

APPROVED		**APPROVED DATE**
For Contractor		Department Head
Title	Project Manager	Mayor
		Attest

(10)

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Xcel 12" Gas Line Installation & Easement

Location: 45th Street & 33rd Avenue South

Date of Hearing: 7/6/2021

Routing	Date
City Commission	7/26/2021
PWPEC File	X
Project File	Kevin Gorder

The Committee reviewed communication from Division Engineer, Kevin Gorder, regarding the easement that was discussed at the last PWPEC meeting where Xcel and the City of Fargo had differing language proposals. After the meeting, Engineering shared the comments from PWPEC and Xcel agreed to the language the City proposed.

Xcel is currently working on signatures and if the Easement is approved by PWPEC, we will wait for Commission approval until after Xcel submits a signed copy.

Staff is recommending approval of the easement with the above recommendations.

On a motion by Bruce Grubb, seconded by Steve Sprague, the Committee recommended approval of the Easement with Xcel.

RECOMMENDED MOTION
Concur with the recommendations of PWPEC and approve the Easement with Xcel.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project: N/A

	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
				☑
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	☑	☑	☐	Tom Knakmuhs
Kent Costin, Finance Director	☑	☑	☐	

ATTEST:

Tom Knakmuhs, P.E.
Assistant City Engineer

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

Memorandum

To: Members of PWPEC

From: Kevin Gorder, Division Engineer

Date: July 1, 2021

Re: Xcel 12" Gas Line Installation and South Tie In Easement

This easement was discussed at the last PWPEC meeting to get comments on two points that Xcel and the City of Fargo had differing language proposals. After the meeting, Engineering shared the comments from PWPEC and Xcel agreed to the language the City proposed.

The attached copy is basically complete with the exception of Exhibit B. It is currently shown as an aerial image but these types of images do not record well so we are working on a plan sheet that will become the new Exhibit B.

Xcel is currently working on signatures and if the Easement is approved by PWPEC, we will wait for Commission Approval until after Xcel submits a signed copy.

Recommended Motion:
Approve Easement with Xcel.

Attachment

PIPELINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS that **CITY OF FARGO**, a North Dakota municipal corporation, its successors and assigns, hereinafter referred to as "Grantor", grants unto NORTHERN STATES POWER COMPANY, a Minnesota corporation, hereinafter called "**NSP**", a permanent and perpetual easement over, upon and in the land hereafter described in accordance with the terms hereof.

RECITALS

A. Grantor owns real property in Cass County, North Dakota, described as follows:

> Lot 2, Block 2, Pointe West First Addition to the City of Fargo, Cass County, North Dakota
> AND
> A tract of land in Lot 1, Block 2, of Pointe West First Addition to the City of Fargo, Cass County, North Dakota, described as follows:
> Beginning at the northwest corner of Lot 1, Block 2, Pointe West First Addition; thence, east along the north line of said lot 1 on a bearing of South 87 degrees 57 minutes 22 seconds East and a distance of 70.23 feet; thence South 02 degrees 21 minutes 42 seconds East, a distance of 287.27 feet more or less to the south line of said Lot 1; thence North 87 degrees 57 minutes 22 seconds West, a distance of 60.00 feet to the southwest corner of said Lot 1; thence North 04 degrees 23 minutes 39 seconds West along

the west line of said Lot 2, a distance of 287.45 feet to the point of beginning.

(the "**Property**").

Grantor agrees to grant to NSP and its successors and assigns (collectively, "Grantee"), the right, privilege, and easement to excavate, install, construct, operate, maintain, use, inspect, rebuild, modify, replace, remove, repair, reconstruct, alter, relocate, patrol, improve, or enlarge the Facilities over, under, and upon the following described portions of the Property:

An easement over, under, and across the south 42.00 feet of the herein before described "Property" as measured at right angles to the south line thereof.

AND

An easement over under and across the east 25.00 fee of the north 90.00 feet of the south 132.00 feet of the herein before described "Property" as measured at right angles to the east and south lines thereof.

Containing 10,268 square feet or 0.24 acres, more or less.

(the "**Easement Area**").

B. NSP wishes to locate within the Easement facilities described as follows:

Gas pipelines with valves, above ground piping and other appurtenances and devices used or useful in the operation, maintenance, and use of said gas pipelines (collectively, the "**Facilities**").

C. Grantor agrees to grant to NSP and its successors and assigns (collectively, "**Grantee**"), the right, privilege, and easement to excavate, install, construct, operate, maintain, use, inspect, rebuild, modify, replace, remove, repair, reconstruct, alter, relocate, patrol, improve, or enlarge the Facilities over, under, and upon the following described portions of the Property:

Please refer to the attached Exhibit A

(the "**Easement Area**").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor and NSP agree as follows:

Grantor hereby grants to Grantee, a non-exclusive easement to excavate, install, construct, operate, maintain, use, inspect, rebuild, modify, replace, remove, repair, reconstruct, alter, relocate, patrol, improve, and enlarge the Facilities described above over, under, and across the Easement Area. Prior to modifying, enlarging, or relocating the Facilities, NSP shall obtain the approval of the Grantor. The easement granted hereunder shall be perpetual or for such maximum period of

time as is permitted by applicable law. Grantor also grants to Grantee: (1) the full right and authority to reasonably access the Easement Area and the Facilities over and across the Property for the purpose of excavating, installing, constructing, operating, maintaining, using, inspecting, rebuilding, modifying, replacing, removing, repairing, reconstructing, altering, relocating, patrolling, improving, or enlarging the Facilities; and (2) a right to enter the Property adjacent to the Easement Area during excavation, installation, construction, operation, maintenance, use, inspection, rebuilding, modification, replacement, removal, repair, reconstruction, alteration, relocation, patrol, improvement, or enlargement of the Facilities, provided Grantee gives Grantor 14 days' notice it will be on site performing any of these function. Grantee is responsible for any restoration required by Grantor caused by its activities on the Property and shall have the ability to engage in vegetation management in the Easement Area as provided by its Franchise grant.

Grantor will not perform any act on the Easement Area which will interfere with or endanger the Facilities. Grantor shall not locate any structure or obstruction, nor plant any trees, shrubs, bushes, or plants of any kind, nor change the ground elevation within the Easement Area without the express written consent of Grantee.

Grantee understands and agrees that the primary use of the Property is for storm water retention. Grantee agrees that its Facilities are designed in such a manner that Grantor can drive over, cross, or traverse the underground Facilities with heavy equipment typical of storm sewer construction/maintenance without damaging said underground Facilities. Grantee further understand and agrees that it will be responsible for damages caused to its underground Facilities by Grantor in the normal course of operations requiring Grantor to traverse over, on and across the Property.

Grantor represents that Grantor is the owner of the Property and has the right to convey the easement and rights in the manner and form set forth in this Easement.

The rights granted herein may be exercised at any time subsequent to the execution of this Easement and said rights shall continue until such time as the purpose for the easement granted no longer exists, at which time Grantee shall remove all equipment from the Easement Area at Grantee's expense, unless Grantor provides written permission to abandon in place. Grantee shall deliver to Grantor a recordable release of this Agreement upon termination.

All provisions of this Easement, including the benefits and burdens, shall run with title to the Property and shall inure to the benefit of, and shall be binding upon, the successors and assigns of the parties hereto as fully as upon themselves.

The laws of the State of North Dakota shall govern the interpretation, validity, performance, and enforcement of this Easement.

If any term of this Easement or any application thereof shall be invalid or unenforceable, the remainder of this Easement and any other application of such term shall not be affected thereby.

This Easement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are merged into and superseded by this Easement.

Grantee understands and agrees it shall be responsible for any and all site restoration, including engineering and design work, if any, in the event of settlement in the easement area, at Grantee's cost. Grantee further understands and agrees that in the event of an emergency, as determined in City's sole discretion, Grantee shall protect its Facilities to the extent possible but in no event shall Grantor be responsible for Grantee's Facilities located on the Property.

Grantee agrees to install the Facilities and locate the same on a concrete pad flush with the existing ground that extends at least 3' away from any part of the facility that is at ground level or above ground level, as identified in Exhibit B.

Grantor hereby grants to Grantee the right to erect, at any time prior to or after the construction of the Facilities, reasonable signs for the purpose of monumenting the location of the Facilities. Location of these signs shall be in the concrete pad area or as approved by the Grantor.

(The remainder of this page Intentionally left blank)

Dated this 8 day of July, 2021.

Northern State Power, d/b/a Xcel Energy,
a Minnesota corporation

By: _____
Peter D. Gitzen
Its: Manager of Siting & Land Rights
Xcel Energy Services Inc., an Authorized Agent for Northern States Power Company, a Minnesota corporation
d/b/a Xcel Energy

STATE OF MINNESOTA_____)
) ss
COUNTY OF HENNEPIN_____)

The foregoing instrument was acknowledged before me this 8th day of July, 2021, by Peter D. Gitzen, the Manager of Siting & Land Rights, Xcel Energy Services Inc. an Authorized Agent for Northern States Power Company, a Minnesota corporation d/b/a Xcel Energy, on behalf of the corporation.

_____
Notary Public

(SEAL)

BRIAN E SULLIVAN
Notary Public
Minnesota
My Commission Expires
Jan 31, 2024

NSP File: R W., T N., Sec. 27
Reinforcement West Fargo & Fargo

Cass County, ND
Grantor: City of Fargo

IN TESTIMONY WHEREOF, the Grantor has executed this Agreement as of this ____ day of _____, 2021.

THE CITY OF FARGO, NORTH DAKOTA,
a municipal corporation

By_____
Dr. Timothy J. Mahoney, Mayor

ATTEST:

_____
Steven Sprague, Auditor

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

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

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

This instrument was drafted by:
Northern States Power Company
414 Nicollet Mall, 414 6th
Minneapolis, MN 55401
612-330=5925

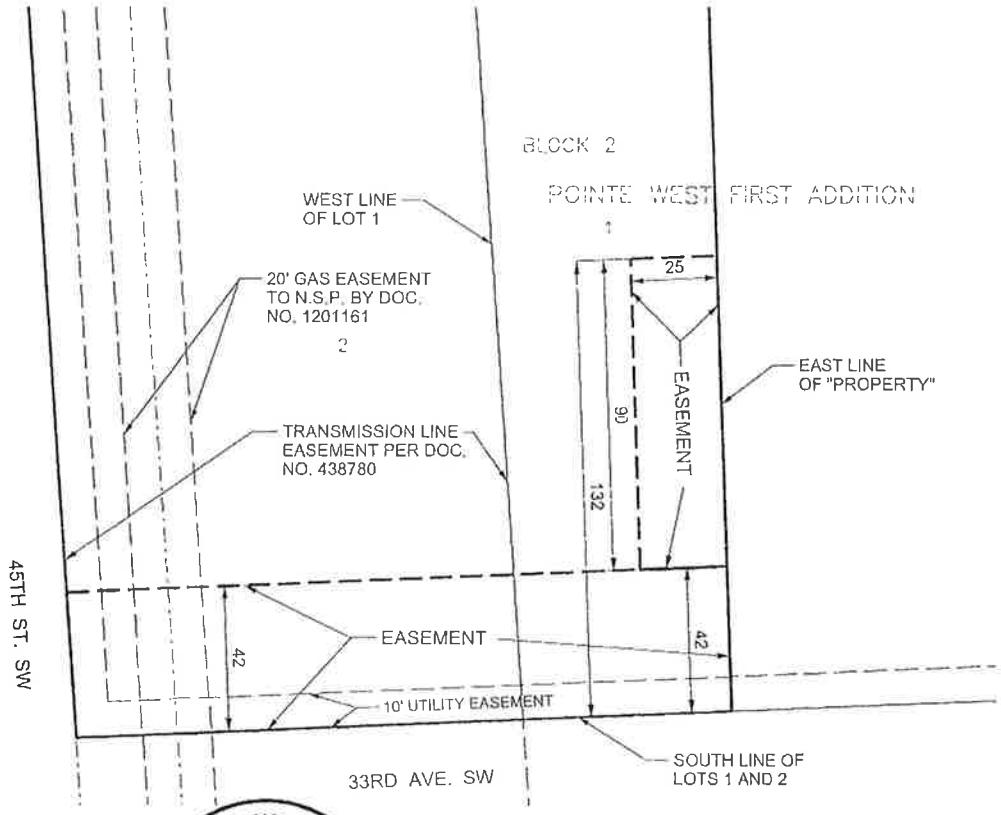
NORTHERN STATES POWER
MINNESOTA

EXHIBIT A SHEET 1 OF 2 SHEETS

N

Scale: 1"=40'

Certificate of Survey
Location: Fargo, North Dakota
Grantor: City of Fargo
See sheet 2 of 2 for descriptions.



REGISTERED PROFESSIONAL LAND SURVEYOR
PETER D. GITZEN
LS. 7001
DATE: 6/24/21
NORTH DAKOTA

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NORTH DAKOTA.

PETER D. GITZEN LIC. NO. 7001

DATE 6/24/21

GAS
PARCEL: Fargo
SEC. 27, T. 139 N., R. 49 W., 5th P.M.
CO.: Cass

NORTHERN STATES POWER
MINNESOTA

EXHIBIT A SHEET 2 OF 2 SHEETS

Certificate of Survey
Location: Fargo, North Dakota
Grantor: City of Fargo

"Property":

Lot 2, Block 2, Pointe West First Addition to the City of Fargo, Cass County, North Dakota.

AND

A tract of land in Lot 1, Block 2, of Pointe West First Addition to the City of Fargo, Cass County, North Dakota, described as follows:
Beginning at the northwest corner of Lot 1, Block 2, Pointe West First Addition; thence, east along the north line of said Lot 1 on a bearing of South 87 degrees 57 minutes 22 seconds East and a distance of 70.23 feet; thence, South 02 degrees 21 minutes 42 seconds East, a distance of 287.27 feet more or less to the south line of said Lot 1; thence North 87 degrees 57 minutes 22 seconds West, a distance of 60.00 feet to the southwest corner of said Lot 1; thence North 04 degrees 23 minutes 39 seconds West along the west line of said Lot 1, a distance of 287.45 feet to the point of beginning.

"Easement Area":

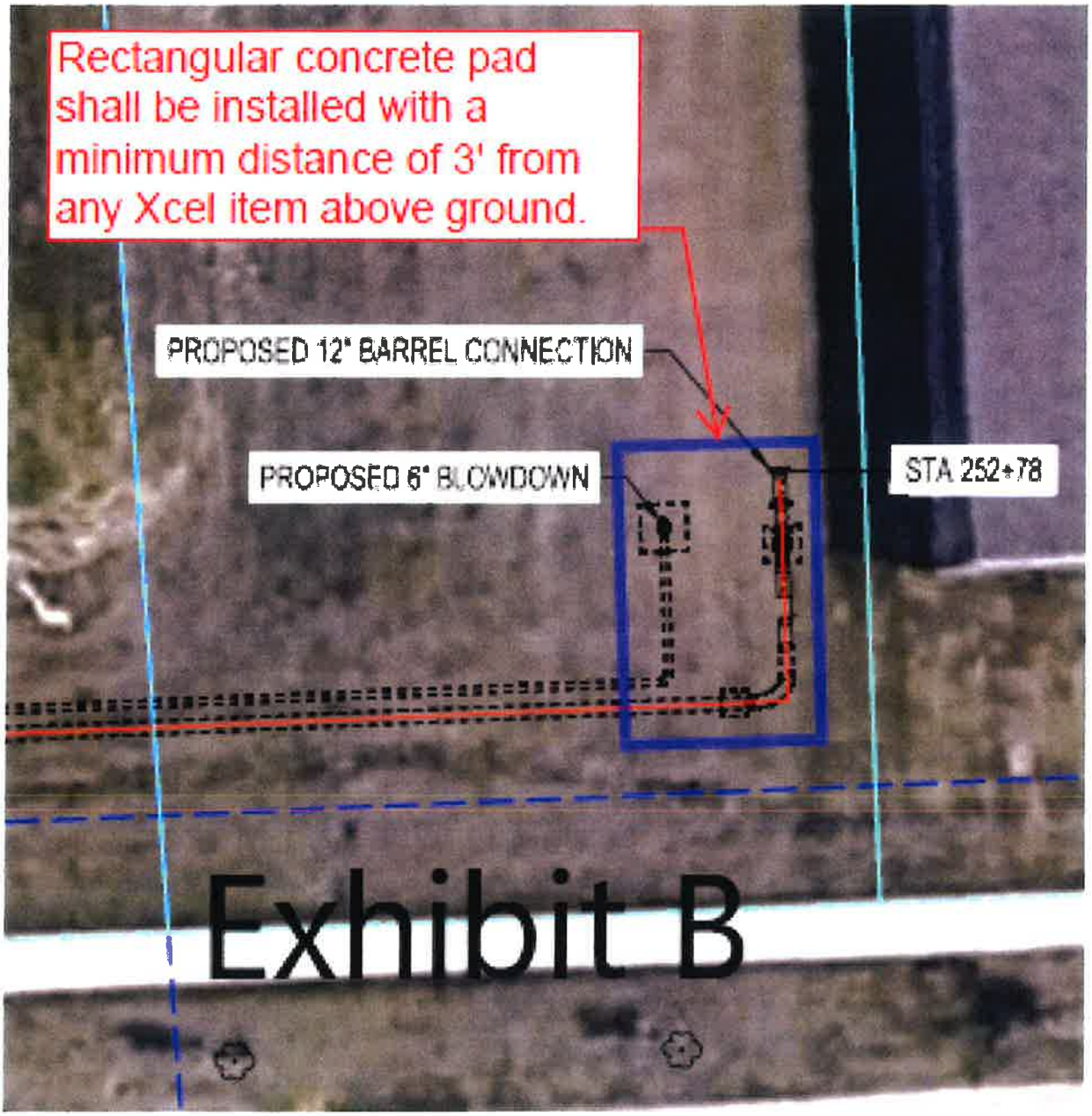
An easement over, under and across the south 42.00 feet of the herein before described "Property" as measured at right angles to the south line thereof.

AND

An easement over, under and across the east 25.00 feet of the north 90.00 feet of the south 132.00 feet of the herein before described "Property" as measured at right angles to the east and south lines thereof.

Containing 10,268 square feet or 0.24 acres, more or less.

GAS
PARCEL: Fargo
SEC. 27, T. 139 N., R. 49 W., 5th P.M.
CO.: Cass

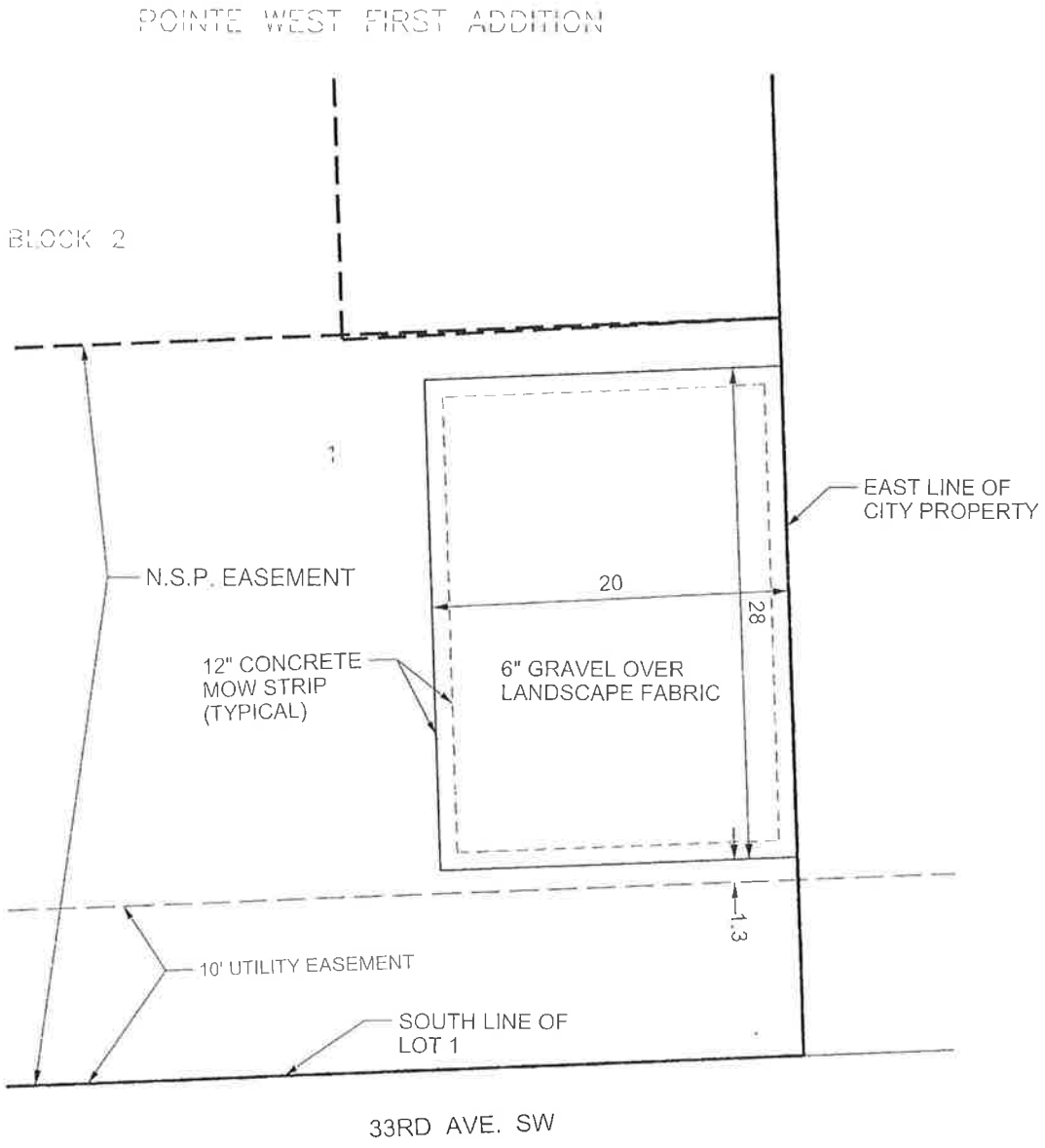

Rectangular concrete pad shall be installed with a minimum distance of 3' from any Xcel item above ground.
PROPOSED 12" BARREL CONNECTION
PROPOSED 6" BLOWDOWN
STA 252+78
Exhibit B

NORTHERN STATES POWER
MINNESOTA

EXHIBIT B

N

Scale: 1"=10'



GAS
PARCEL: Fargo
SEC. 27, T. 139 N., R. 49 W., 5th P.M.
CO.: Cass

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

(11)

Type: Land Use Agreement

Location: 1 2nd Street South

Date of Hearing: 7/6/2021

Routing	Date
City Commission	7/26/2021
PWPEC File	X
Project File	Kristy Schmidt

The Committee reviewed a communication from Civil Engineer, Kristy Schmidt, regarding a Land Use Agreement with Epic Development for the redevelopment of 1 2nd Street South.

The Developer has asked to use the City property adjacent to the development to the east of the construction site until April 20, 2022.

Staff is recommending $1/SF for use of the City Property based on 10% of the land value of $10/SF from Assessor's Office. The Developer has requested use of 33,790 SF of land.

On a motion by Ben Dow, seconded by Kent Costin, the Committee voted to recommend approval of the Land Use Agreement with Epic Gateway East Real Estate Holdings, LLC.

RECOMMENDED MOTION
Concur with the recommendations of PWPEC and approve the Land Use Agreement with Epic Gateway East Real Estate Holdings, LLC.

PROJECT FINANCING INFORMATION:
Recommended source of funding for project: N/A

	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 ☑
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	☑	☑	☐	Tom Knakmuhs
Kent Costin, Finance Director	☑	☑	☐	

ATTEST:

Tom Knakmuhs, P.E.
Assistant City Engineer

THE CITY OF Fargo FAR MORE

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

Memorandum

To: Members of PWPEC

From: Kristy Schmidt, CEII

Date: July 1, 2021

Re: Epic Development - 310 Main Avenue Land Use Agreement for Land Use at 1 2nd Street South

---

Background:

Epic Development has finalized their plans for another phase of their development in the Fryin' Pan parking lot site. The Developer has asked to use the City property adjacent to the development to the east of the construction site at 1 2nd Street South until April 20, 2022. As part of the redevelopment, the Owner has been working with the City to enter into a Land Lease Agreement.

We do not anticipate the sale of this property until after the lease expires. Staff is recommending $1/SF for use of City Property based on 10% of the land value of $10/SF from Assessor's Office. The Developer has agreed to this amount. The Developer has requested use of 33,790 SF of land.

Please find the supporting letter from the Diversion Authority.

Recommended Motion:

Approve the Land Use Agreement with EPIC GATEWAY EAST REAL ESTATE HOLDINGS, LLC.

KLS/klb
Attachment

C: Brian Kounovsky, Epic Companies
Blake Nybakken, Epic Companies

EPIC Companies
EPICCompaniesND.com
745 31st Ave. E
West Fargo, ND 58078
701.866.1006

5/7/2021

Jim Gilmour
Director of Strategic Planning & Research
City of Fargo
225 4th St N
Fargo, ND 58102

Re: Construction Easement – Main Ave (Gateway Site)

Mr. Gilmour,

We are currently designing the second phase of our Gateway development just south of Main Avenue and would like to request a temporary construction easement, or land lease on the City of Fargo owned property located at 1 2nd Street South which is adjacent to our site. The duration of our use is estimated at 10 months (Jul 2021 – April 2022). There are several reasons for the request which include, but are not limited to:

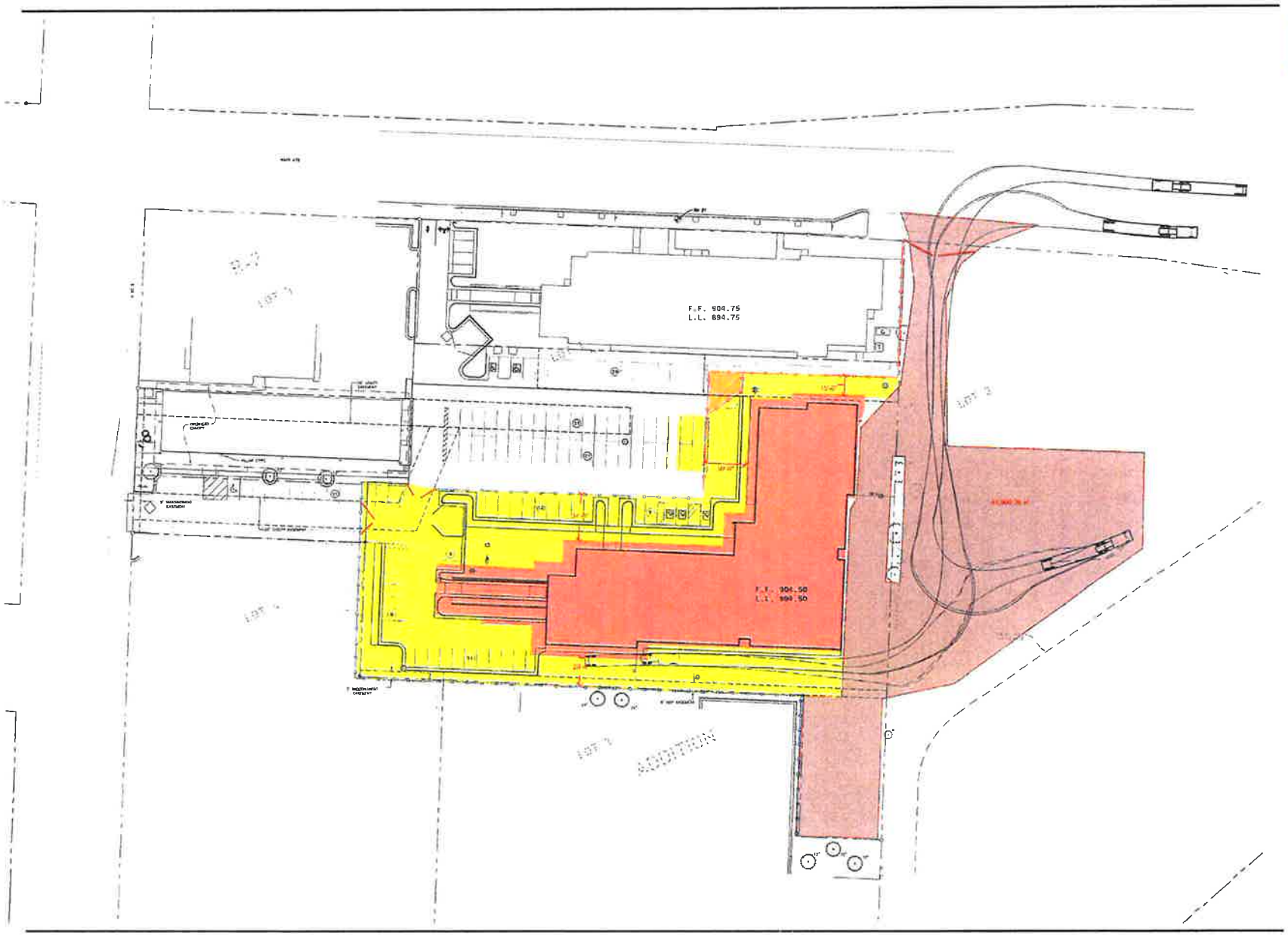
- Construction related traffic and deliveries of materials that will be off-loaded from semi-trailers.
- Limiting interruptions and locations of flagging on Main Avenue.
- Pedestrian safety on our site and the adjacent property as our Phase 1 building opens up this summer and the Fry'n Pan begins serving customers.
- Limit disruptions and construction related traffic to the surrounding businesses by only having one access point on Main Ave.

Please see attached sheet which illustrates the best option of all possibilities that were modeled while contemplating this next phase. Securing this temporary easement is critical to our next phase and we appreciate your consideration.

Regards,

Blake Nybakken
Vice President of Development
EPIC Companies

EPIC COMPANIES
Investment • Development • Management



ZB ZERRIBERG

gehrtz CONSTRUCTION SERVICES

MBN ENGINEERING

MECHANICAL · ELECTRICAL · CIVIL

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SCALE: 1 INCH = 30 FEET

REVISION SCHEDULE

EC EPIC COMPANIES

EPIC GATEWAY EAST
MIXED-USE

STAGING PLAN - TURNING MOVEMENTS - MAIN AVE. ACCESS #1

Project No. 20-606
Date 2021 03 15

C3.0

Diversion Authority

METRO FLOOD DIVERSION AUTHORITY

June 24, 2021

Nathan Boerboom, PE
City of Fargo Division Engineer
225 4th Street N
Fargo, ND 58102

Dear Nathan,

This letter is in response to your e-mail dated June 10, 2021 regarding the lease of excess lands of the former Park East Apartments parcel. In your e-mail you noted that a portion of the former Park East Apartments parcel was not needed for the levee construction along 2nd Street South and can be parceled off in the future to be sold. The City of Fargo has initiated the process of developing an RFP for the sale of this land and will likely occur in approximately one year.

However, the City of Fargo has been approached by Epic Companies to lease a portion of this excess land for the next year to allow them to efficiently construct the second phase of their Gateway project along Main Avenue. The City of Fargo is currently working on an agreement with Epic Companies for this lease. The lease would include a payment from Epic Companies to the City of Fargo for being allowed to use the land, which per Metro Flood Diversion Authority's (MFDA's) policy, this payment would then be transferred to the MFDA. The City of Fargo has proposed, and Epic Companies has accepted, a cost of $1 per square foot for lease, which would result in almost $34,000 for the full lease payment. The $1 per square foot is based on 10% of the assessed land value, which is what the City typically pays for all temporary construction easements.

Per Section 6.2.2 of the Policy on the Disposition and Management of Comprehensive Project Lands, it is within the MFDA Executive Director's decision and approval to sign off on a lease for MFDA owned lands if the proposed lease is at market rate. This letter serves as my approval for the City of Fargo to sign a lease with Epic Companies for the lease of this land at $1 per square foot for approximately one year with the payments received being transferred back to the MFDA.

Respectfully,

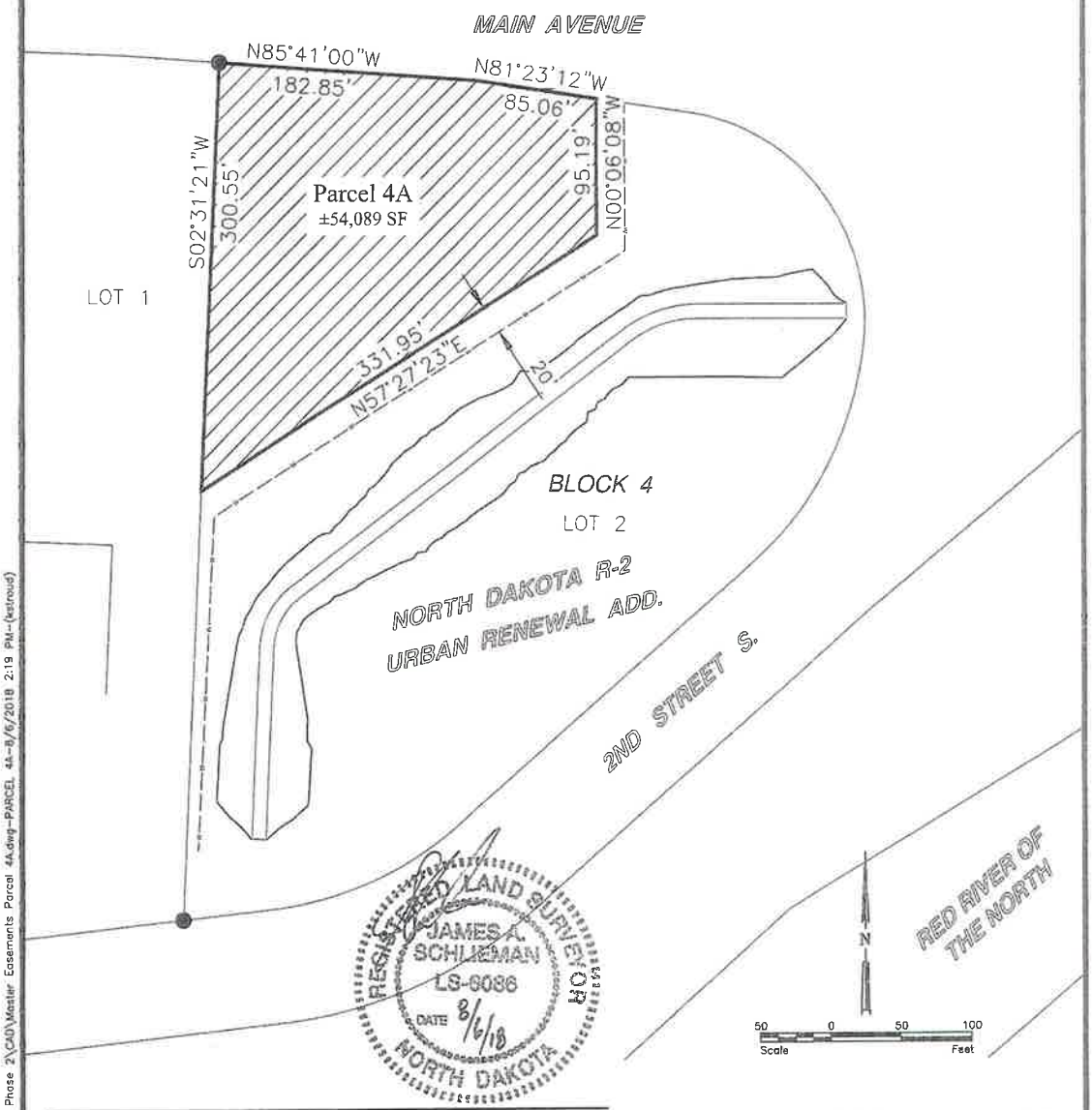
Joel Paulsen

Joel Paulsen, PE
Executive Director
PaulsenJ@FMDiversion.gov

Attachments: Exhibits of excess land at the former Park East Apartments parcel and proposed portion of excess land to be leased by Epic Companies

PARCEL 4A
PART OF LOT 2, BLOCK 4
N.D. R-2 URBAN RENEWAL ADD.
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: CITY OF FARGO



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

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

HMG
Houston-Moore Group

EASEMENT EXHIBIT

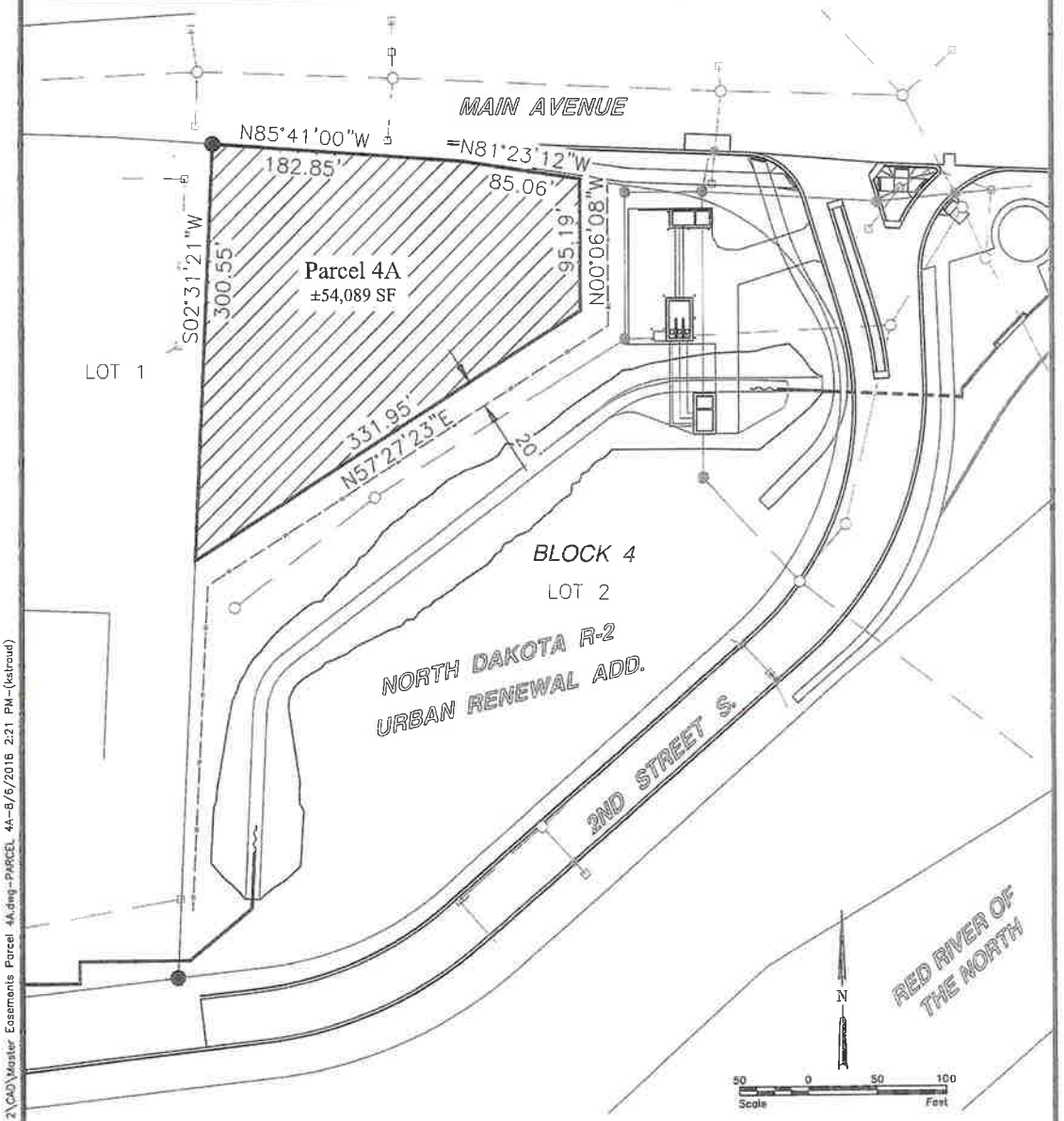
PROJECT NO. 7438-009	F-M METRO FLOOD RISK MANAGEMENT PROJECT 2ND ST S AND MAIN AVE, CITY OF FARGO, CASS CO., ND	SHEET 1 OF 2

8-6-18

H:\Fargo\JBN\7400\7438\12_7438_009\007-In-Town Levees Phase 2\CAD\Master Easements Parcel 4A.dwg-PARCEL 4A-8/6/2018 2:19 PM-(estroud)

PARCEL 4A
PART OF LOT 2, BLOCK 4
N.D. R-2 URBAN RENEWAL ADD.
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: CITY OF FARGO



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HMG
Houston-Moore Group

EASEMENT EXHIBIT

PROJECT NO. 7438-009	F-M METRO FLOOD RISK MANAGEMENT PROJECT 2ND ST S AND MAIN AVE, CITY OF FARGO, CASS CO., ND	SHEET 1 OF 2

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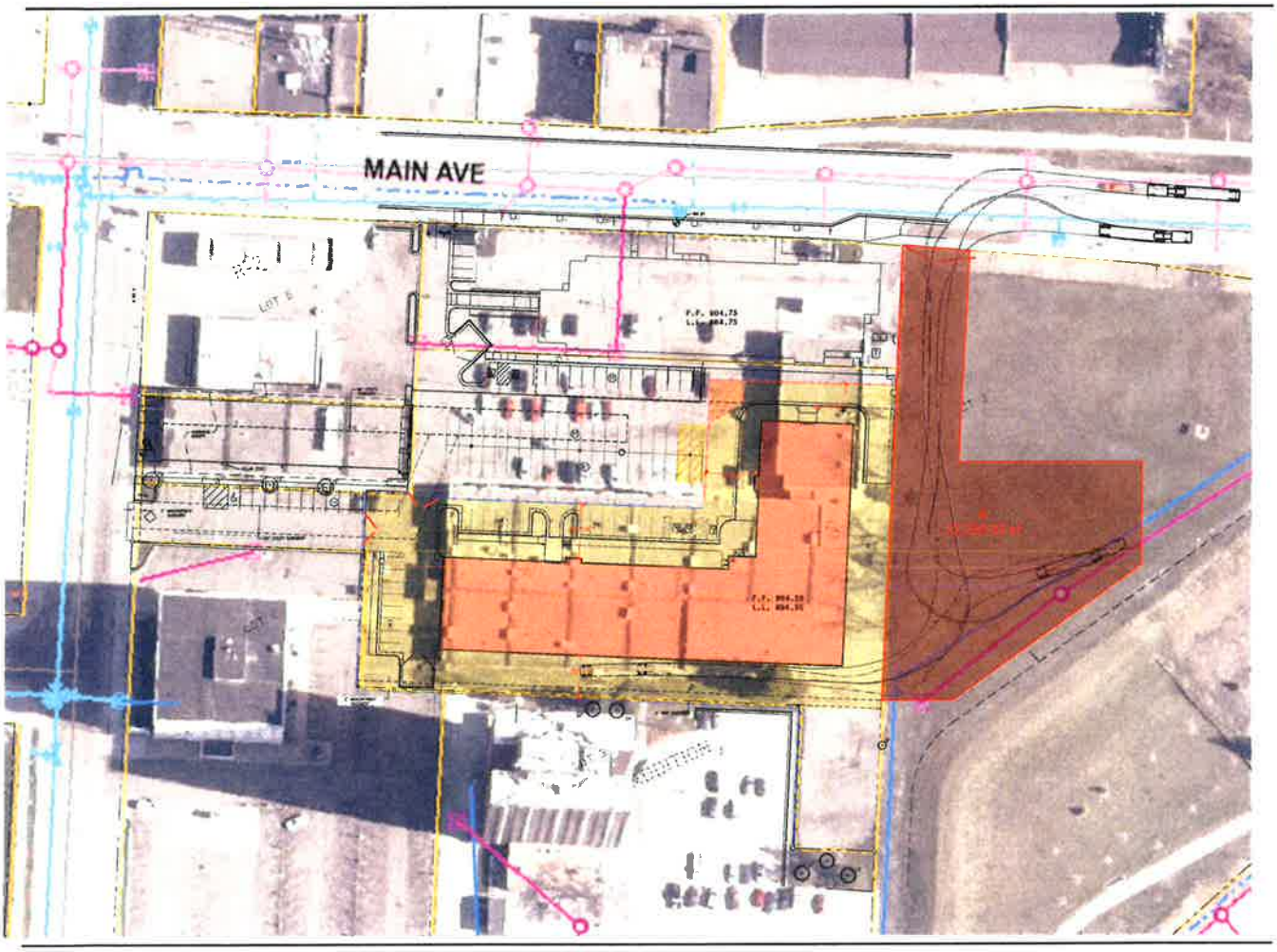
8-6-18



ZERRBERG

gehrtz CONSTRUCTION SERVICES

MBN

REVISION SCHEDULE

EPIC COMPANIES

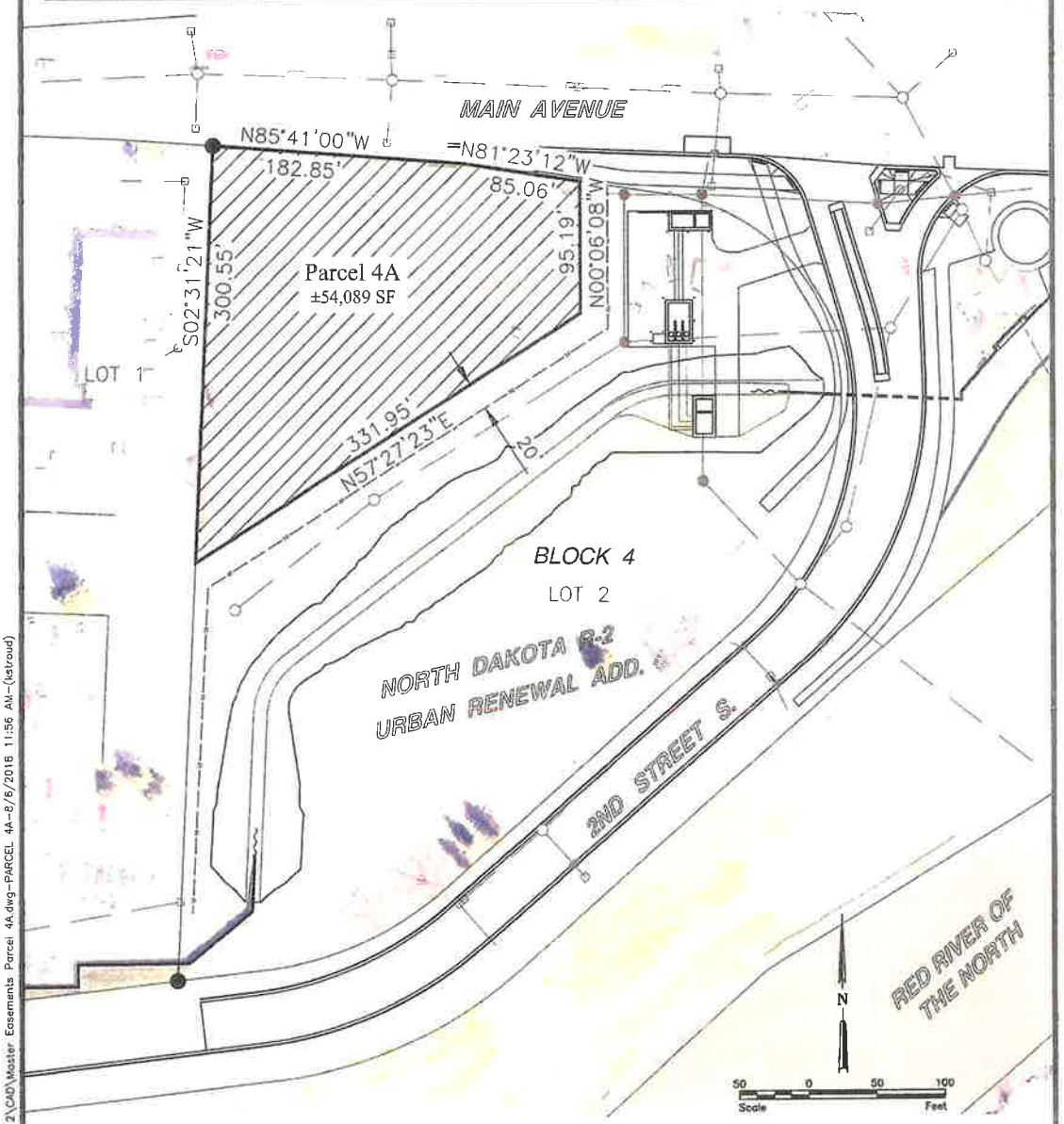
EPIC GATEWAY EAST
MIXED-USE

STAGING PLAN - TURNING MOVEMENTS - MAIN AVE ACCESS #1

C3.0

PARCEL 4A
PART OF LOT 2, BLOCK 4
N.D. R-2 URBAN RENEWAL ADD.
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: CITY OF FARGO



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PLAT DISTANCE	(105.00')
PERMANENT EASEMENT	
TEMPORARY EASEMENT	

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

HMG
Houston-Moore Group

EASEMENT EXHIBIT

PROJECT NO. 7438-009	F-M METRO FLOOD RISK MANAGEMENT PROJECT 2ND ST S AND MAIN AVE, CITY OF FARGO, CASS CO., ND	SHEET 1 OF 2

8-6-18

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PARCEL 4A
PART OF LOT 2, BLOCK 4
N.D. R-2 URBAN RENEWAL ADD.
CITY OF FARGO, CASS COUNTY
STATE OF NORTH DAKOTA

OWNER: CITY OF FARGO

Description- Parcel 4A (Temporary Construction Easement):

That part of Lot 2, Block 4, North Dakota R-2 Urban Renewal Addition to the City of Fargo, Cass County, North Dakota, described as follows:

Beginning at the northwest corner of said Lot 2; thence South 02°31'21" West, along the westerly line of said Lot 2, for a distance of 300.55 feet; thence North 57°27'23" East for a distance of 331.95 feet; thence North 00°06'08" West for a distance of 95.19 feet to a point of intersection with the northerly line of said Lot 2; thence North 81°23'12" West, along the northerly line of said Lot 2, for a distance of 85.06 feet; thence North 85°41'00" West, along the northerly line of said Lot 2, for a distance of 182.85 feet to the point of beginning.

Said tract of land contains 54,089 square feet, more or less.

8/6/18

HMG
Houston-Moore Group

EASEMENT EXHIBIT

PROJECT NO. 7438-009	F-M METRO FLOOD RISK MANAGEMENT PROJECT 2ND ST S AND MAIN AVE, CITY OF FARGO, CASS CO., ND	SHEET 2 OF 2

8-6-18

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LAND USE AGREEMENT

THIS AGREEMENT made and entered into by and between the City of Fargo, North Dakota, a North Dakota municipal corporation, (hereinafter referred to as "Owner"), and EPIC GATEWAY EAST REAL ESTATE HOLDINGS, LLC, a North Dakota limited liability company, (hereinafter referred to as "Permittee").

RECITATIONS:

A. Owner is the owner of certain real property located at 1 2nd St S., Fargo, ND 58103 in Fargo, North Dakota (hereinafter referred to as the "Premises").

B. Permittee wishes to use a portion of the Premises for purposes of temporary construction access related to the redevelopment at 300 Main Ave.

C. Owner is willing to allow Permittee access to the Premises for the stated purpose under terms and conditions hereinafter set forth in this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Premises. That portion of the property located at 1 2nd Street South, Fargo, ND 58103, legally described as follow:

Lot 2, Block 4, North Dakota R-2 Urban Renewal Addition to the city of Fargo, County of Cass, State of North Dakota,

as more fully described and shown on Exhibit A attached hereto, constituting approximately 33,790 SF.

2. Use of Premises. Permittee shall have the non-exclusive use and occupancy of the Premises for constructing a granular haul road by removing the existing top soil, making it

available for reinstallation upon cessation of use by Permittee, placing job trailers, and establishing an access point from Main Avenue on Owner's property. The Premises may not be used for any other purposes than stated, except with the express written permission of Owner. Permittee's use and occupancy of that portion of the Premises shall not unreasonably interfere with the Owner's use and occupancy of the Premises for any lawful purpose.

3. Sale of Property. Permittee understands and agrees that the premises may be sold or otherwise rendered unavailable for permittee's use at any time. Permittee agrees to vacate the Premises and restore the Premises to green space upon 60 days' notice from City, such Notice to be provided Permittee as provided in this Agreement. In the event the notice is given during the winter, the Permittee agrees to complete restoration immediately after the City starts issuing excavation permits in the PROW.

4. Term of Agreement. This Agreement shall expire on or before May 31, 2022, or as indicated in items below and as modified from time to time by written agreement of the parties hereto. Any request for extension must be made in writing at least thirty (30) days' prior to the expiration of this Agreement in order to allow City adequate time to consider the request. At the end of the term of this Agreement Permittee shall surrender the Premises to Owner in as good a condition as at the commencement of this Agreement. City reserves the right to terminate this Agreement at any time, with or without notice, should City determine, in its sole discretion that public safety and/or the public infrastructure is at risk due to Permittee's activity on the Premises. In the event of an emergency, as determined in City sole discretion, Permittee shall immediately vacate the Premises. In no event shall City be responsible to Permittee for any damages incurred by Permittee's use of the Premises.

4. Maintenance of the Premises. Permittee shall, at its sole expense, keep and maintain such portion of the Premises occupied and used by Permittee in a clean, safe, and sanitary condition, and in compliance with all applicable laws and regulations. Permittee's obligations hereunder shall include, but not be limited to, the maintenance and repair of the existing City utilities, flood control levee, and items in the PROW, and other requirements incident to use.

5. Use of the PROW. Permittee shall be permitted to exercise control over the Public Right of Way (hereinafter referred to as the "PROW") adjacent to the intended construction activity on the Premises, under certain terms and conditions as stated herein. Permittee shall be responsible for ensuring all construction and restoration work in the PROW complies with all City Construction Standards and Specifications, which can be found at: https://fargond.gov/city-government/departments/engineering/design-construction/construction-specifications.

6. Sidewalks. Permittee agrees and understands that it is responsible for keeping the sidewalk along Main Avenue open at all times. Any debris tracked into the PROW shall be removed the same day from the sidewalk. Permittee shall keep the pedestrian travel path free of snow and debris, ensuring a 4.5' unobstructed path for the duration of the construction. Permittee shall address public safety concerns that may intermittently result due to activities in close proximity to the pedestrian travel paths. All construction fencing shall be set back from the sidewalk edge by at least 2' to ensure full sidewalk width availability.

7. Traffic Control. No lane closures will be permitted and no trucks will be staged in active traffic lanes, except for purposes of curb removal and reinstallation. Permittee must provide City notice of intended traffic impacts at least 10 days in advance of such intended lane or sidewalk closure. Permittee shall provide City Engineering a traffic control plan in advance of lane or sidewalk closures. All closures must be approved by City 4 days in advance of such intended closure. Timing of lane, road or sidewalk closures must be approved by City. Permittee shall amend or modify the traffic control plan as directed by City Engineering.

8. Scope of PROW Use. Permittee will be allowed to remove one boulevard tree, a portion of the colored stamped concrete, and a portion of the curb along Main Avenue for access, all to be approved by City in advance of such removal. Permittee shall pave the area between the roadway and the sidewalk with asphalt in the driveway location. The Permittee will be allowed to install mountable curb or shape the asphalt to ensure gutter drainage is maintained. The asphalt shall be constructed so no sediment is allowed to enter the gutter or street during rain events. Drainage in this area must be maintained so water is not allowed to pond in the street right of way. Permittee is responsible for all costs to construct and maintain this temporary driveway.

9. Protection of Public and Private Utilities. Permittee will, during any use of PROW, use due care to protect City streets, utilities and all other public property and private utilities occupying the PROW. Extraordinary or excessive damage caused by Permittee's construction activities shall be remedied immediately, at the discretion of City.

10. Public Safety and Early Termination. Permittee must remedy any unsafe or unsatisfactory condition due to the use of the PROW, as determined by City in its sole discretion. If concerns persist, and no remedy can be agreed upon, City may require Permittee to vacate the PROW use permitted herein and return the PROW to its pre-existing condition. All costs incurred by the City will be billed to the Permittee. Payment is due within 30 days. If payment is not received within 30 days, interest will accrue at a rate of 1.5% per month.

11. Restoration of PROW. Upon expiration or termination of this Agreement, the Permittee shall promptly remove the temporary driveway and restore all items to the original condition in the PROW. If the structural soil in the boulevard is damaged or contaminated, Permittee shall furnish and place new structural soil for the disturbed tree pit. Permittee will furnish and install a replacement tree of the same size and specie. Permittee shall warranty tree replacement for a period of two years after planting.

12. Premises. Permittee shall install a chain link fence around the Premises, unless an alternative method to control traffic on the Premises is approved in writing by City Engineering in advance of haul road construction. Permittee shall maintain a clear zone of at least 20' from the bottom toe of the existing flood control levee. No construction activity shall be allowed within 20' of the toe of the levee. City will provide stakes for this location. A chain link fence will be required to be placed 20' north of the toe of the levee.

13. Private Utilities on PROW and Premises. Permittee shall be responsible for all private utilities affected by the construction activities, and shall notify the utility provider of proposed impacts. Permittee shall be solely responsible for contracting with the private utility

providers and for payment to all parties involved. City shall have no responsibility for the reestablishment of private utility disruptions caused by Permittee's construction activities.

14. Restoration of Premises. It is understood and agreed by and between the parties that Permittee will be responsible for the repair or replacement of any property which may be damaged or destroyed as a direct or indirect result of the use of the Premises, including but not limited to leveling the ground and restoration of the Premises to the condition prior to Permittee's permitted use of the Premises, to City's satisfaction, in City's sole discretion. Permittee acknowledges and agrees to protect the storm sewer and water main located on the City parcel and understands and accepts responsibility for any damage to these facilities. The City will televise the storm sewer before and after the construction to determine any damage. Permittee agrees to pay $0.75/LF for each time it is televised. Permittee will notify City of any damage and work quickly on the repairs. If the City determines the damage is an emergency, the City will repair or make arrangements for the repair. Any emergency determination will be determined solely by the City, Permittee agrees to reimburse City for all costs, including markups included in the Infrastructure Funding Policy. Reimbursement shall be made within 30 days of receipt of invoice. After 30 days, the City will charge interest at a rate of 1 ½% monthly until paid.

15. Snow Removal from Premises. Permittee shall provide supplemental snow removal in and around the site, and shall be required to haul or remove snow from the affected area at the direction of the Director of Operations-Public Works or designee or City Engineer or designee.

16. Alterations and Additions. Permittee shall not construct any structures on the Premises, or make any changes thereto, without the express written consent of Owner.

17. Right of Access. Permittee hereby grants to City a right of entry and access to the Premises and PROW, in the event City must enter the workspace to remedy a public safety concern, provide fire protection to the site and adjoining properties, or for any reason as determined in City's sole discretion. Permittee agrees and understands that City is not responsible for construction delay or conflicts occasioned by the City's need to protect the public under any circumstances. City agrees to make a reasonable attempt to contact the Permittee prior to City entry to the Premises and PROW, except in case of emergency as defined by City.

18. Covenant to Hold Harmless. Permittee hereby agrees to indemnify and hold Owner harmless from any and all liability for damages to any person or property in and about the Premises, including but not limited to others using the Premises to the extent Permittee is responsible for the maintenance thereof and the safe operation of its equipment. Permittee agrees to secure liability insurance for at least $500,000, and name City as an additional insured on such policy. Permittee shall provide a Certificate of Insurance evidencing the City's insured status in advance of any construction activity in the right of way.

19. Assignment and Subletting. Permittee shall use the Premises throughout the entire term hereof, and any extension thereof for the purposes stated herein, and for no other purpose. Permittee shall not be permitted to assign or sublet any portion of the Premises without the express written consent of Owner.

20. Garbage and Rubbish Removal. Permittee will be responsible for the removal of all garbage and rubbish generated by Permittee. In connection therewith, Permittee agrees that it will promptly remove all such garbage and rubbish from the Premises.

21. Intent of Parties. It is the intent of the parties that Permittee shall be responsible for any and all costs which may be incurred in connection with the occupancy and the utilization of the Premises.

22. Construction. This agreement shall be governed and construed under the laws of the State of North Dakota.

23. Deposit. Permittee shall provide the City a deposit in the amount of $10,000 to cover all expenses that may be incurred by City as a result of Permittee's work in the PROW and on the Premises.

When a corrective measure is required by City, City will notify Permittee by phone and email. Failure of the Permittee to pay any billings provided for herein within 30 days from the due date shall result in City reducing the deposit for amount billed.

If at any time the amount of the deposit is reduced to less than $2,500, Permittee shall replenish the deposit to $5,000. Any deposit remaining at the end of the construction project will be reimbursed after acceptance by the Owner. Permittee must request final inspection and reimbursement of the remaining deposit in writing.

24. Lease Payment. Permittee agrees to pay City $1/SF for 33,790 SF for a total of $33,790. Payment is due upon execution of this Agreement and before Permittee shall use the Premises. City agrees to prorate the fee on a monthly basis, and shall refund to Permittee any full month(s) remaining in the event of early termination of this Agreement for the use of the Premises.

DATE:_____

OWNER:

City of Fargo, North Dakota. A North Dakota municipal corporation

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

Attest:_____
Steven Sprague, City Auditor

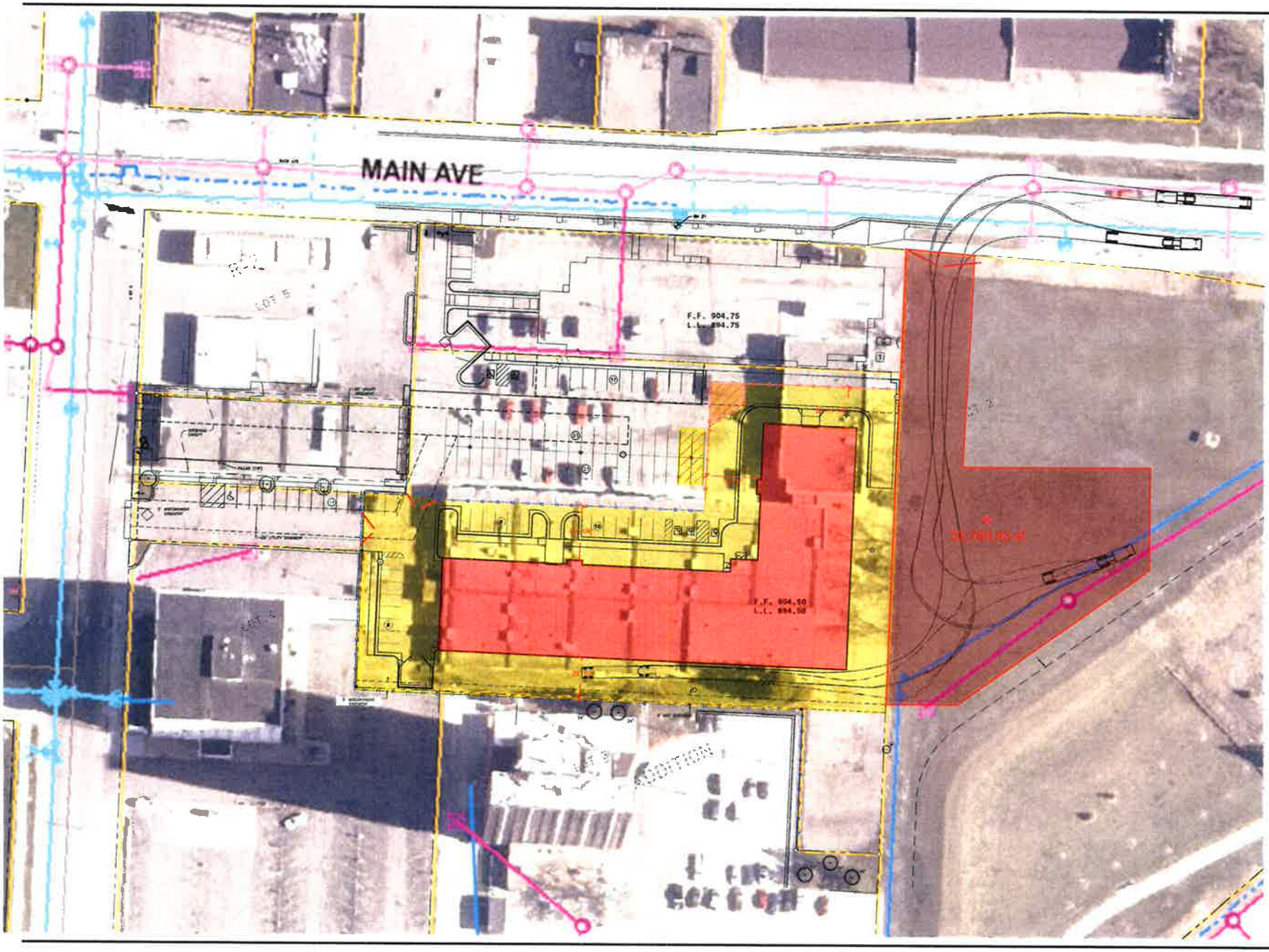
DATE: 7-8-21

PERMITTEE:

EPIC Gateway East Real Estate Holdings, LLC, a North Dakota Corporation.

By _____

Its: Member



ZERR BERG

gehrtz CONSTRUCTION SERVICES

MBN ENGINEERING
MECHANICAL • ELECTRICAL • CIVIL
503 7TH ST. N., SUITE 200
FARGO, ND 58102
PHONE: 701.478.6336
FAX: 701.478.6348

N W E S

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SCALE: 1 INCH = 30 FEET

REVISION SCHEDULE

NUMBER	DESCRIPTION	DATE

EPIC COMPANIES

EPIC GATEWAY EAST
MIXED-USE
FARGO, NORTH DAKOTA

STAGING PLAN - TURNING MOVEMENTS - MAIN AVE. ACCESS #1

Project No.: 20-036
Date: 2021.03.15

C3.0

(12)

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Type: Emergency Sewer Repair

Location: 23rd St and 1st Ave S

Date of Hearing: 7/19/2021

Routing	Date
City Commission	7/26/2021
PWPEC File	X
Project File	Aaron Edgar

The committee reviewed a communication from Project Manager, Aaron Edgar, regarding additional work required to complete the emergency sewer repair.

During the repair of the sanitary sewer, additional work to the surrounding aging infrastructure was needed in order to have a long-term effective repair in the amount of $28,488.87, bringing the total revised amount to $116,138.87.

Staff recommends approval of payment to Dirt Dynamics for the emergency repair.

On a motion by Tim Mahoney, seconded by Ben Dow, the Committee voted to recommend approval of the payment to Dirt Dynamics in the revised amount of $116,138.87.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve payment to Dirt Dynamics in the revised amount of $116,138.87 for the emergency sanitary sewer repair.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sewer Utility Funds

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

COMMITTEE	Present	Yes	No	Unanimous
				☑
Tim Mahoney, Mayor	☑	☑	☐	
Nicole Crutchfield, Director of Planning	☑	☑	☐	Mark Williams
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:

Brenda E. Derrig, P.E.
City Engineer

C: Kristi Olson

THE CITY OF Fargo FAR MORE

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

Memorandum

To: Members of PWPEC

From: Aaron Edgar, Project Manager

Date: July 13, 2021

Re: Emergency Sewer Repair at 23rd Street South/1st Avenue

Background:

Dirt Dynamics was approved to make an Emergency Sewer Repair for $87,650.00 at the intersection of 23rd Street South/1st Avenue.

During the repair of the Sanitary Sewer, additional work had to be completed in order to have a long-term effective repair. This additional work amounted to $28,488.87.

Recommended Motion:

Approve the additional repair work of $28,488.87, for a total of $116,138.87, paid by Sewer Utility Funds.

13

CITY OF FARGO
GENERAL FUND - BUDGET TO ACTUAL
THROUGH JUNE 2021
(UNAUDITED)

	2021 BUDGET	2021 ACTUAL	VARIANCE
REVENUES:			
Taxes	$ 31,016,017	$ 31,613,538	$ 597,521
Licenses & Permits	2,543,518	3,174,124	630,606
Fines & Traffic Tickets	1,019,566	854,678	(164,888)
Intergovernmental Revenue	6,298,009	5,951,516	(346,493)
Charges for Services	5,701,113	4,606,859	(1,094,254)
Interest	1,439,592	1,093,265	(346,327)
Miscellaneous Revenue	347,260	729,858	382,598
Transfers In	5,766,580	6,003,639	237,059
Total Revenues	**$ 54,131,655**	**$ 54,027,477**	**$ (104,178)**
EXPENDITURES:			
City Administrator	$ 4,413,170	$ 4,260,879	$ 152,291
Finance	3,579,602	3,148,570	431,032
Planning & Development	2,400,784	2,179,944	220,840
Public Works	8,090,329	6,898,580	1,191,749
Fire Department	6,288,904	6,340,025	(51,121)
Police	10,452,237	10,030,567	421,670
Health	5,518,400	5,498,029	20,371
Library	2,238,483	2,174,400	64,083
Commission	422,956	308,628	114,328
Civic Center	-	-	-
Social Services	914,601	232,606	681,995
Capital Outlay	220,956	95,206	125,750
Vehicle Replacement/IT	12,725	96,262	(83,537)
Contingency	(524,784)	(1,841)	(522,943)
Transfers Out	3,485,478	3,599,775	(114,297)
Total Expenditures	**$ 47,513,841**	**$ 44,861,630**	**$ 2,652,211**
Excess of Revenue Over (Under) Expenditures	**$ 6,617,814**	**$ 9,165,847**	**$ 2,548,033**

THE CITY OF Fargo FAR MORE

FINANCE OFFICE
PO Box 2083
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1333 | Fax: 701.476.4188
www.FargoND.gov

(14)

TO: BOARD OF CITY COMMISSIONERS

FROM: KENT COSTIN, DIRECTOR OF FINANCE KC

RE: TECHNOLOGY CONSULTANT SELECTION

DATE: JULY 22, 2021

The City of Fargo is making plans to update our core financial operations software in the next few years. This is a significant project that will require the assistance of a technology consulting firm that has experience in assessing our current municipal systems, creating strategic upgrade plans, and ultimately guiding a system conversion process.

This technology consulting engagement was approached using a request for proposals process. We received six proposals. They were evaluated by a team consisting of the IT Director, the Director of Finance, and the IBM iSeries Systems Administrator.

We recommend the selection of BerryDunn as our technology consulting firm due to their depth of experience in similar systems and projects in cities of similar size including the City of Sioux Falls, Minot, and Bloomington, MN.

The Finance Committee approved a preliminary scope of work to including Phase I preliminary project planning, and Phase II needs assessment with specific emphasis on managing our existing system during a key IT staff turnover in 2022. Deliverables include a needs assessment and recommendations report.

Funding has been included in the 2021 and 2022 budget for this task.

Suggested Motion:

Approve the selection of BerryDunn to serve as our technology consulting firm for planning and managing a financial operating systems upgrade project.

THE CITY OF Fargo FAR MORE

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

Public Health
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(15)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 14, 2021

RE: AGREEMENT FOR $5,000 WITH CENTER POINT TACTICAL, LLC, JOSH EBERT FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS

The attached agreement for services with Josh Ebert is for a maximum of $5,000 is to assist Fargo Cass Public Health fulfill the requirements of their City Readiness Initiative grant.

No budget adjustments are required for this contract.

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

Suggested Motion: Move to approve the agreement with Center Point Tactical LLC, Josh Ebert for CRI services.

DF/lls
Enclosure

THE CITY OF Fargo FAR MORE

AGREEMENT FOR SERVICES

Fargo Cass Public Health Prevent. Promote. Protect.

THIS AGREEMENT, effective the 1st day of July 2021, by and between Fargo Cass Public Health ("FCPH"); and Center Point Tactical LLC.

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

A. Term of Agreement: The parties entered into a written agreement for the period of July 1, 2021, through December 31, 2021.

B. Services to be provided by independent contractor:

1. Develop a schedule and plans to meet the requirements outlined in the Public Health Emergency Develop a schedule and plans to meet the requirements outlined in the Public Health Emergency Preparedness (PHEP) Operational Readiness Review Guidance on pages 6 through 11. Conduct three drills as required by Division of Strategic National Stockpile (DSNS) and submit the dates of the drills scheduled to NDDoH no later than September 10, 2021. Results of scheduled drills will be forwarded to the NDDoH no later than June 1, 2022, prior to submission by the appropriate method per the Center of Disease Control's requirement. After approval has been obtained by NDDoH, submit the appropriate documentation regarding the plans for drills and any other required reports by the appropriate method approved by the Center of Disease Control by no later than June 30, 2022.
2. Conduct one full-scale or functional mass prophylaxis dispensing exercise as approved by the NDDoH that includes all pertinent jurisdictional leadership and emergency support function leads, planning and operational staff, and all applicable personnel. Submit the resulting exercise data, after action report(s), improvement plans and other required reports to NDDoH for approval. After approval by NDDoH, submit documents by the appropriate method approved by the Center of Disease Control. The Functional/Full Scale exercise (FE / FSE) needs to be conducted only once over a 5-year period, currently 2019 – 2024.
3. Functional / Full Scale exercises and documents should be posted to the National Exercise Master Scenario Events List (NxMSEL).
4. Conduct one annual PHEP exercise incorporating access and functional needs (AFN) partners. The exercise requirement may be met by incorporating at least one AFN partner in a drill, a tabletop, a functional, a full-scale exercise, or during an incident or public health event in which the AFN partner participates. CRI jurisdictions must provide evidence that demonstrates involvement of AFN partners during an exercise, incident, or public health event.
5. Assemble State Strategic National Stockpile (SNS) and local City Readiness Initiative (CRI) planners to convene periodic CRI meetings to enable participants to engage in the exchange of CRI information, update SNS plans, educate and train volunteers and network to improve CRI program success.
6. Continue development and augmentation of Grantee's scalable plans with supporting infrastructure that is consistent with State plans so that the selected Metropolitan Statistical Areas (MSAs) are prepared to provide medical counter measures during an event.
    - Identify point of dispensing (POD) sites to accommodate the provision of antibiotics to the affected population.
    - Recruit volunteer staff for POD operations and populate the Public Health Emergency Volunteer/Medical Reserve Corps (PHEVR/MRC). Submit volunteer data in an approved format to NDDoH Emergency Preparedness and Response Office.
    - Orient and train volunteer staff (clinical and non-clinical) for POD operations. Training could include pre-event and/or just-in-time tools.
    - Conduct POD site surveys to ensure suitability of facilities in supporting POD operations. Operational manuals should be developed specific to each POD site.
    - Coordinate with state and local law enforcement to develop a comprehensive security plan.
    - Coordinate with jurisdictions across the MSA to ensure consistent health communication messaging and dissemination of public information.
    - Maintain plans that are consistent with State plans to provide prophylaxis through alternate methods to increase population throughput to decrease the burden on PODs. Examples include: Drive-thru POD, company prophylaxis, mobile mass prophylaxis teams, closed POD.
    - Determine threshold criteria for shifting from a clinical dispensing model to a non-clinical model of dispensing.

7. All plans must be available in the NDDoH HAN Document Library. CRI plans must be reviewed and updated annually.

C. **Reimbursement:** Center Point Tactical LLC shall be reimbursed $2,500 quarterly for the above services rendered for a total or maximum of $5,000 for total project detailed.

D. **Termination:** This Agreement may be terminated by either party upon the giving of thirty (30) days written notice.

E. **Confidentiality:** The independent contracting consultant agrees to not, directly or indirectly, disclose, make known, divulge, publish or communicate any individually identifiable health information or other confidential information to any person, firm or corporation without consent unless that disclosure is authorized under North Dakota law.

Special Considerations:

A. It is understood and agreed that the relationship created by this Agreement shall be that of independent contractor and contractee that shall not be deemed an employee of Fargo Cass Public Health for any other purpose.

B. The laws of the State of North Dakota shall govern this service agreement. I hereby certify that the above assurances and provisions of service have been reviewed and our agency has agreed upon the conditions as set forth.

C. It is understood any forms or paperwork required by Fargo Cass Public Health and the City of Fargo to receive payment for services will be completed as needed.

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

FARGO CASS PUBLIC HEALTH

Desi Fleming
Director of Public Health

Date 7/15/2021

Timothy J. Mahoney
Mayor, City of Fargo

Date

CENTER POINT TACTICAL LLC

Josh Ebert
Project Coordinator for Center Point Tactical LLC

Date 07-14-2021

THE CITY OF Fargo FAR MORE

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

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(16)

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 14, 2021

RE: NOTICE OF GRANT AWARD AGREEMENT WITH THE NORTH DAKOTA DEPARTMENT OF HEALTH FOR WATER POLLUTION – EPA BLOCK
CONTRACT NO. G21.019 CFDA NO. 66.605 $1,250

This is a request to approve the attached Notice of Grant Award for $1,250.00 with the North Dakota Department of Health for the water pollution program in southeastern North Dakota.

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

If you have questions, please contact me at 241.1380.

Suggested Motion: Move to approve the North Dakota Department of Health agreement for the water pollution program.

DF/lls
Enclosure

NOTICE OF GRANT AWARD

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

SFN 61628 (05-2019)

Grant Number G21.019	CFDA Name Performance Partnership Grants		CFDA Number 66.605
FAIN Number 99861720	Grant Type (Check One) ☒ Program ☐ R&D	Grant Start Date 8/1/2021	Grant End Date 6/30/2022
Federal Award Date 10/28/2019	Federal Awarding Agency Environmental Protection Agency		

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

Title of Project/Program Water Pollution – EPA Block	North Dakota Department of Environmental Quality (NDDEQ) Project Code 5531 EQ3992 31
Grantee Name Fargo Cass Health Unit	Project Director Karl Rockeman
Address 1240 25th St South	Address 918 E Divide Ave., 4th Floor
City/State/ZIP Code Fargo ND 58103-2367	City/State/ZIP Code Bismarck ND 58105-1947
Contact Name Desi Fleming, Director of Public Health	Contact Name Marty Haroldson
Telephone Number 701.241.1360	Telephone Number 701.328.5234
Email Address dfleming@fargond.gov	Email Address mharolds@nd.gov

	NDDEQ Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	$1,250	$417	$1,667
Previous Funds Awarded	$0	$0	$0
Total Funds Awarded	$1,250	$417	$1,667
Indirect Rate (Check One)	☐ Subrecipient waived indirect costs	☒ De minimus rate of 10%	☐ Negotiated/Approved rate of ___%

Scope of Service

Grantee will conduct Water Pollution Program activities and will act as a local point of contact for county commissioners, city staff, and planning and zoning staff as it relates to water pollution control requirements. Grantee will report spills and illegal dumping to the Department as it is made aware of such activities. In addition, Grantee will work with the Department on municipal wastewater systems, septic tank pumpers, and stormwater discharges and will conduct surveys and investigations as requested by the Department.

Reporting Requirements

Quarterly "Request for Reimbursement" reports are due within 15 days of the end of each quarter. All payments will be processed upon Department receipt and approval of progress reports (i.e., daily activity logs) and expenditure reports unless otherwise specified in Special Conditions. The expenditure report for the period ending June 30, 2022 must be received no later than July 15, 2022.

Special Conditions

Payments will be processed at seventy-five (75) percent of the total expenditures reported. Twenty-five (25) percent match funding is required by the Grantee. This funding is contingent upon continuation of current federal funding. Expenses incurred related to the scope of service of this agreement will be covered as early as 7/1/2021.

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

Evidence of Grantee's Acceptance		Evidence of NDDEQ Acceptance	
Date 07/14/21	Signature	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Public Health Director		Typed Name/Title of Authorized Representative L. David Glatt, P.E., Director	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative	

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

THE CITY OF Fargo FAR MORE

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17

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 12, 2021

RE: NOTICE OF GRANT AWARD FROM NORTH DAKOTA DEPARTMENT OF COMMERCE/DCS FOR GLADYS RAY SHELTER/ND HOMELESS GRANT FOR $26,700 CONTRACT NO. 4920-NDHG21

The following Notice of Grant Award from the North Dakota Department of Commerce is for the Gladys Ray Shelter for Homeless for $26,700 and recipient share of $6,675 for a total of $33,375.

No budget adjustments needed.

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

Suggested Motion: Move to approve the award from North Dakota Department of Commerce

DF/lls
Enclosure

FINANCIAL AWARD
NORTH DAKOTA DEPARTMENT OF COMMERCE/DCS
SFN 4623 (05/02)

PART I
BASIC INFORMATION & SIGNATORY SHEET

PROJECT TITLE North Dakota Homeless Grant	***INSTRUMENT TYPE*** ☑ Grant ☐ Contract ☐ Cooperative Agreement ***INSTRUMENT NUMBER*** 4920-NDHG21
RECIPIENT NAME AND ADDRESS Gladys Ray Shelter - City of Fargo 1519 1st Avenue South, Suite A Fargo, ND 58103	***GRANTOR*** ND Department of Commerce Division of Community Services 1600 East Century Ave, Suite 2, PO Box 2057 Bismarck, ND 58502-2057 Phone: (701) 328-5300
RECIPIENT FEDERAL IDENTIFICATION NUMBER 070265871	***BUDGET/PROJECT PERIOD*** 7/1/21 - 6/30/22 — ***DATE*** 07/09/21
RECIPIENT TYPE ☐ State Government ☐ Indian Tribal Government ☐ Local Government ☐ Individual ☐ Education ☐ For Profit Organization ☐ Hospital ☑ Other Nonprofit Organizations ☐ Other (Specify)_____	***FUNDING SOURCE*** ☐ Federal $_____ ☑ State $_____ ☐ Other $_____
FEDERAL AUTHORIZING LEGISLATION	***TYPE OF AWARD*** ☑ New ☐ Renewal ☐ Amendment No. ____
FEDERAL GRANT NUMBER	***CFDA NUMBER***
ADMINISTERING AGENCY Gladys Ray Shelter	***PROJECT ADMINISTRATOR*** Jan Eliassen — ***TELEPHONE*** (701) 364-0116

PROCUREMENT METHOD (CONTRACTS)

☐ Formal Bid ☐ Noncompetitive Negotiation ☐ Small Purchase ☐ Competitive Negotiation

FUNDING AUTHORIZATION

1. DCS Funds Awarded This Action	$ 26,700.00	
2. DCS Carryover Funds Authorized	$	
3. DCS Previous Awards This Project Period	$	
4. DCS Previous Deauthorizations This Project Period	$	
5. Current DCS Funds Authorized		$ 26,700.00
6. Recipient Share of Budget	$ 6,675.00	
7. Total Approved Budget		$ 33,375.00

REMARKS
All funds provided under this award must be expended by June 30, 2022.

This award agreement is entered into by the *RECIPIENT* and *GRANTOR* specified above. The *RECIPIENT* agrees to implement the tasks delineated in this award and will comply with all incorporated and referenced terms and conditions. The award consists of this Signatory Sheet, the attached Terms and Conditions, the attached Budget, and incorporated or referenced Work Program or Application.

EVIDENCE OF RECIPIENT ACCEPTANCE	***EVIDENCE OF GRANTOR ACCEPTANCE***	
Jan Eliassen Director of Harm Reduction	***NAME*** Bonnie Malo	
Desi Fleming Public Health Director	***TITLE*** Director	
Timothy J. Mahoney Mayor, City of Fargo	***SIGNATURE*** *X*	***DATE***

DATE

T

PART II
General Assistance Terms & Conditions
Updated 6/17/19

A. AVAILABILITY OF FEDERAL FUNDS - If disclosed on Part I, funds to be disbursed under this Award have been appropriated pursuant to the enabling federal legislation cited in Part I of this Award. Should federal funds become limited by the awarding federal agency, this grant may be amended accordingly.

B. STATE APPROPRIATION AUTHORITY - Funds authorized under this Award are subject to State Appropriation Authority.

C. SCOPE OF WORK - All work and activities authorized by this Award will be performed in accordance with the terms and conditions and work program attached, described, or referenced in this agreement. In addition, if a work or grant proposal was submitted, all work will comply with that which was described and requested in the work proposal unless otherwise noted as changed.

D. LIMITATIONS ON EXPENDITURES - The total cost of performing the tasks under this Award must not exceed the total funds authorized in Part I, Basic Information and Signatory Sheet, and will be limited to and in accordance with those delineated in the budget plan attached to this Award.

E. AMENDMENTS AND MODIFICATIONS - When necessary, the Recipient may request changes in the scope of services to be provided in this Award to include changes in the attached budget. These requests must be made in writing and supported with appropriate documentation. Such changes must not be undertaken until incorporated by written amendments to this Award.

F. RECORD RETENTION AND ACCESS - The DCS and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Recipient and of persons or organizations the Recipient may contract with which involve transactions related to this Award. The Recipient shall retain all documents, papers, records and books that are pertinent to this Award for a period of five (5) years following the submission of the final Financial Status Report or until all audit findings have been resolved, whichever is later unless otherwise stated in this agreement.

G. SUBCONTRACTING - The Recipient shall not assign, transfer, or subcontract professional service responsibilities (excluding approved construction and rehabilitation services) covered under this Award without prior written approval of the DCS.

H. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION - The assistance provided under this Award shall not be used in the payment of any bonus or commission for the purpose of the preparation of and/or activities associated with obtaining approval of the work proposal.

I. TERMINATION - The Recipient and the DCS may terminate this Award agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof and the cause for the termination. Unless otherwise noted in Part III of this award, the other party must receive such notice at least thirty (30) days before the effective date of termination. Cause for termination may include nonperformance of specified work activities and noncompliance with the terms and conditions of this Award. The DCS shall be liable only for work performed or services provided under this Award prior to the effective date of termination.

J. DEFAULT - If the Recipient fails to comply with the terms of this Award or fails to use the Award for only those purposes set forth herein, the DCS may, unless otherwise noted in Part III of this award:

1. After notice to the Recipient, suspend the award and withhold further payment or prohibit the Recipient from incurring additional obligations of grant funds, pending corrective action by the Recipient.

2. Terminate the Award in whole, or in part, at any time before the final award payment is made. The DCS shall promptly notify the Recipient in writing of the determination to terminate, the reason for such termination, and the effective date of the termination.

K. NONDISCRIMINATION - The Recipient agrees that it will be subject to and will comply with Title VI of the Civil Rights Act of 1964, Executive Order 11246 as amended by the Executive Orders 11375 and 12086, the Age Discrimination Act of 1975, and Title VIII of the Civil Rights Act of 1968. Under these acts, no person shall on the grounds of race, color, religion, sex, national origin or age be excluded from participation in, be denied the benefits or be otherwise subject to discrimination under this program.

L. SECTION 504 - The Recipient agrees that it will be subject to and will comply with Section 504 of the Rehabilitation Act of 1973. Under this act no person shall solely by reason of disability be excluded from participation in, be denied the benefits of or be subjected to discrimination under this program.

M. CODE OF CONDUCT - Recipients shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the Award and administration of contracts supported by federal funds. No employee, officer or agent of the Recipient shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent;

2. Any member of his immediate family;

3. His or her partner; or

4. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The Recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the Recipient's officers, employees, or agents, or by contractors or their agents.

PART III - PROGRAMMATIC TERMS AND CONDITIONS
North Dakota Homeless Grant (NDHG)
Updated – 7/9/2021

1. The grantee must obligate all grant funds within the award timeline of this Financial Award. At least one Request for Funds must be submitted to the DCS not less than once during each quarter of the program year. Failure to obligate or request reimbursement as specified may result in the termination of this award.

2. The grantee must submit a mid-term and final progress report to the DCS. The mid-term report is due January 31, 2022. Within 30 days following project completion, a final progress report must be submitted with a final cash request. Expenditure of funds must be reported by activity funded - Renovation; Rehabilitation or Conversion; Operational; and/or Essential Services. The Financial Status Report must reflect both federal and other funds, both cash and noncash.

3. The grantee must submit to DCS, within 60 days, verification of ownership of the property by the subgrantee or a lease agreement giving the subgrantee control of the property at <u>least</u> until the end of the project. (For rehab projects only).

4. Grantees providing emergency shelter in hotels or motels or other commercial facilities must certify that leases have been negotiated which provide that the living space will be rented at substantially less than the daily room rate otherwise charged by the facility, and that the grantee has considered using other facilities as emergency shelter and has determined that the use of the hotel or motel provides the most cost effective means of providing emergency shelter for the homeless in its jurisdiction.

5. The grantee is required to be readily accessible to and usable by persons with disabilities in accordance with Section 504 of the Rehabilitation Act and implementing regulations at 24 CFR Part 8; the Fair Housing Act and implementing regulations at 24 CFR Part 100; and Title II of the Americans with Disabilities Act and 28 CFR Part 35; where applicable.

6. Grantees, with the exception of Domestic Violence assistance providers, must input client data into the HMIS system as required by the Grantor and the Department of HUD. Domestic Violence assistance providers must use a comparable database.

7. Grantees, with the exception of Domestic Violence assistance providers, must use the centralized or coordinated assessment system.

8. The grantee must provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policy-making entity of the grantee, to the extent that the entity considers and makes policies and decisions regarding any facilities, services, or other assistance that receive funding under NDHG. If unable to meet the requirement above, it must develop and implement a plan to consult with

homeless or formerly homeless individuals in considering and making policies and decisions regarding any facilities, services, or other assistance that receive funding under NDHG. This involvement may include employment or volunteer services.

9. The Grantee must comply with provisions contained in 24 CFR 576.23 and Executive Order 13559 regarding faith-based organizations as outlined in Attachment A of this award.

10. Youth aged 24 and under seeking assistance shall not be required to provide third party documentation to establish their eligibility under 42 U.S.C. 11302(a) or (b) to receive services. Unaccompanied youth aged 24 and under or families headed by youth aged 24 or under who are living in unsafe situations may be served by youth-serving providers.

11. The Grantee will maintain its DUNS number and SAM registration throughout the term of this agreement.

12. Payment of NDHG funds will be completed as a reimbursement. To ensure NDHG funds are being utilized and subrecipients are meeting the required expenditure deadline, subrecipients must request reimbursement at least once each quarter, following the NDHG Drawdown Schedule. Requests must be submitted in a format approved by DCS, and must include a detailed breakdown of expenses incurred and NDHG funds requested. Copies of all expenses and documentation of payment must be submitted for verification purposes. Lack of documentation or explanation may result in a delay in payment.

NDHG Drawdown Schedule		
Quarter	**Dates**	**Percentage Drawn**
1	July 1 - September 30	25%
2	October 1 - December 31	50%
3	January 1 - March 31	75%
4	April 1 - June 30	100%

PART IV

SCOPE OF WORK AND PROJECT BUDGET

7/29/13

Name of Grantee Gladys Ray Shelter - City of Fargo					Instrument Number 4920-NDHG21					
Activity	CDBG	HOME	ESG	NDHG	HOPWA	Other Federal	State/ Local	Private	Other*	Total
Shelter Operations										
Shelter Operations				13,350.00						13,350.00
Essential Services				13,250.00						13,250.00
Match Funds									6,675.00	6,675.00
Administration										0.00
TOTAL	0.00	0.00	0.00	26,600.00	0.00	0.00	0.00	0.00	6,675.00	33,275.00

*Source of Other Funds See Application

PART V –NDHG
STATEMENT OF ASSURANCES
Updated 7/9/21

North Dakota Homeless Grant (NDHG)
Certifications by the Chief Executive Officer

I, Jan Eliassen, Chief Executive Officer of Gladys Ray Shelter, Fargo Cass Public Health, certify that the grantee will ensure the matching supplemental funds required by the regulation at 24 CFR Parts 91 and 576. I have attached to this certification a description of the sources and amounts of such supplemental funds.

I further certify that the grantee will comply with 24 CFR Parts 91 and 576 Emergency Solutions Grants Program Interim Regulations (see attached).

I further certify that the grantee will not:

1. Conduct renovation, major rehabilitation, or conversion of any building; listed on the National Register of Historic Places; located in a historic district; immediately adjacent to a property listed on the National Register; or deemed to be eligible for inclusion on the National Register by the State Historic Preservation Officer;

2. Conduct any such activity taking place in a 100-year floodplain designated by map by the Federal Emergency Management Agency;

3. Conduct any such activity which will jeopardize the continued existence of an endangered or threatened species designated by the Department of the Interior's Fish and Wildlife Service, or by the Department of Commerce's National Maritime Fisheries Service, or affecting the critical habitat of such a species;

Additionally, I certify that use of North Dakota Homeless Grant amounts will comply with the following additional requirements:

1. ***Nondiscrimination and Equal Opportunity***

   a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C.2002d) and implementing regulations issued at 24 CFR Part 1;

   b. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794);

   c. The requirements of Executive Order 11246 regarding anti-discrimination in

employment decisions on the basis of race, color, religion, sex or national origin, and the regulations issued under the Order at 41 CFR Chapter 60; and

d. The requirements of Section 3 of Housing and Urban Development Act of 1968, 12 U.S.C. 170lu (see Section 570.607(b) of this Chapter); and

e. The requirements of Executive Orders 11625 and 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this part.

2. ***Applicability of OMB Circulars***. The policies, guidelines, and requirements of OMB Circular 2 CFR Part 200 Uniform Guidance as it relates to the acceptance and use of emergency solutions grant funds.

3. ***Uniform Federal Accessibility Standards***. For major rehabilitation or conversion, the Uniform Federal Accessibility Standard at 24 CFR Part 40, Appendix A.

4. ***Lead-based paint***. The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Sections 4821-4846) and implementing regulations at 24 CFR Part 35. In addition, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

   a. Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and

   b. Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

5. ***Conflicts of Interest***. In addition to conflict of interest requirements in OMB 2 CFR Part 200 Uniform Guidance, no person (1) who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency solutions grants amounts and who exercises or has exercised any functions or responsibilities with respect to assisted activities; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

6. **Use of debarred, suspended, or ineligible contractors**. The provisions of 24 CFR Part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

7. ***Flood Insurance***. No site proposed on which renovation, major rehabilitation, or conversion of a building is to be assisted under this part, other than by grant amounts allocated to the State, may be located in an area that has been identified by the Federal

Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and the regulations thereunder (44 CFR Parts 59-79) or less than a year has passed since FEMA notification regarding such hazards, and the grantee will ensure that flood insurance on the structure is obtained in compliance with Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4401 et seq.).

8. ***Audit.*** The financial management system used by a State, unit of general local government or nonprofit organization that is a grantee or State recipient shall provide for audits in accordance with Subpart (F) of 2 CFR Part 200 Uniform Guidance.

9. ***Coastal Barriers.*** In accordance with the Coastal Barrier Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

10. ***Intergovernmental Review.*** The requirements of Executive Order 12372 and the regulations issued under the order at 24 CFR Part 52, to the extent provided by FEDERAL REGISTER notice in accordance with 24 CFR 52.3.

11. ***Displacement.*** A grantee or State or nonprofit recipient may not expend NDHG grant funds for any activities that would result in the displacement of persons or businesses.

I further certify that the submission of an application for a North Dakota Homeless Grant is authorized under State and/or local law and that the grantee possesses legal authority to carry out North Dakota Homeless Grant activities in accordance with the conditions of this award.

Jan Eliassen	Director of Harm Reduction Services
(Name)	(Title)
	7/13/21
(Signature of Chief Executive Officer)	(Date)

Attachment A

EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
NORTH DAKOTA HOMELESS GRANT (NDHG)

Provisions for Inclusion in ESG/NDHG Agreements with Grant Recipients that are faith based organizations or that may contract with faith based organizations in accordance with 24 CFR 576.23.

1. The Recipient may not discriminate against an organization on the basis of the organization's religious character or affiliation.

2. Organizations that are directly funded under this award may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of its programs or services funded under this award. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this award, and participation must be voluntary for the beneficiaries or the programs or services provided under this award.

3. A religious organization that receives ESG/NDHG funds will retain its independence from governmental entities and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use ESG/NDHG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide ESG/NDHG funded services, without removing religious art, icons, scriptures, or other religious symbols. The faith-based organization may retain its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

4. The Recipient will not discriminate against program beneficiaries or prospective program beneficiaries on the basis of religion or religious belief.

5. ESG/NDHG funds may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. Funds may be used for the rehabilitation of structures that are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, ESG funds may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities in accordance with applicable cost accounting circulars. Sanctuaries,

chapels, or other rooms that an ESG/NDHG funded religious organization uses as its principal place of worship are ineligible for ESG/NDHG funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).

Homeless Certification for the North Dakota Homeless Grant (NDHG) And Emergency Solutions Grant (ESG)

I certify that all individuals served by the North Dakota Homeless Grant are eligible beneficiaries that meet at least one of the definitions of homeless, homeless individual or homeless person as defined in Section 103 of 42 USC 11302.

UNDER THE ACT – the term "homeless", "homeless individual", and "homeless person" means –

	Category 1	Literally Homeless	(1) Individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) Has a primary nighttime residence that is a public or private place not meant for human habitation; (ii) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or (iii) Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
	Category 2	Imminent Risk of Homelessness	(2) Individual or family who will imminently lose their primary nighttime residence, provided that: (i) Residence will be lost within 14 days of the date of application for homeless assistance; (ii) No subsequent residence has been identified; and (iii) The individual or family lacks the resources or support networks needed to obtain other permanent housing.
	Category 3	Homeless under other Federal statues	(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who: (i) Are defined as homeless under the other listed federal statutes; (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the homeless assistance application; (iii) Have experienced persistent instability as measured by two moves or more during the preceding 60 days; and (iv) Can be expected to continue in such status for an extended period of time due to special needs or barriers.
	Category 4	Fleeing/ Attempting to Flee DV	(4) Any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence; (ii) Has no other residence; and (iii) Lacks the resources or support networks to obtain other permanent housing.

Signature

7/13/21
Date

Jan Eliassen
Printed Name

Director of Harm Reduction Services
Title

1519 1st Ave South
Address

Gladys Ray Shelter/ Fargo Cass Public Health
Agency Name

Fargo ND 58103
City, State, Zip Code

701.476.4117
Phone # (including area code)

THE CITY OF Fargo FAR MORE

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

(18)

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

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: DESI FLEMING
DIRECTOR OF PUBLIC HEALTH

DATE: JULY 22, 2021

RE: NOTICE OF GRANT AWARD FROM NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR GARDENING IN A CHILD CARE CSETTING, FOR $10,000 GRANT NUMBER G21.262, CFDA 93.898

The following Notice of Grant Award for $10,000 from the North Dakota Department of Health and Human Services is for the grantee to develop a curriculum for gardening education to increase healthy food choices.

No budget adjustments are necessary.

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

Suggested Motion: Move to approve the award from North Dakota Department of Health and Human Services

DF/lls
Enclosure

NOTICE OF GRANT AWARD

NORTH DAKOTA DEPARTMENT OF HEALTH

SFN 53771 (01-2020)

Grant Number G21.262	CFDA Name Cancer Prevention and Control Programs for State, Territorial, and Tribal Organizations		CFDA Number 93.898
FAIN Number NU58DP006282	Grant Type (Check One) ☒ Program ☐ R&D	Grant Start Date 8/1/2021	Grant End Date 6/29/2022
Federal Award Date 5/10/2021	Federal Awarding Agency Department of Health and Human Services		

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

Title of Project/Program Gardening in the Child Care Setting	North Dakota Department of Health (NDDoH) Project Code 4521 HLH 5212 03
Grantee Name Fargo Cass Public Health	Project Director Jesse Tran
Address 1240 25th St S	Address 600 East Boulevard Avenue, Dept. 301
City/State/ZIP Code Fargo, ND 58103	City/State/ZIP Code Bismarck, ND 58505-0200
Contact Name Larry Anenson	Contact Name Jesse Tran
Telephone Number 701-241-8575	Telephone Number 701-328-2419
Email Address LAnenson@FargoND.gov	Email Address jtran@nd.gov

	NDDoH Cost Share	Grantee Cost Share	Total Costs
Amount Awarded	$10,000	$0	$10,000
Previous Funds Awarded	$0	$0	$0
Total Funds Awarded	$10,000	$0	$10,000
Indirect Rate (Check One)	☐ Subrecipient waived indirect costs	☒ De minimus rate of 10%	☐ Negotiated/Approved rate of %

Scope of Service

Grantee will develop a curriculum for gardening education to increase healthy food choices. Grantee will work with local child care centers to develop a curriculum and utilize professional graphic design and visual strategist. Grantee will develop an education module for online delivery and approved through Growing Futures for use in continuing education.

Reporting Requirements

Grantee will complete monthly progress survey via Qualtrics by the 15th of the following month.
Grantee will provide an interim written progress report of activities completed by December 31, 2021.
Grantee will provide a final written progress report of activities completed by July 15, 2022.
Grantee will submit an expenditure report at least quarterly via the Program Reporting System (PRS).
Final expenditure report for the period ending June 29, 2022, must be received by July 15, 2022.
Reimbursement will be processed upon Department approval of expenditure reports and progress reports of services completed.

Special Conditions

None.

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

Evidence of Grantee's Acceptance		Evidence of NDDoH Acceptance	
Date 07/22/2021	Signature Desi Fleming	Date	Signature
Typed Name/Title of Authorized Representative Desi Fleming, Public Health Director		Typed Name/Title of Authorized Representative Susan M. Mormann, Director, Division of Community and Health Systems	
Date	Signature	Date	Signature
Typed Name/Title of Authorized Representative Timothy J. Mahoney, Mayor, City of Fargo		Typed Name/Title of Authorized Representative Brenda M. Weisz, Chief Financial Officer	

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

THE CITY OF Fargo FAR MORE

HUMAN RESOURCES DEPARTMENT
Fargo City Hall
225 4th Street North
Fargo, ND 58102
Phone: 701.241.1321 | Fax: 701.476.6707
www.FargoND.gov

19

To: Board of City Commissioners

From: Jill Minette JM
Director of Human Resources

Re: Request for Out-of-Grade Pay

Date: July 20, 2021

David Zibolski, Police Chief, submitted a request for Michael Sanden, Police Sergeant (grade 15P), to receive out-of-grade pay while acting as an interim Lieutenant (grade 17P) in a non-exempt capacity due to recent promotions. The additional cost of out-of-grade pay is $2.23 per hour. The request is retroactive to July 12, 2021 and will be in effective for a period of at least 60 days.

This request has been reviewed and approved by the City Administrators.

Suggested Motion:

Approve the request to award out-of-grade pay to Michael Sanden effective July 12, 2021.

CITY OF Fargo

INFORMATION SERVICES
200 Third St N
FARGO, ND 58102
PHONE: 701-476-6700
FAX: 701-241-8253

(20)

July 21, 2021

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

Dear Commissioners;

The City of Fargo has been using the COGNOS report writing software for many years. We have reports running on several versions of the COGNOS software.

We need to update the reports running on the older and outdated version of the COGNOS software so that they run in the current version.

Updating the older COGNOS reports to the current version of the COGNOS software is not a simple process. So, we will need to contract with a vendor to help us with this process.

I have found a vendor, NewIntelligence, that does the conversion processes that we need. They have estimated the costs to convert our COGNOS reports to the latest release will be $65,520.

Funding to cover the cost of this conversion is available in the current budget.

Suggested Motion:

Direct Information Services staff to accept the NewIntelligence proposal for the conversion of the COGNOS reports.

Thank you,

R. M. Gronneberg

Ron Gronneberg
CIO, City of Fargo

SSP21093

June 28th, 2021

City of Fargo
225 4th Street North
Fargo, ND 58102
Tel.: (701) 241-1312
Attn: Ron Gronneberg

Subject: IBM Cognos Business Intelligence Services

Ron,

Following our recent discussions, we wish to hereby confirm the terms and conditions with respect to City of Fargo (the "Client") engaging the services of NewIntelligence Inc. ("NewIntelligence"), as follows, namely:

1. The Client hereby engages NewIntelligence to perform the following services (the "Services") and NewIntelligence hereby accepts such engagement (the "Mandate"), namely:

   - IBM Cognos BI Consulting Services (see Annex A)
   - IBM Cognos BI Project Management Services (see Annex A)

2. The term of the Mandate will be not less than 320 hours (the "Term"), commencing on July 12th, 2021;

3. In consideration for its performance of the Services, the Client will pay NewIntelligence a fee based upon a tiered hourly rate.
   Client will pay NewIntelligence a fee based upon an hourly rate of:

   Phase A:
   (i) $202.50 per hour for 96 hours of IBM Cognos BI Consulting Services; and
   (ii) $220.50 per hour for 16 hours of IBM Cognos BI Project Management Services;

   Phase B:
   (iii) $202.50 per hour for 184 hours of IBM Cognos BI Consulting Services; and
   (iv) $220.50 per hour for 24 hours of IBM Cognos BI Project Management Services;

   plus all applicable taxes (the "Rate") for a total fee based upon the Term of $ 65,520.00 USD plus applicable taxes (the "Fee").
   NewIntelligence shall invoice the Client and payment shall be effected upon presentation of NewIntelligence's invoice.
   Upon signature of this agreement, the Client will remit to NewIntelligence an advance equal to Phase A of the Fee (the "Advance Phase A") on account of the Fee.
   Upon approval of Phase A completion, the Client will remit to NewIntelligence an advance equal to Phase B of the Fee (the "Advance Phase B") on account of the Fee;

4. In the event that:

   (i) the Mandate requires more hours than the Term as a result of any factor not attributable to NewIntelligence's fault; or

   (ii) the Client wishes NewIntelligence to perform additional services not forming part of the Services;

   then, the Client shall pay NewIntelligence for any additional hours over and above the Term at the Rate (the "Additional Fee"), which Additional Fee shall be invoiced separately from the Fee;

5. The Client shall be entitled to terminate the Mandate at any time upon ten (10) business days notice and, in such event, the Client shall pay to NewIntelligence, on the termination date, all amounts that have been invoiced and remain outstanding;

6. The Client hereby acknowledges that NewIntelligence makes no warranties with respect to the Services, such that all warranties (whether legal or contractual, express or implied) are hereby excluded. In no event shall NewIntelligence be liable to the Client for special, indirect, incidental or consequential damages including loss of profits of any kind arising out of this agreement, its termination and the performance of the Services, and accordingly, the Client acknowledges that NewIntelligence maximum cumulative liability in connection with this agreement shall, in no event whatsoever, exceed the total amount of the Fee and Additional Fee paid to NewIntelligence hereunder.

7. The Client hereby agrees and undertakes not to solicit and/or engage any of NewIntelligence's employees or contractors to perform, for their own account, any of the Services or any similar business intelligence and/or data warehousing services (the "Non-Solicitation Undertaking"). The Client hereby expressly acknowledges that, in addition to any and all other remedies available, NewIntelligence shall be entitled to obtain injunctive relief from any Court of competent jurisdiction to enforce the Non-Solicitation Undertaking.

Montreal
1111 Boul. Dr. Frederik-Philips, Suite 600
Saint Laurent, Québec H4M 2X6
(514) 315 2555
(514) 315 2445

Toronto
1 Yonge Street, Suite 1801
Toronto, Ontario M5E 1W7
(416) 840 8499
(416) 840 8431

www.newintelligence.ca

NEWINTELLIGENCE
MONTREAL • TORONTO

The parties hereto acknowledge that they have requested and are satisfied that the foregoing as well as all notices, actions and legal proceedings be drawn up in the English language.

Kindly sign and return a copy of this letter to confirm your agreement with the terms and conditions herein set forth.

We trust the foregoing is satisfactory and look forward to working with you.

Yours truly,

NEWINTELLIGENCE INC.
Per:

Corey Mendelsohn, President

AGREED AND ACCEPTED:

City of Fargo

Per:

Signature

Printed Name

Title

Purchase Order

Montreal
1111 Boul. Dr. Frederik-Philips, Suite 600
Saint Laurent, Quebec H4M 2X6
(514) 315 2555
(514) 315 2445

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1 Yonge Street, Suite 1801
Toronto, Ontario M5E 1W7
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NEWINTELLIGENCE
MONTREAL • TORONTO

Annex A: Cognos Migration Project

Task Description			Phase A Cognos 10 to 11 EST. (hrs)	Phase B Cognos 7 to 11 EST. (hrs)
BACKUP				
	1	ContentStore backups of current 7.5/10.2.2/11		
	2	Custom file backups		
	3	Configuration exports		
	4	Fine tuning analysis		
		Sub-Total Estimated Hours - Backup	**8.0**	**0.0**
INSTALLATION (7.5/8.2/10.2.2/11)				
	5	BI Enterprise installation		
	6	BI Enterprise configuration		
	7	BI Enterprise client tools setup		
		Sub-Total Estimated Hours - Installation	**24.0**	**24.0**
MIGRATION				
	8	C7.5 Impromptu 5x catalogs migration		
	9	C7.5 Impromptu reports migration (approx. 250)		
	10	C10.2.2 to C11 content migration		
		Sub-Total Estimated Hours - Migration	**16.0**	**120.0**
SUPPORT				
	11	C7.5 post-migration converted reporting support		20.0
	12	CQM to DQM migration and support	28.0	
		Sub-Total Estimated Hours - Backup	**28.0**	**20.0**
TESTING				
	13	C11 BI Enterprise post-migration testing		
		Sub-Total Estimated Hours - Testing	**12.0**	**12.0**
DOCUMENTATION				
	14	Documenting current & migrated environments		
		Sub-Total Estimated Hours - Documentation	**8.0**	**8.0**
Project Management				
	15	Project management & communications	**16.0**	**24.0**
Sub-Total Estimated Hours for BI Migration			**96.0**	**184.0**
Sub-Total Estimated Hours for BI Migration Project Management			**16.0**	**24.0**

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Saint Laurent, Quebec H4M 2X6
(514) 315 2555
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(416) 840 8499
(416) 840 8431

www.newintelligence.ca

(21)

INFORMATION SERVICES
200 Third St N
FARGO, ND 58102
PHONE: 701-476-6700
FAX: 701-241-8253

July 22, 2021

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

Dear Committee Members;

Most of our facilities are connected to our network using fiber optic cables. We have a few gaps, though, at some of the Water Treatment Plant locations and with the new Landfill Maintenance Building & Household Hazardous Waste Building.

We issued an RFV to identify a vendor to fill these gaps in fiber connectivity.

Four vendors submitted proposals in response to our RFV. Of those, Strata Corporation was the lowest priced proposal at $37,350.

Funding for this will be covered by the Water Treatment Plant and Solid Waste for their respective routes.

Suggested motion: Authorize IS to award the contract to Strata Corporation.

Thank you,

RM Gronneberg

Ron Gronneberg
CIO, City of Fargo

RFV21124

2021 RFV for Conduit and Fiber for the City of Fargo

Base Bid	Routes		Cost:	PARSONS ELECTRIC	STRATA	MVM	Ernst
Part 1	1	52nd Ave to Sheyenne Lift Station	$	$17,300.00	$8,300.00	$18,646.63	$15,380.18
	2	64th Ave S Water Tower (WT10)	$	$10,800.00	$900.00	$4,210.00	$2,400.00
	3	32nd Ave S/43rd St. Water Tower (WT11)	$	$10,700.00	$2,800.00	$5,075.85	$5,049.88
	4	45th St Water Tower (WT07)	$	$14,000.00	$2,800.00	$4,792.93	$4,901.39
		Part 1 Total:	**$**	$52,800.00	$14,800.00	$32,725.41	$2,731.45
Part 2	5	7th Ave N to Maintenance Building & Househc	$	$33,200.00	$22,550.00	$30,738.40	$28,627.43
		Part 2 Total:	$	$33,200.00	$22,550.00	$30,738.40	$28,627.43
Any Added Addendums			$	$86,000.00	**$37,350.00**	$63,463.81	$56,358.88
		Addendum Total:	$				
		Base Bid Total:	$				

THE CITY OF Fargo FAR MORE

(22)

Fargo Inspections
City of Fargo
225 Fourth Street North
701-241-1561
fax 701-241-1526

Memorandum

DATE: July 22, 2021

TO: Mayor Mahoney and Board of City Commissioners

FROM: Bruce Taralson, Inspections Director BT

SUBJECT: Dangerous Building Notice and Order – 711 10 Avenue N., Fargo, ND 58102

The property owner of 711 10 Avenue N., Fargo, ND the property that is subject of the attached Notice, is deceased, and therefore my order has not been fulfilled to either obtain a permit to repair or remove the damaged structure at said location within the time allowed. In accordance with Fargo Municipal Code Article 21-0405, it will now be necessary for you to set a date for a hearing of this order at which time interested parties will be able to appear and show cause why the building should not be removed and the costs of that removal assessed against this property.

The recommendation is **to make a motion, in accordance with FMC Article 21-0405, to set Monday, August 9, 2021 at 5:15PM as the date and time for the hearing regarding the dangerous building order for the structure located at 711 10 Avenue N., Fargo, ND 58102.**

Fargo Inspections

City of Fargo
225 4th Street North
701-241-1561
701-476-6779 fax

THE CITY OF Fargo FAR MORE

NOTICE OF DANGEROUS BUILDING

TO: UPTOWN LOFTS LLC
3560 6TH ST E
WEST FARGO, ND 58078-5429

YOU ARE HEREBY Given Notice of the following:

1. That this Notice is being given to you pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings.

2. That the building with which this Notice is concerned is commonly known as 711 10 Ave N, and is located on that tract of land in the city of Fargo, more particularly described as follows: CHAPINS-AUDITORS SUB LOT A BLK 16

AUDITOR'S SUBD
(hereinafter referred to as "the building")

3. That an inspection was made of the building on APRIL 30TH, 2021 by Lynne Olson, Building Inspector, of the City of Fargo.

4. That the building inspector for the City of Fargo has found the building, consisting of a two-story, wood-framed structure to be a Dangerous Building within the standards set forth in the Fargo Municipal Code, Article 21-04, Dangerous Buildings and the International Property Maintenance Code, Section 108.1.5 concerning Dangerous Structures and the International Building Code section 116 Unsafe Structures and Equipment.

5. This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, or mortgagee of this building and all other persons having an interest in said building as shown by the records of the register of deeds of the county of Cass. It is unlawful to remove this notice until such notice is complied with. Source: 1952 Rev. Ord. 21-0404.

6. That the owner of the building must demolish the building within 20 (twenty) days from the date of this notice or obtain a permit to repair. To obtain a permit, see 'Conditions Found Statement' below.

7. That the building is unsafe and is a dangerous building in the following respects: See 'Conditions Found Statement' below.

8. The building is unsafe and constitutes a public nuisance pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings and the International Property Maintenance Code and International Building Code as adopted by Article 21-0101 of the Fargo Municipal Code.

9. You are further given Notice that unless the building is demolished within the time period set forth herein, the City of Fargo will take such steps as are necessary to cause said building to be demolished pursuant to Fargo Municipal Code, Article 21-04 concerning Dangerous Buildings, International Property Maintenance Code, and the International Building Code and the owner will be assessed such costs as are provided for therein.

10. Order for vacation of building. The undersigned building official has determined that the building or structure must be vacated as required by Section 108.2 of the International Property Maintenance Code, 2018 edition. Therefore, it is hereby ordered that the building or structure shall be vacated immediately, and remain vacated, on this 4th day of May, 2021.

11. Order to secure building. The undersigned building official has determined that the building must remain secured. Therefore, it is hereby ordered that all means of entering the building remain secured to prevent unauthorized entrance by Monday, May 10th, 2021. **An inspector will continue to verify compliance.** Failure to keep the building secured will result in the City of Fargo hiring an independent contractor to secure the building. All expenses for securing the building will be assessed against the property. Deadline to secure the building by May 10th, 2021.

12. Application for Appeal. Section 111.1 of the International Property Maintenance Code states that any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on the claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Dated this 4th day of May, 2021.

Conditions Found Statement

On April 30th, 2021 Building Inspector Lynne Olson, was present at 711 10 Ave N, Fargo, ND to address a complaint investigation for squatters in the building. The following violations were found:

- Fire damaged entire lower level of building
- Water has been shut off on 2/10/2021
- Signs of squatters in main and accessory structures
- Multiple boarded up windows
- Appears squatters entering building in NE corner. Boards removed.
- Accumulation of junk furniture and other misc. items on property
- Drug paraphernalia on property, including needles
- Graffiti on outbuilding
- Signs of rodent infestation

The following action must be taken:

- Provide engineering on all systems and obtain a permit to repair and make repairs by permit deadline -or-
- Demolish the structure within the deadline provided in this notice.

Lynne Olson
Building Inspector
City of Fargo, ND

Bruce Taralson
Inspections Director

May 4th 2021
Date Signed

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

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

Re: Notice of Dangerous Building – 711 10 Avenue N., Fargo, ND
CM Receipt#: 9214 8901 9403 8339 1481 16

Gretchen Morlan, being first duly sworn and being of legal age, deposes and says that on the 4th day of May, 2021, she served the attached notice, upon Uptown Lofts LLC, by placing true and correct copies thereof in an envelope addressed as follows:

Uptown Lofts LLC
3560 6 Street E
West Fargo, ND 58078-5429

and deposited the same, with postage prepaid, in the United States mail at Fargo, North Dakota, Certified Mail.

Gretchen Morlan

Subscribed and sworn to before me this 4th day of May, 2021.

Notary Public
Cass County, North Dakota

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

(SEAL)

UNITED STATES POSTAL SERVICE.

Mailer: City of Fargo

Date Produced: 05/10/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8339 1481 16. Our records indicate that this item was delivered on 05/06/2021 at 02:50 p.m. in WEST FARGO, ND 58078. The scanned image of the recipient information is provided below.

Signature of Recipient : RS MH

CV 19

Address of Recipient : 3560 6TH ST E WEST FARGO, ND 58078

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

UPTOWN LOFTS LLC
3560 6TH ST E
WEST FARGO ND 58078-5429

Customer Reference Number: C2673952.15412584

AFFIDAVIT OF SERVICE

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

Re: Posting of Dangerous Building Notice – 711 10 Avenue N., Fargo, ND 58102

Lynne Olson, being first duly sworn and being of legal age, deposes and says that on the 4th day of May 2021, she posted the attached notice upon the building located at the following address:

711 10 Avenue N.
Fargo, ND 58102

Lynne Olson

Subscribed and sworn to before me this 4th day of May, 2021.

STEVEN SPRAGUE
Notary Public
State of North Dakota
My Commission Expires Aug. 13, 2023

Notary Public
Cass County, North Dakota

(SEAL)

THE CITY OF Fargo FAR MORE

Planning & Development
225 4th Street North
Fargo, ND 58102
Office: 701.241.1474 | Fax: 701.241.1526
Email: planning@FargoND.gov
www.FargoND.gov

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MEMORANDUM

TO: Fargo City Commission

FROM: Mark Williams, Assistant Planning Director

DATE: July 22, 2021

SUBJECT: Change Order #1 and #2 for the Mid America Steel Demolition

During the demolition of the Mid America Steel site, vermiculite insulation was discovered in the cinder block walls of buildings 3 and 4. In addition, transite was discovered behind the metal siding on building 16. Both of these items were not identified in the report prepared by Legend and therefore not included in the hazardous waste remediation plan. Since these items were unknown till now, they were not included in the original bid from Rachel Contracting.

Change Order #1 is in the amount of $5,160 and will remediate the discovered transite. Change Order #2 is in the amount of $60,000 and will remediate the vermiculite discovered in the block walls.

Recommendation: Approve Change Order #1 and Change Order #2 to remediate the unforeseen hazardous waste materials discovered during the project.

EQUAL HOUSING OPPORTUNITY

RACHEL | COMMITTED TO SAFETY

CHANGE ORDER REQUEST

Change Order Request #: 1Rev1
Date: July 22, 2021
Rachel Project #: 21044

TO: City of Fargo
225 4th Street
Fargo, North Dakota 58102

PROJECT: Mid America Steel Phase 1 Abatement and Phase 2
Selective Demolition
92 Northern Pacific Avenue North
Fargo, North Dakota 58102

ITEM	DESCRIPTION	ADD/(DEDUCT)	AMOUNT
1	**Rachel Contracting can remove & dispose of vermiculite insulation inside the walls of building 3 / 4 on a Time & Material basis at the following rates:** **Initial Removal vermiculite insulation:** **Mobilization @ $1,056.00 / EA** **Asbestos Worker @ $144.00 / HR** **Disposal: 40 yd Rolloff @ $720.00 / EA** **Removal of CMU Wall with residual vermiculite as asbestos:** **Asbestos Worker @ $144.00 / HR** **Foreman @ $155.00 / HR** **336 Excavator w/ Operator @ $271.00 / HR** **Tri-Axle Truck @ 130.00 / HR** **Quad-Axle Truck @ 140.00 / HR** **Per-diem @ $150.00 / Day** **Any other materials, equipment, subs, landfill fees, etc. will be billed at cost plus 20% mark up.** **Notes:** 1. Raters are based on 8 hour shifts. Any overtime will billed at an additional $40.00 per hour. 2. Schedule: add 1 week 3. If approved we can start on Monday 7/23/21. 4. Performance & Payment Bond @ 1% 5. **Budget Estimate for the above work is $60,000.00. Please keep in mind the actual price may be more or less than $60,000.00.**	ADD	To Be Determined

TOTAL CHANGE ORDER: To Be Determined

CONTRACT SUMMARY

The Original Contract Sum was :	$ 307,600.00
Net Change by previously authorized Change Orders :	$ -
The Contract Sum prior to this Change Order :	$ 307,600.00
The Contract Sum will be increased by this Change Order :	To Be Determined
The New Contract Sum. Including this Change Order, will be :	To Be Determined

IN WITNESS WHEREOF the parties have executed this Contract Revision by proper officers of duly authorized agents.

Owner: City of Fargo	Company: Rachel Contracting, LLC
By _____	By Nick Bartemio as P.M. of Rachel Contracting
Its _____	Its Sr. Project Manager
Date _____	Date 7/22/2021

RACHEL COMMITTED TO SAFETY

CHANGE ORDER REQUEST

Change Order Request #: 2
Date: July 21, 2021
Rachel Project #: 21044

TO: City of Fargo
225 4th Street
Fargo, North Dakota 58102

PROJECT: Mid America Steel Phase 1 Abatement and Phase 2
Selective Demolition
92 Northern Pacific Avenue North
Fargo, North Dakota 58102

ITEM	DESCRIPTION	ADD/(DEDUCT)	AMOUNT
1	Rachel Contracting can remove & dispose of transite uncovered on Building #16 for an additional amount of: VCI Proposal $4,300.00 MU $860.00 Total $5,160.00 **Notes:** 1. Schedule: add 1 week 2. If approved we can start on Monday 7/26/21. 3. Price includes one mobilization. 4. Price is valid for 15 days 5. See attached VCI Proposal for clarifications.	ADD	$ 5,160.00

TOTAL CHANGE ORDER $ 5,160.00

CONTRACT SUMMARY

IN WITNESS WHEREOF the parties have executed this Contract Revision by proper officers of duly authorized agents.

Owner: City of Fargo	Company: Rachel Contracting, LLC
By _____	By Nick Bartemio as P.M. of Rachel Contracting
Its _____	Its Sr. Project Manager
Date _____	Date 7/21/2021

THE CITY OF Fargo FAR MORE

PUBLIC WORKS
OPERATIONS

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1465
FAX: (701) 241-8100

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July 26, 2021

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

Commissioners:

Two RFP's were received July 16, 2021, for our 2022 spring tree order. Park District Forester Sam DeMarais, and I, reviewed these.

Company	Proposed Tree Cost
Bailey Nurseries, Inc.	$ 58,155.83 + shipping
Chestnut Ridge Nursery, Inc.	$ 87,624.50 + shipping

Funding is currently proposed in the 2022 forestry division tree budget.

Most companies are able to provide volume discounts. To maximize this possibility, this is a combined order between the City of Fargo and the Fargo Park District. The park district will cover approximately $10,200 of the total cost.

Recommended motion:
Based on overall prices, quality, past experience, availability, and to secure the order as soon as possible, move to award the 2022 request for proposals (RFP21122) tree order to Bailey Nurseries, Inc.

Your approval of this request is appreciated. Thank you.

Sincerely,

Scott Liudahl
City Forester

Cc: Ben Dow
Bruce Grubb
Kent Costin

Commission2022 Tree Order.doc

CITY OF Fargo

PUBLIC WORKS/OPERATIONS

Fleet Management, Forestry,
Streets & Sewers, Watermeters,
Watermains & Hydrants
402 23rd STREET NORTH
FARGO, NORTH DAKOTA 58102
PHONE: (701) 241-1453
FAX: (701) 241-8100

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July 16, 2021

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

RE: Fuel Purchase for 1st and 2nd Quarters of 2022 RFV21123

Commissioners:

The Fuel Procurement Committee, comprised of the Finance Director, the Director of Operations and the Fleet Services Manager, monitors the City of Fargo's current and projected fuel use and the fuel market to determine when conditions are favorable to lock in fuel prices for 80% of the city's projected fuel uses.

On July 16, 2022, the Fuel Procurement Committee received bids for 240,000 gallons of #2 Diesel and 110,000 Gallons of Unleaded Gasoline. The award was made to HTP Energy with a submitted low bid of $772,286.00 without tax. (RFV21123).

Attached for your review is the Bid Tab from July 16, 2021 and the Fuel Contract.

RECOMMENDED MOTION: I/we hereby move to authorize and execute the Forward Fuel Contract (RFV21123) for the 1st and 2nd Quarters of 2022.

Respectfully Submitted,

Allan Erickson
Fleet Services Manager

Q1 / Q2 2021

FUEL BID TAB

		Northdale	Registration docs	Hartland	Registration docs	Farstad Oil Inc.	Registration docs	Mansfield	Registration docs
1st Quarter (Jan 1 - March 31)									
#2 Diesel Fuel	120,000	N/B	yes	$2.2623	yes	N/B	yes	N/B	no
No-Lead 10% Ethonal 87 Octane	55,000	N/B		$2.0833		N/B		N/B	
2nd Quarter (April 1 - June 30)									
#2 Diesel Fuel	120,000	N/B		$2.2431		N/B		N/B	
No-Lead 10% Ethonal 87 Octane	55,000	N/B		$2.1283		N/B		N/B	
		Avg $/Gal		Avg $/Gal		Avg $/Gal		Avg $/Gal	
Total Gallons #2	240,000	#DIV/0!	#DIV/0!	$2.2527	$ 540,648.00	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Total Gallons No-Lead	110,000	#DIV/0!	#DIV/0!	$2.1058	$ 231,638.00	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
			#DIV/0!		$ 772,286.00		#DIV/0!		#DIV/0!

REPORT OF ACTION

UTILITY COMMITTEE

(26)

Project No.

Type: Solid Waste Revenue Adequacy Model AE2S Task Order No. 2

Location: Solid Waste Division

Date of Hearing: 6/29/21

Routing	Date
City Commission	7/26/21
Project File	

Terry Ludlum, Solid Waste Utility Director, presented the attached Task Order from Advanced Engineering and Environmental Services (AE2S) for professional engineering services related to the development of a Revenue Adequacy (RA) Model for the Solid Waste Division.

The long-term model would incorporate a cost of service component to evaluate revenue projections with the Solid Waste Division's (SWD) current metrics used for determining cost of service. In addition, the model would integrate Clean Water State Revolving Loan Funds (CWSRF) for applicable landfill capital improvement projects.

The Financial Services have been divided into four phases with associated costs as shown below:

Phase 01Data Collection and Review		$ 3,700
Phase 02Limited Cost of Service Analysis (COSA)		$ 7,200
Phase 03RA Model Development and Updates		$ 22,500
Phase 04Meetings and Documentation		$ 6,100
	Total	$ 39,500

Given that the Water and Wastewater Divisions have previously utilized the financial services of AE2S to develop their respective RA Models, Solid Waste staff would recommend approval of Task Order #2.

MOTION:

On a motion by Ben Dow, seconded by Brian Ward, the Utility Committee voted to approve the attached Task Order from Advanced Engineering and Environmental Services (AE2S) for professional engineering services related to the development of a Revenue Adequacy (RA) Model

COMMITTEE:	Present	Yes	No	Unanimous
Anthony Gehrig, City Commissioner				X
Bruce Grubb, City Administrator	X	X		
Brenda Derrig, City Engineer	X	X		
Kent Costin, Director of Finance				
Brian Ward, Water Plant Supt.	X	X		
Mark Miller, Wastewater Plant Supt.	X	X		
Scott Liudahl, City Forester	X	X		
Terry Ludlum, Solid Waste Utility Director	X	X		
James Hausauer, Wastewater Util. Director	X	X		
Troy Hall, Water Utility Director	X	X		
Ben Dow, Public Works Operations Director	X	X		
Jason Halsne, Enterprise I & C Coordinator	X	X		

ATTEST:

Terry Ludlum
Solid Waste Utility Director

C: Tim Mahoney, Mayor
Commissioner Piepkorn
Commissioner Preston
Commissioner Strand

CITY OF Fargo

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

MEMORANDUM

To: Utility Committee
From: Terry Ludlum, Solid Waste Utility Director TL
Date: June 15, 2021
Subject: AE2S Task Order No. 2: Solid Waste Revenue Adequacy Model

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Attached for your reference is a proposed **Task Order from Advanced Engineering and Environmental Services (AE2S)** for professional engineering services related to the development of a Revenue Adequacy (RA) Model for the Solid Waste Division.

The long-term model would incorporate a cost of service component to evaluate revenue projections with the Solid Waste Division's (SWD) current metrics used for determining cost of service. In addition, the model would integrate Clean Water State Revolving Loan Funds (CWSRF) for applicable landfill capital improvement projects. The SWD was added to the ***State Intended Use Plan*** in 2020 to begin utilizing the revolving loan funds, which will significantly stabilize the annual landfill capital improvement budget.

The **Financial Services** have been divided into four phases with associated costs as shown below:

Phase 01	Data Collection and Review	$ 3,700
Phase 02	Limited Cost of Service Analysis (COSA)	$ 7,200
Phase 03	RA Model Development and Updates	$ 22,500
Phase 04	Meetings and Documentation	$ 6,100
	Total	**$ 39,500**

Given that the Water and Wastewater Divisions have previously utilized the financial services of AE2S to develop their respective RA Models, Solid Waste staff would recommend approval of Task Order #2.

Your attention in this matter is certainly appreciated.

Recommendation

Approve the attached **Task Order from Advanced Engineering and Environmental Services (AE2S)** for professional engineering services related to the development of a Revenue Adequacy (RA) Model for the Solid Waste Division.

www.ae2s.com

June 17, 2021

Mr. Terry Ludlum
Solid Waste Utility Director
2301 8th Avenue North
Fargo, ND 58102

RE: Fargo Solid Waste Revenue Adequacy Model
Financial Services
Task Order No. 2

Dear Terry:

Thank you for the opportunity to submit this letter proposal for professional engineering services for the Fargo Solid Waste Revenue Adequacy Model. This letter and the attached Task Order No. 2 provide the proposed scope of services for Financial Services. The proposed fee for these services, expenses and reimbursables $39,500.

The Solid Waste Utility is responsible for managing and directing all aspects of waste collection, disposal and materials recycling which occurs in the City of Fargo. The Utility charges customers varying fees to provide these services and has historically adjusted fees every three years. To better understand when the Utility should be adjusting rates and align them with the true cost of service of operating the Utility, a forward-looking financial model is needed.

The purpose of this project is to develop a revenue adequacy (RA) model that shall be capable of assisting the Utility in projecting long-term impacts of operations, capital, and policy decisions regarding the Utility's finances. The RA model shall be constructed over a 10-year timeframe, with the ability to extend further into the future, as needed.

If you agree with the proposed scope of services and associated professional fees presented in the attached Task Order No. 2, please sign both copies in the spaces provided, retain one fully-executed copy for your records, and return the other fully-executed copy to AE2S. We are excited to assist the City of Fargo in completing this important project.

Submitted in Service,

Ryan Grubb, PE
Operations Manager

cc: Bruce Grubb, PE

This is Solid Waste Consulting Task Order No. __2__, consisting of __3__ pages.

Solid Waste Consulting Task Order No. 2

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

1. **Background Data**

   A. Effective Task Order Date: June 24, 2021

   B. Owner: City of Fargo (Solid Waste Utility)

   C. Engineer: Advanced Engineering and Environmental Services, LLC (AE2S)

   D. Engineer Project No.: P00803-2020-025

   E. Specific Project (title): Fargo Solid Waste Revenue Adequacy Model

   F. Specific Project (description):

   Develop a long-term revenue adequacy model for the Solid Waste Utility. Additionally, a cost of service component will be incorporated into the model to evaluate revenue projections with the Utility's current metrics used for determining cost of service.

2. **Services of Engineer**

   A. The specific services to be provided or furnished by Engineer under this Task Order are detailed in Attachment 1 and include the services (and related terms and conditions) set forth in the following sections of Exhibit A, as attached to the Agreement referred to above, such sections being hereby incorporated by reference:

   - Financial Services (Exhibit A, Paragraph A1.08)

   B. Resident Project Representative (RPR) Services: None.

   C. All of the services included above comprise Basic Services for purposes of Engineer's compensation under this Task Order.

3. **Owner's Responsibilities**

   Owner shall have those responsibilities set forth in Article 2, Exhibit B of the Agreement.

4. **Task Order Schedule**

   In addition to any schedule provisions provided in Exhibit A or elsewhere, the parties shall meet the following approximate schedule:

   - Task Order approval – *June 24, 2021*
   - Project Kickoff – *July 2021*
   - Project Completion – *December 2021*

5. **Payments to Engineer**

A. Owner shall pay Engineer for services rendered under this Task Order as follows:

Phase	*Task Number and Task Name*	*Payment Method*	*Estimated Hours*	*Amount*
120	***Financial Services***	*Method B*		
01	*Data Collection and Review*		*26*	*$3,700*
02	*Limited COSA*		*56*	*$7,200*
03	*RA Model Development and Updates*		*176*	*$22,500*
04	*Meetings and Documentation*		*42*	*$6,100*
Total			***300***	***$39,500***

Compensation items and totals based in whole or in part on Hourly Rates or Direct Labor are estimates only. Lump sum amounts and estimated totals included in the breakdown by phases incorporate Engineer's labor, overhead, profit, reimbursable expenses (if any), and Consultants' charges, if any. For lump sum items, Engineer may alter the distribution of compensation between individual phases (line items) to be consistent with services actually rendered, but shall not exceed the total lump sum compensation amount unless approved in writing by the Owner.

B. The terms of payment are set forth in Article 4 of the Agreement and in the applicable governing provisions of Exhibit C, where Method A is a Lump Sum payment and Method B is payment for Standard Hourly Rates.

6. **Consultants retained as of the Effective Date of the Task Order:** None.

7. **Other Modifications to Agreement and Exhibits:** None.

8. **Attachments:**

Attachment 1 – Scope of Services for Task Order

9. **Other Documents Incorporated by Reference:** None.

10. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is June 24, 2021.

OWNER: City of Fargo (Solid Waste Utility)

By: _____

Name: Terry Ludlum

Title: Solid Waste Utility Director

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Terry Ludlum

Title: Solid Waste Utility Director

Address: 2301 8th Avenue North
Fargo, ND 58102

E-Mail Address: TLudlum@FargoND.gov

Phone: (701) 241 - 1449

ENGINEER: Advanced Engineering and Environmental Services, LLC (AE2S)

By: Ryan Grubb

Name: Ryan Grubb, PE

Title: Operations Manager

DESIGNATED REPRESENTATIVE FOR TASK ORDER:

Name: Ryan Graf

Title: Financial Services Coordinator

Address: 4050 Garden View Drive
Grand Forks, ND 58201

E-Mail Address: Ryan.Graf@ae2s.com

Phone: (701) 746-8087

This is Attachment 1 to Solid Waste Consulting Task Order No. 2 consisting of 2 page(s).

Scope of Services

The Project entails the development of a revenue adequacy (RA) model for long-term rate planning. This Scope of Services provides for the Financial Phase services to collect data, develop the RA model, and facilitate review meetings to determine model assumptions and scheduled rate adjustments. The following is a detailed breakdown of this Scope of Services to Solid Waste Consulting Task Order No. 2.

Phase 120 – Financial Services

In accordance with Paragraph A1.08 of Exhibit A of the Original Task Order Agreement, dated January 1, 2021, ENGINEER shall perform the following Financial services under Solid Waste Consulting Task Order No. 2:

Task 01 – Data Collection and Review

ENGINEER shall review existing historical cost of service and rate adjustment data provided by the OWNER. ENGINEER shall work with OWNER to establish preliminary assumptions to be used for performing a limited cost of service analysis (COSA) and model development.

Task 02 – Limited COSA

ENGINEER shall perform a limited COSA to verify that the existing rate structure is aligned with the overall cost of providing service for the various service types (tipping fees, curbside, etc.). This process will begin with the existing COSA that the City has conducted over the years as the baseline. ENGINEER shall review the overall methodology to determine if there are any additional recommendations that may be helpful to improve the applicability of the results. The COSA structure will be built into the spreadsheet-based model to allow for streamlined long-term updates.

Upon completion of the limited COSA, OWNER and ENGINEER shall meet to review results and recommendations. OWNER shall provide feedback on whether any changes to the rate structure are desired based on the limited COSA results.

Task 03 – RA Model Development and Updates

ENGINEER shall develop a revenue adequacy (RA) model for the City of Fargo's Solid Waste Utility. The RA model shall be capable of assisting OWNER in projecting long-term impacts of operations, capital, and policy decisions regarding the Utility's finances. The RA model shall be constructed to cover a 10-year timeframe, with the ability to extend further into the future, as needed.

Upon the development of a draft RA model, OWNER shall be consulted to ensure OWNER preferences are met. ENGINEER shall receive comments and feedback from the OWNER to refine model assumptions, aesthetics, and scheduled rate increases.

Task 04 – Meetings and Documentation

ENGINEER shall attend and facilitate the following meetings with OWNER representatives and key stakeholders during the Project:

- One (1) review meeting upon completion of the Limited COSA Task;
- Two (2) review meetings during the RA Model Development and Refinement Task; and
- One (1) final review meeting to review the end results of the RA model and to discuss next steps for implementation.

ENGINEER shall document and summarize findings of the Project and present to OWNER in the form of the following deliverables:

- One Microsoft Excel based spreadsheet model
- Summary presentation outlining baseline assumptions and near-term rate recommendations

Presentation of findings to the City Commission and/or other City stakeholder groups is outside of this Scope of Services. If authorized in writing by the OWNER, ENGINEER will provide these services on an hourly basis.

CITY OF Fargo

Metropolitan Area Transit
650 23rd Street N
Fargo, ND 58102
Phone: 701-241-8140
Fax: 701-241-8558

27

July 26, 2021

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

Dear Commissioners:

The attached contract No. 38210812 from the State of North Dakota is for the Mobility Management activities. This grant provides 80% funding for the Mobility Management activities. The contract is effective July 1, 2021 through June 30, 2022. The 20% local share is included in Transit's budget. In addition, the City of Moorhead contributes 1/3 of the Mobility Management activity costs.

The requested motion is to approve the attached Contract No. 38210812 for Mobility Management activities.

Sincerely,

Julie Bommelman
City of Fargo Transit Director
701-476-6737
jbommelman@cityoffargo.com

MEMORANDUM

TO: William T. Panos
Director

FROM: Becky Hanson DS BH
DOT Local Government Division
Paul Benning DS PB
Local Government Engineer

DATE: 6/23/2021

SUBJECT: Section 5310, Special Needs for Elderly and Disabled Individuals
City of Fargo
SFY 2022 (July 1, 2021 - June 30, 2022)

This is a contract to provide funding for transit capital funds under the regulations of Section 5310, Enhanced Mobility of Seniors & Individuals with Disabilities Grant Funds. Standard methodology was used in distribution of funds.

Federal FTA Funds of $65,664 are allocated for capital assistance for the funding the Mobility Manager. Twenty percent (20%) local match is required.

38/bh 328-2542

NORTH Dakota | Transportation
Be Legendary.™

June 23, 2021

Julie Bommelman
Fargo Metro Area Transit
650 23rd St N
Fargo, ND 58102

FY 2022 – Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Grant, CFDA No. 20.513

Thank you for submitting a 5310 grant application and we are pleased to inform you that we are able to provide funding for your transit agency. The award amount is $65,664. Please see Attachment A for the funding breakdown.

In order to begin the funding process, please:

1. Complete the contractor and witness information in DocuSign.
2. Have your organization's president or chairman digitally sign and date the agreement (under Contractor)—this signature ***must be an authorized signatory*** for your project. Please also submit a proof of authorization to sign if it is not the president or chairperson of your agency.
3. Finish the DocuSign process to send to the witness for signature.
4. Have a witness sign and date the agreement (under Witness) and upload proof of insurance in the form of **Confirmation of Coverage OR Certificate of Insurance for automobiles and premises/commercial**, if it is required. This is required for all Non-Profit and For-Profit agencies.
5. Upon completion of executing all documents, finish the DocuSign process and the contract documents will return to NDDOT for processing.

If you have any questions or need assistance, please contact Connie Nelson at (701) 328-3720 or conelson@nd.gov.

Sincerely,

DocuSigned by:
Becky Hanson
C09648C90D69421...

Becky Hanson
Transit Program Manager

Cc: Kevin Hanson, Board Chair
Dan Farnsworth, Fargo/Moorhead COG
Enclosure

NDDOT CONTRACT NO. 38210812

North Dakota Department of Transportation
SECTION 5310 TRANSIT GRANT AGREEMENT

Federal Award Information

CFDA No.: 20.513 CFDA Title: Capital Assistance Program

Award Name: Elderly & Persons with Disabilities Program

Awarding Federal Agency: Federal Transit Administration (FTA)

Pass-through entity: North Dakota Department of Transportation (NDDOT)

NDDOT Program Mgr.: Becky Hanson Telephone & Email: 701-328-2542, bhanson@nd.gov

Subrecipient/Contractor Name: City of Fargo DUNS No.: 070265871

Federal Aid Identification No. (FAIN) and Award Date: To Be Assigned

Period of Performance: To Be Assigned

Total Federal Admin/Capital Award: $65,664

Total Federal Operating Award: $0

Total Project Budget Including Local Match: $82,080

Total Operating Budget: $0 Federal Funds: $0 Matching Funds: $0

Total Admin/Capital Budget: $82,080 Federal Funds: $65,664 Matching Funds: $16,416

Research and Development Activities: This award does not include funds for Research and Development activities.

Indirect Cost Rate (ICAP): N/A

Notice to Subrecipients: This agreement is subject to all the Certifications and Assurances required by the FTA. Federal awards may have specific compliance requirements. If you are not aware of the specific requirements for your award, please contact your NDDOT Program Manager.

This contract is between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Fargo Metro Area Transit, a Political Subdivision, hereinafter referred to as the Contractor, whose address is 650 23rd Street North, Fargo, ND 58102.

WHEREAS, Section 5310 of the Fixing America's Surface Transportation (FAST) Act, provides for capital grants to private non-profit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of older adults and people with disabilities for whom mass transportation services are unavailable, insufficient, or inappropriate; and, provides for capital grants to private nonprofit corporations and associations for the specific purpose of assisting them in providing

transportation services meeting the special needs of older adults and people with disabilities for whom mass transportation services are unavailable, insufficient, or inappropriate; and

WHEREAS, the Governor of the state of North Dakota, in accordance with a request by the Federal Transit Administration (FTA), has designated NDDOT to evaluate and select projects and to coordinate the grant applications in accordance with the guidelines of the State Management Plan for Public Transportation and the Master Agreement with the FTA; and

WHEREAS, NDDOT and the Contractor desire to secure and utilize grant funds for the transportation needs of older adults and citizens with disabilities of the state of North Dakota; now

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

Section 1. Purpose of Agreement. The purpose of this agreement is to provide grant funds for traditional and non-traditional operating and capital expenses used in providing transportation services for the older persons and persons with disabilities, hereinafter referred to as the project. The grant amount is $65,664.

Section 2. Project Obligation. The Contractor shall commence, carry on, and complete purchase of the described project(s) with all practicable dispatch, in a sound, economical, and efficient manner.

Section 3. Period of Performance. For the period of July 1, 2021, through June 30, 2022, the Contractor shall undertake and provide the transportation services as described in the project description and budget (Attachment A) and the Contractor's grant application, on file with NDDOT. The term of the agreement shall begin upon execution of this agreement by both parties and terminate on June 30, 2022.

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

Section 5. Purchase of Project Assets. The purchase of all project assets financed, in whole or in part, pursuant to this agreement shall be undertaken by the Contractor in accordance with NDDOT's procurement procedures and Federal regulations.

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

Section 7. Amendment. Any change in this agreement shall be in writing and agreed upon by both parties.

Section 8. Subcontracting. The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

Section 9. Assignments. Unless authorized in writing by NDDOT, the Contractor shall not assign any portion of the work or assets and vehicles under this agreement; execute any contract, amendment, or change order thereto; or obligate in any manner with a third party with respect to rights and responsibilities under this agreement.

Section 10. Subcontract Provisions. The Contractor shall include in all subcontracts entered into, pursuant to this agreement, all of the above-required sections. In addition, the following statement of financial assistance shall be included in any advertisement or invitation to bid for any procurement under this agreement:

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

Section 11. Records and Reports.

a. The Contractor shall submit project operational data and information as requested by NDDOT.

b. The Contractor shall also submit financial statements, data, records, contracts, and other documents related to the project as requested by NDDOT.

c. All charges to the project account shall be supported by executed invoices, contracts, or vouchers showing the nature of the charges. All checks, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified; readily accessible; and, to the extent feasible, kept separate and apart from all other such documents.

d. The Contractor shall maintain all accounting and project records NDDOT may require. Such records shall be made available to NDDOT and the federal government for inspection and audit during the agreement term and for three years after the date of final payment, unless any litigation, claim, or audit is started before the expiration of the three years, in which case the records shall be retained until such action is satisfied.

Section 12. Audit and Inspection. The Contractor shall permit NDDOT, the comptroller general of the United States, and the secretary of the US Department of Transportation or their authorized representatives to inspect all vehicles, facilities, and assets used by the Contractor as part of the project and all relevant project data and records. Entities that receive federal funds through NDDOT may be required to obtain an audit in accordance with 2 C.F.R. Part 200, Subpart F. A copy of such audit shall be submitted to NDDOT. Entities that spend less than $750,000 of federal funds from all sources may be subject to reviews by NDDOT at its discretion. Additionally, all entities receiving federal funds through NDDOT shall certify whether a Single Audit has been completed as part of the annual Federal award process. These requirements are applicable to counties, cities, state agencies, Indian tribes, colleges, hospitals, and non-profit businesses.

Section 13. Termination. NDDOT reserves the right, with or without cause, to terminate this agreement by written notice. In the event of termination without cause, NDDOT will reimburse the Contractor for costs incurred prior to the termination date without further liability.

Section 14. Action Upon Termination. The Contractor agrees to dispose of the project asset in accordance with NDDOT's program policy, copies of which will be made available by NDDOT upon request.

Section 15. Contract Changes. All modifications of this agreement shall be made in writing and agreed upon by both parties.

Section 16. Prohibited Interest. No member, officer, or employee of the Contractor during his tenure or for one year thereafter shall have any personal interest, direct or indirect, in this contract or the proceeds thereof.

Section 19. Other Provisions. The Contractor acknowledges the following provisions and agrees to cooperate with NDDOT in abiding by them: See Attachment B and complete required forms.

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

Section 20. Statement of Financial Assistance. This contract is subject to a financial assistance contract between the state of North Dakota and the USDOT.

Section 21. Applicable Law. Indemnity. Contractor shall comply with all applicable federal, state, and local laws, rules, and ordinances at all times in the performance of this agreement and conduct its activities so as not to endanger any person or property.

Section 22. Federal Changes. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement (from FTA MA (25) dated October 1, 2020) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Section 23. Disputes. FTA Cir. 4220.1F. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of NDDOT Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director shall be binding upon the Contractor, and the Contractor shall abide by the decision.

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

Section 24. Merger and Waiver. This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

Section 25. Conflicts of Interest. No official or employee of a state or any other governmental instrumentality who is authorized in their official capacity to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a state or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than their employment or retention by a state or other

governmental instrumentality, in an contract or subcontract in connection with such project. No officer or employee of such person retained by a state or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of NDDOT and of such other governmental instrumentality, and such officer, employee, or person has not participated in such acquisition for and in behalf of the state.

Section 26. Insurance. The Contractor shall maintain insurance coverage on the project asset in an amount adequate to protect the fair market value of the asset throughout the duration of this agreement.

Section 27. Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NDDOT requests which would cause NDDOT to be in violation of the FTA terms and conditions.

Section 28. Risk Management. The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.

EXECUTED the date last below signed.

WITNESS:

Steve Sprague
NAME (TYPE OR PRINT)

SIGNATURE

CONTRACTOR:

Dr. Timothy J. Mahoney
NAME (TYPE OR PRINT)

SIGNATURE

Mayor, City of Fargo
TITLE

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

DS SS

DS SS

APPROVED as to substance by:

Paul Benning
LOCAL GOVERNMENT ENGINEER (TYPE OR PRINT)

DocuSigned by:
Paul M. Benning
SIGNATURE
A411F817506247A...

6/23/2021
DATE

CLA 17014 (Div. 38)
L.D. Approved 7-17-89; 4-21

Project

CERTIFICATION OF LOCAL MATCH

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

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

Source: Enterprise Fund, Advertising & vending revenue

Executed at _____, North Dakota, the last date below signed.

WITNESS:

Steve Sprague
SIGNATURE

DATE

APPROVED:

Dr. Timothy J. Mahoney
NAME (TYPE OR PRINT)

SIGNATURE

* Mayor, City of Fargo
TITLE

DATE

*Director or President of Transit Board

CLA 17014 (Div. 38)
L.D. Approved 7-17-89; 4-21

DocuSign Envelope ID: F7635325-DDF9-467A-82B0-C01BB268987F

Attachment A

Project Name City of Fargo
SFY 2022 (July 1, 2021 - June 30, 2022)

	Local Match Percentage	Funding Source Section	TOTAL Federal Share	Local Share	Total
Funding Category					
Capital - Mobility Manager	**20**	**5310**	**$65,664**	**$16,416**	**$82,080**
TOTALS			**$65,664**	**$16,416**	**$82,080**

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

CFDA Title	CFDA No.	Title 49 USC Chapter 53 Section	Award Name
Capital Assistance Program	CFDA No 20.513	**5310**	Elderly and Persons with Disabilities Program
Section 5310 provides for capital grants to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and disabled persons for whom mass transportation services are unavailable, insufficient, or inappropriate			

Attachment B

Federal Clauses – Operations and Management under $150,000

ACCESS TO RECORDS AND REPORTS

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3 Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination

in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity
The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

4.Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5.Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.

b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.

c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

CORONAVIRUS RELIEF AND CARES ACT CERTIFICATION

The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Pub. L. 116–260, Div. M), requires that, to the maximum extent possible, funds made available under the Act and in title XII of division B of the CARES Act (Pub. L. 116–136) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation), unless the recipient certifies that it has not furloughed any employees.

DEBARMENT AND SUSPENSION

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least $25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

DISPUTES, BREACHES, DEFAULTS, AND LITIGATION

(a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
(b) Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements. (3) Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a 95 criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.
(c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.
(d) Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the Search Results
Web results

Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FEDERAL CHANGES

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

FLY AMERICA

a) Definitions. As used in this clause—
1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencys, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers
International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROCUREMENT OF RECOVERED MATERIALS

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
i. Competitively within a timeframe providing for compliance with the contract performance schedule;
ii. Meeting contract performance requirements; or
iii. At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program."

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

PUBLIC TRANSPORTATION AGENCY SAFETY PLANS (PTASP)

For Fiscal Year 2020, FTA required this certification from each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA's state safety oversight programs, and each State that is required to draft and certify a public transportation agency safety plan on behalf of a small public transportation provider pursuant to 49 CFR § 673.11(d) by July 20, 2020. This certification does not apply to any applicant that receives financial assistance from FTA exclusively under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs.

PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

1. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

PROMPT PAYMENT

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use
The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving
The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:
1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

(1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
(2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
(3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SUBSTANCE ABUSE REQUIREMENTS

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation

necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

TERMINATION

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

Termination for Default [Breach or Cause] (General Provision)
If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)
The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach
In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

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

Termination for Default (Supplies and Service)
If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)
If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

Termination for Default (Construction)
If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the

convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)
The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency 's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency

Termination for Convenience or Default (Cost-Type Contracts)
The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

1. Debarred,
2. Suspended,
3. Proposed for debarment,
4. Declared ineligible,
5. Voluntarily excluded, or
6. Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
2. Violation of any Federal or State antitrust statute, or,
3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

1. Equals or exceeds $25,000,,
2. Is for audit services, or,
3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

a. Debarred from participation in its federally funded Project,
b. Suspended from participation in its federally funded Project,
c. Proposed for debarment from participation in its federally funded Project,
d. Declared ineligible to participate in its federally funded Project,
e. Voluntarily excluded from participation in its federally funded Project, or
f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

(3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor:_____

Signature of Authorized Official:_____Date_____/_____/_____

Name and Title of Contractor's Authorized Official:_____

Risk Management Appendix

Routine* Transit Agreements With Sovereign Entities and Political Subdivisions of the State of North Dakota:
Parties: State – State of North Dakota, its agencies, officers and employees
Governmental Entity – The Governmental Entity executing the attached document, its agencies, officers and employees
Governments – State and Government Entity, as defined above

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

Each party shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

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

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

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

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

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

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

RM Consulted 2007
Revised 11-19

NDDOT
North Dakota
Department of Transportation

DocuSign

Certificate Of Completion

Envelope Id: F7635325DDF9467A82B0C01BB268987F
Status: Sent
Subject: Contract #38210812: Please DocuSign: Section 5310 Transit Grant Agreement
Contract Number: 38210812
PCN:
Source Envelope:
Document Pages: 20
Signatures: 2
Initials: 4
Certificate Pages: 3
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Connie Nelson
608 E Boulevard Ave
Bismarck, ND 58505
conelson@nd.gov
IP Address: 165.234.92.5

Record Tracking

Status: Original
6/23/2021 2:07:37 PM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Connie Nelson
conelson@nd.gov
Pool: StateLocal
Pool: Carahsoft OBO North Dakota Department of Transportation CLOUD

Location: DocuSign
Location: DocuSign

Signer Events	Signature	Timestamp
Becky Hanson bhanson@nd.gov Carahsoft OBO North Dakota Department of Transportation CLOUD Security Level: Email, Account Authentication (None)	DocuSigned by: Becky Hanson C09848C90D89421... Signature Adoption: Pre-selected Style Using IP Address: 165.234.252.245	Sent: 6/23/2021 2:29:29 PM Viewed: 6/23/2021 2:32:00 PM Signed: 6/23/2021 2:34:13 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Paul Benning pbenning@nd.gov Security Level: Email, Account Authentication (None), Authentication	DocuSigned by: Paul M. Benning A411F817506247A... Signature Adoption: Pre-selected Style Using IP Address: 174.219.21.171 Signed using mobile	Sent: 6/23/2021 2:34:17 PM Viewed: 6/23/2021 4:42:42 PM Signed: 6/23/2021 4:42:54 PM

Authentication Details
SMS Auth:
Transaction: 65E8EB4BB2300C0491978944E5BACD6C
Result: passed
Vendor ID: TeleSign
Type: SMSAuth
Performed: 6/23/2021 4:42:29 PM
Phone: +1 701-214-2502

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Steve Salwei ssalwei@nd.gov Security Level: Email, Account Authentication (None), Authentication	DS SS Signature Adoption: Pre-selected Style Using IP Address: 165.234.253.8	Sent: 6/23/2021 4:42:58 PM Viewed: 6/24/2021 8:03:56 AM Signed: 6/24/2021 8:04:37 AM

Authentication Details

Signer Events	Signature	Timestamp
SMS Auth: Transaction: 65E8F8798690140491979747E5DA38B4 Result: passed Vendor ID: TeleSign Type: SMSAuth Performed: 6/24/2021 8:03:49 AM Phone: +1 701-527-8980 **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Shannon Sauer ssauer@nd.gov Security Level: Email, Account Authentication (None), Authentication	DS SS Signature Adoption: Pre-selected Style Using IP Address: 165.234.253.12	Sent: 6/24/2021 8:04:40 AM Viewed: 6/24/2021 9:30:22 AM Signed: 6/24/2021 9:30:34 AM
Authentication Details SMS Auth: Transaction: 65E8F9B66AD002049197EC18ECFA7CF8 Result: passed Vendor ID: TeleSign Type: SMSAuth Performed: 6/24/2021 9:30:15 AM Phone: +1 701-426-9825 **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Connie Nelson conelson@nd.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Clint Morgenstern cdmorgenstern@nd.gov Security Level: Email, Account Authentication (None), Authentication **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Ronald Henke rhenke@nd.gov Security Level: Email, Account Authentication (None), Authentication **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		

Signer Events	Signature	Timestamp
Laureen M. Martin lmartin@nd.gov Security Level: Email, Account Authentication (None), Authentication **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp
Connie Nelson conelson@nd.gov Transit Agency Carahsoft OBO North Dakota Department of Transportation CLOUD Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	VIEWED Using IP Address: 165.234.252.245	Sent: 6/23/2021 2:07:45 PM Viewed: 6/23/2021 2:16:04 PM Completed: 6/23/2021 2:29:28 PM

Agent Delivery Events	Status	Timestamp
Julie Bommelman jbommelman@cityoffargo.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		Sent: 6/24/2021 9:30:38 AM Viewed: 6/24/2021 9:55:18 AM

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Legal Admin dotlegaladmin@nd.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		
Legal Admin dotlegaladmin@nd.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/23/2021 2:07:46 PM

Payment Events	Status	Timestamps

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REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. FM-20-C0 Type: Change Orders #1 - 5

Location: Drain #53 Date of Hearing: 7/19/2021

Routing	Date
City Commission	7/26/2021
PWPEC File	X
Project File	Jody Bertrand

The Committee reviewed the accompanying correspondence from Division Engineer, Jody Bertrand, related to Change Orders #1 - 5, in the amount of $221,143.38 ($112,321.69 City Portion) for additional work.

Staff is recommending approval of Change Orders #1 - 5 in the amount of $221,143.38 ($112,321.69 City Portion), which brings the total contract amount to $778,690.69.

On a motion by Kent Costin, seconded by Steve Sprague, the Committee voted to recommend approval of Change Orders #1 - 5 to SE Cass Water Resource District.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Orders #1 - 5 in the amount of $221,143.38 ($112,321.69 City Portion), which brings the total contract amount to $778,690.69 to SE Cass Water Resource District.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: SE Cass WRD, Special Assessments & Developer

	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 ☑
Tim Mahoney, Mayor	☑	☑	☐	
Nicole Crutchfield, Director of Planning	☑	☑	☐	Mark Williams
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:

Brenda E. Derrig, P.E.
City Engineer

C: Kristi Olson

THE CITY OF Fargo FAR MORE

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

Memorandum

To: Members of PWPEC

From: Jody Bertrand, Division Engineer

Date: July 19, 2021

Re: Project No. FM-20-C0 – Milestone #1 Time Extension & Change Orders No. 1 – 5 Drain #53 Improvements

---

Background:

Project No. FM-20-C0 is for the deepening, widening and realignment of Drain #53 from 64th Avenue South to the southern boundary of Madelyn's Meadows Additions. The City of Fargo and SE Cass Water Resource District entered into a Memorandum of Understanding (MOU) for the above-mentioned improvements. Through the MOU Agreement, the drain improvements are split 50% per entity. Moore Engineering has been hired for the design and inspection for the SE Cass Water Resource District. Multiple change orders were executed to complete the work. The following descriptions describe the change orders processed for the project completion to date:

- Change Order #1 –Time extension for milestone #1 due to extra depth of topsoil encountered (6 days). This produced longer haul distances being needed for clay embankment in the milestone #1 area.
- Change Order #2 – Several feet of extra topsoil was continually encountered and additional clay material was needed and was then mined from STA 30+00 to 35+00 within the 60 foot wide City parcel on the dry side of the levee. Weather delays and extra workdays were authorized for a 10-day extension of the completion date for milestone #1. Extra excavation completed at a cost of $72,494.50 (50% City cost).
- Change Order #3 – Filling of the mined clay embankment area with topsoil at a cost of $17,115.00 (50% City cost) and a time extension of milestone #1 to November 22, 2020.
- Change Order #4 – Additional excavation of clay from STA 30+00 to 43+00 from the City owned remnant parcel on the west side of drain. Material used for levee embankment and LOMR-F work in Madelyn Meadows. At the City's request, an up and over grading area over the levee was completed at the northwest corner of the project for a future pedestrian/bicycle path connecting to the 64th Avenue South underpass. The cost of this work was $128,033.88 (50% City cost).
- Change Order #5 – Location within the Selkirk pond needed the pumping pad removed and material graded to match the pond slopes. The cost of this work was $3,500.00 (100% City cost).

The change order documents for items #1 - 5 from Moore Engineering are attached for your review.

Recommended Motion:

Concur with the recommendations of Engineering and approve Change Orders #1 - 5 for the SE Cass WRD Drain #53 improvements at a total cost of $221,143.38. Per the MOU with SE Cass WRD, the overall costs for the drain improvements is shared 50% for each entity.

JRB/klb
Attachments

CHANGE ORDER NO.: 1

Owner:	Southeast Cass Water Resource District	Owner's Project No.:	
Engineer:	Moore Engineering, Inc.	Engineer's Project No.:	18312A
Contractor:	Dan Hart Patrol Service, LLC	Contractor's Project No.:	
Project:	Drain 53 Improvement Project No. 2019-01		
Contract Name:	Drain 53 Improvement Project No. 2019-01		
Date Issued:	11/10/2020	Effective Date of Change Order:	11/10/2020

The Contract is modified as follows upon execution of this Change Order:

Description:

Update contract time due to unforeseen additional topsoil to be stripped on the project site. About 2 ft of topsoil was observed. The additional topsoil reduced the amount of available clay within the Milestone 1 area and therefore longer hauling was needed.

Attachments:

Contractor's change proposal and Engineer's response

Change in Contract Price	Change in Contract Times	
Original Contract Price: $ $805,714.67	Original Contract Times: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 10/31/2020 6/15/2021 7/9/2021 8/6/2021
Change from previously approved Change Orders No. __ to No. __: $ N/A	Change from previously approved Change Orders No. __ to No. __: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 N/A N/A N/A N/A
Contract Price prior to this Change Order: $ $805,714.67	Contract Times prior to this Change Order: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 10/31/2020 6/15/2021 7/9/2021 8/6/2021
No Change from this Change Order: $ 0.00	Increase this Change Order: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 10 days 0 days 0 days 0 days
Contract Price incorporating this Change Order: $ $805,714.67	Contract Times with all approved Change Orders: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 11/10/2020 6/15/2021 7/9/2021 8/6/2021

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	Recommended by Engineer (if required)	Accepted by Contractor
By:	Nathan Trosen	
Title:	Project Engineer	
Date:	11/06/2020	
	Authorized by Owner	Approved by Funding Agency (if applicable)
By:		
Title:		
Date:		

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Dan Hart Patrol Service, LLC
PO Box 619
Upton, WY 82730
Phone: (307) 468-2679
Fax: (307) 468-2308
www.DanHartPatrol.com

Drain 53 Improvement
SE Cass Water Resource District
Nathan Trosen
RFI

10/29/2020

Contract Time Extention

Nathan,

The Contract Documents state that there should be roughly a surplus of building material of 8,000 CY, minus the quantity mucked out of the creek. End hauling is expected with this project and in the first mile stone most of the surplus can be found in STA 27-30. With ¾ of the project surveyed for topsoil we have had a surplus of 15,300 CY of topsoil. Just for round numbers lets assume the remaining area to survey brings us to 20,000 CY. This will put us upside down on building material by 12,000 CY.

We will need to borrow from the second milestone area to reach FG design. With this, from experience of actual 2 ft topsoil depths, we will need to strip 5-8 STA on one side or the either of the existing creek first, then long haul the excavated material to the very North to reach FG.

From a bidding perspective this extra work was not expected for the first mile stone. DHPS requests a 6 day extension for this.

For the 15,300 CY of extra topsoil this has cost us 4 days of work. This will need to be added to contract days, as it could have been spent performing other work within the bid. As far as the remaining area to be surveyed once that report comes in we can quantify that and turn in a request for that as well.

Contractor: Dan Hart Patrol Service, LLC

Garrett Bietz Garrett Bietz

Engineer Stamp: Moore Engineering

444 Sheyenne Street
Suite 301
West Fargo, ND 58078
P: 701.282.4692
F: 701.282.4530

moore engineering, inc.

EMAIL – RETURN RECEIPT REQUESTED

November 6, 2020

Dan Hart Patrol Service, LLC
Attn: Garrett Bietz
PO Box 619
Upton, WY 82730

RE: Formal Notice – Response to RFI 001 (Change Proposal 1)
Cass County Drain 53 Improvement Project No. 2019-01
Southeast Cass Water Resource District - Cass County, ND
Moore Project No. 18312A

Dear Mr. Bietz,

This letter is in response to Dan Hart Patrol Service's (the Contractor) letter to Moore Engineering, Inc. (Moore) dated October 29, 2020, which documented the Contractor's request for a Change Proposal in regards to the Milestone 1 completion date to the Cass County Drain 53 Improvement Project No. 2019-01 (the "Project"). Moore has reviewed the letter and is responding in accordance with General Conditions (GC) Section 11.09 of the Contract.

To summarize the change proposal letter: According GC Section 4.05 – C the Contractor is requesting an extension to the Milestone 1 (west levee). This is in response to the additional topsoil that was stripped along the west levee project area (Station 1+90 – 29+75). For your efforts to strip the additional topsoil the Contractor is requesting four additional days to be added to Milestone 1. Furthermore, the Contractor is requesting another six days to be added to Milestone 1 for the additional hauling of clay material that will be needed as less clay material will be available within the excavation limits due to the excess topsoil. Therefore, clay material will need to be hauled from southern portion of the project beyond the limits of Milestone 1. In total the contractor is requesting 10 days to be added to Milestone 1 for the described work.

GC Section 4.05 – C reads as such:
"C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. *severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;*
2. *abnormal weather conditions;*
3. *acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and*
4. *acts of war or terrorism."*

It is Moore's opinion that this request should be approved.

GC Section 4.05 - C. clearly states that a delay in the Contractor's progress that are not the fault of and beyond the control of Owner or the Contractor, entitles the contractor to an equitable adjustment in Contract Time. The Contractor's original preliminary construction schedule submitted on 9/21/2020 which listed "Strip Topsoil" as one of the items for eight working days. To date Moore has surveyed the topsoil stripped from Station 1+90 – 30+00 which totaled 41,471 CY. The plan quantity for the area surveyed was 19,795 CY of topsoil, approximately 48% of actual measured quantity. Moore concurs with the Contractor that the unforeseen additional topsoil excavation is grounds for the four days to be added to Milestone 1 as requested.

The earthwork tables shown on C-311 of the plans at Station 29+74 show a surplus of 5,641 CY of fill material compared to cut material. This fill material includes all material need to construct the levee (i.e. clay material and 1' of topsoil). The additional amount of topsoil that was excavated compared to the plan quantity is 21,676 CY. Therefore, an additional 16,035 CY of clay material will need to be hauled to complete Milestone 1. The earthwork tables show this excess clay material can be achieved by Station 34+40 where the surplus of fill material is 20,686 CY and subsequently the haul will be increased by approximately 500 FT. Assuming a 30% increase in volume, an additional 20,846 CY of loose clay material will need to be hauled. Therefore on average 3,475 CY of loose clay material will need to be hauled per day over the six additional days requested for hauling. Moore concurs with the Contractor that the additional hauling is grounds for the six days to be added to Milestone 1 as requested.

With this extension the Milestone 1 completion date is changed from October 31, 2020 to November 10, 2020. This extension is based on an additional 10 days as requested by the contractor. The Milestone 2, substantial completion, and final completion dates will remain June 15, 2021, July 9, 2021, and August 6, 2021, respectively. This change reflects an adjustment to the Contract Time but not the Contract Price. Pay items will be paid as described in the Contract Documents.

Per GC Section 11.09 - B.5. This decision is *"final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12."* Owner and Contractor shall execute a change order for the adjustment to the contract time per GC Section 11.08.

Sincerely,

Nathan Trosen

Nathan Trosen, PE
Project Engineer

cc (via email): Carol Harbeke-Lewis, Secretary-Treasurer for the District
Sean Fredricks, Attorney for the District

CHANGE ORDER NO.: 2

Owner:	Southeast Cass Water Resource District	Owner's Project No.:	
Engineer:	Moore Engineering, Inc.	Engineer's Project No.:	18312A
Contractor:	Dan Hart Patrol Service, LLC	Contractor's Project No.:	
Project:	Drain 53 Improvement Project No. 2019-01		
Contract Name:	Drain 53 Improvement Project No. 2019-01		
Date Issued:	12/08/2020	Effective Date of Change Order:	12/08/2020

The Contract is modified as follows upon execution of this Change Order:

Description:
Unforeseen site conditions of excess topsoil material resulting in a shortage of available clay material within the project's excavation limits. To produce the clay material needed to complete Milestone No. 1 Field Order No. 4 was issued. This change order is in response to the additional work under Field Order No. 4, which included mining clay material from Station 30+00 to Station 35+00. Additionally, bad weather days and the unforeseen site conditions resulted in extending the Milestone No. 1 completion date.

Attachments:
Field Order No. 4, change proposal 2 & supplemental data, change proposal response & cost breakdown

Change in Contract Price	Change in Contract Times	
Original Contract Price:	Original Contract Times:	
	Milestone No. 1:	10/31/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 805,714.67	Ready for final payment:	8/6/2021
Change from previously approved Change Orders No. 1 to No. 1:	Change from previously approved Change Orders No. 1 to No. 1:	
	Milestone No. 1:	10 days
	Milestone No. 2:	0 days
	Substantial Completion:	0 days
$ 0.00	Ready for final payment:	0 days
Contract Price prior to this Change Order:	Contract Times prior to this Change Order:	
	Milestone No. 1:	11/10/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 805,714.67	Ready for final payment:	8/6/2021
Increase with this Change Order:	Increase with this Change Order:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	-
	Substantial Completion:	-
$ 72,494.50	Ready for final payment:	-
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 878,209.17	Ready for final payment:	8/6/2021

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	Recommended by Engineer (if required)	Accepted by Contractor
By:	Nathan Toosen	
Title:	Project Engineer	
Date:	12/07/2020	
	Authorized by Owner	Approved by Funding Agency (if applicable)
By:	Dan Gaston	
Title:	Chairman	
Date:	12-9-20	

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CHANGE ORDER NO.: 3

Owner:	Southeast Cass Water Resource District	Owner's Project No.:	
Engineer:	Moore Engineering, Inc.	Engineer's Project No.:	18312A
Contractor:	Dan Hart Patrol Service, LLC	Contractor's Project No.:	
Project:	Drain 53 Improvement Project No. 2019-01		
Contract Name:	Drain 53 Improvement Project No. 2019-01		
Date Issued:	1/12/2021	Effective Date of Change Order:	1/12/2021

The Contract is modified as follows upon execution of this Change Order:

Description: Fill borrow area from Change Order 2 with machine compacted topsoil.

Attachments: Supplemental data

Change in Contract Price	Change in Contract Times	
Original Contract Price:	Original Contract Times:	
	Milestone No. 1:	10/31/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 805,714.67	Ready for final payment:	8/6/2021
Change from previously approved Change Orders No. 1 to No. 2:	Change from previously approved Change Orders No. 1 to No. 2:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	-
	Substantial Completion:	-
$ 72,494.50	Ready for final payment:	-
Contract Price prior to this Change Order:	Contract Times prior to this Change Order:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 878,209.17	Ready for final payment:	8/6/2021
Increase with this Change Order:	Increase with this Change Order:	
	Milestone No. 1:	-
	Milestone No. 2:	-
	Substantial Completion:	-
$ 17,115.00	Ready for final payment:	-
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 895,324.17	Ready for final payment:	8/6/2021

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	Recommended by Engineer (if required)	Accepted by Contractor
By:	Nathan Troesen	
Title:	Project Engineer	
Date:	1/11/2021	
	Authorized by Owner	Approved by Funding Agency (if applicable)
By:		
Title:	Chairman	
Date:	3-26-21	

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CHANGE ORDER NO.: 4

Owner:	Southeast Cass Water Resource District	Owner's Project No.:	
Engineer:	Moore Engineering, Inc.	Engineer's Project No.:	18312A
Contractor:	Dan Hart Patrol Service, LLC	Contractor's Project No.:	
Project:	Drain 53 Improvement Project No. 2019-01		
Contract Name:	Drain 53 Improvement Project No. 2019-01		
Date Issued:	4/13/2021	Effective Date of Change Order:	4/13/2021

The Contract is modified as follows upon execution of this Change Order:

Description:

- Revise Milestone 2 as follows; *"All work related to the construction of the LOMR-F work in Blocks 1, 2, 3, & 4-1, as identified on the change order plans, shall be completed by June 15th, 2021. The Contractor agrees that a per day penalty of $1,800 per each day past June 15th, 2021 limit will be deducted from any payments owed or paid directly to the Owner."*
- Updated C-601 sheet to reflect final Madelyn Meadows plat.
- Excavate additional material on the west bank from Station 30+00 – 43+00 to be used for LOMR-F work as shown on sheets C-306 – C-309 and C-503 – C-504.
- Construct grading for future pedestrian path on West Levee as shown on C-402.

Attachments: Change Order No. 4 Plans & Change Order No. 4 supplemental data

Change in Contract Price	Change in Contract Times	
Original Contract Price: $ 805,714.67	Original Contract Times: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 10/31/2020 6/15/2021 7/9/2021 8/6/2021
Change from previously approved Change Orders No. 1 to No. 3: $ 89,609.50	Change from previously approved Change Orders No. 1 to No. 3: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 11/22/2020 - - -
Contract Price prior to this Change Order: $ 895,324.17	Contract Times prior to this Change Order: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 11/22/2020 6/15/2021 7/9/2021 8/6/2021
Increase with this Change Order: $ 128,033.88	Increase with this Change Order: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 - - - -
Contract Price incorporating this Change Order: $ 1,023,358.05	Contract Times with all approved Change Orders: Milestone No. 1: Milestone No. 2: Substantial Completion: Ready for final payment:	 11/22/2020 6/15/2021 7/9/2021 8/6/2021

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	Recommended by Engineer (if required)	Accepted by Contractor
By:	Nathan Tuson	
Title:	Project Engineer	Project Manager
Date:	4/9/2021	4/12/21
	Authorized by Owner	Approved by Funding Agency (if applicable)
By:		
Title:	Chairman	
Date:	4-14-21	

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CHANGE ORDER NO.: 5

Owner:	Southeast Cass Water Resource District	Owner's Project No.:	
Engineer:	Moore Engineering, Inc.	Engineer's Project No.:	18312A
Contractor:	Dan Hart Patrol Service, LLC	Contractor's Project No.:	
Project:	Drain 53 Improvement Project No. 2019-01		
Contract Name:	Drain 53 Improvement Project No. 2019-01		
Date Issued:	6/08/2021	Effective Date of Change Order:	6/08/2021

The Contract is modified as follows upon execution of this Change Order:

Description: Grade small pile of clay in the North pond to blend into the side slope per Field Order No. 5

Change in Contract Price	Change in Contract Times	
Original Contract Price:	Original Contract Times:	
	Milestone No. 1:	10/31/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 805,714.67	Ready for final payment:	8/6/2021
Change from previously approved Change Orders No. 1 to No. 4:	Change from previously approved Change Orders No. 1 to No. 4:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	-
	Substantial Completion:	-
$ 217,643.38	Ready for final payment:	-
Contract Price prior to this Change Order:	Contract Times prior to this Change Order:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 1,023,358.05	Ready for final payment:	8/6/2021
Increase with this Change Order:	Increase with this Change Order:	
	Milestone No. 1:	-
	Milestone No. 2:	-
	Substantial Completion:	-
$ 3,500.00	Ready for final payment:	-
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:	
	Milestone No. 1:	11/22/2020
	Milestone No. 2:	6/15/2021
	Substantial Completion:	7/9/2021
$ 1,026,858.05	Ready for final payment:	8/6/2021

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	Recommended by Engineer (if required)	Accepted by Contractor
By:	Nathan Tuoen	
Title:	Project Engineer	Steven Gerber/Managing Member
Date:	6/2/2021	06/02/2021
	Authorized by Owner	Approved by Funding Agency (if applicable)
By:		
Title:	Chairman	
Date:	6-9-21	

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Nathan Trosen

From:	Garrett Bietz <bietzg@DanHartPatrol.com>
Sent:	Tuesday, April 6, 2021 9:02 AM
To:	Nathan Trosen; Brady Woodard
Cc:	Steven Gerber
Subject:	Change Order 004 Pricing
Attachments:	Order 4 Quantities and Price.xlsx

Please see attached for DHPS change order pricing.

In regard to the North Pond material, pulling the material onto the slope and blending can be done for $3,500.00

Thank you,

Garrett

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Improvement District No	FM-20-C0	**Change Order No**	5
Project Name	Drain 53 Improvements & Levee		
Date Entered	7/15/2021	**For**	Southeast Cass Water Resource

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: Removal of Selkirk pond pumping pad

Cost of this work is $3,500 full city share for pumping of pond to allow LS piping improvements

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 ($)	C/O Ext Price ($)
City of Fargo - Cost Share	1	Construction Administration	EA	479,974.00	0.00	479,974.00	3,500.00	483,474.00	1.00	3,500.00
									City of Fargo - Cost Share Sub Total ($)	3,500.00

Summary

Source Of Funding	Special Assessments
Net Amount Change Order # 5 ($)	3,500.00
Previous Change Orders ($)	0.00
Original Contract Amount ($)	666,369.00
Total Contract Amount ($)	669,869.00

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

CONTRACT TIME

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
12/31/2021	08/22/2021	0.00	0.00	12/31/2021	08/22/2021

Description

APPROVED

APPROVED DATE

For Contractor

Southeast Cass Water Resource District

Department Head

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Title

Secretary-Treasurer

Mayor

Attest

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Improvement District No	FM-20-C0	**Change Order No**	1
Project Name	Drain 53 Improvements & Levee		
Date Entered	7/15/2021	**For**	Southeast Cass Water Resource

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: Time Extension Milestone #1

Excess topsoil encountered - 10 extra days for milestone #1 completion date 10-3-2020 to 11-10-20200

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 ($)	C/O Ext Price ($)

Summary

Source Of Funding	
Net Amount Change Order # 1 ($)	
Previous Change Orders ($)	0.00
Original Contract Amount ($)	666,369.00
Total Contract Amount ($)	666,369.00

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

CONTRACT TIME

Current Substantial Completion Date	Current Final Completion Date	Additional Days Substantial Completion	Additional Days Final Completion	New Substantial Completion Date	New Final Completion Date
12/31/2021	07/31/2021	0.00	10.00	12/31/2021	08/10/2021

Description 10 extra days for milestone #1 completion date 10-3-2020 to 11-10-20200

milestone dates do not work with above table dates

APPROVED

For Contractor
Southeast Cass Water Resource District

APPROVED DATE

Department Head

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Title

Secretary-Treasurer

Mayor

Attest

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Improvement District No	FM-20-C0	**Change Order No**	2
Project Name	Drain 53 Improvements & Levee		
Date Entered	7/15/2021	**For**	Southeast Cass Water Resource

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: Extra work for topsoil encountered and weather delays

Extra excavation costs $72,494.50 / 2 = $36,247.25 (city share 50%)

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 ($)	C/O Ext Price ($)
City of Fargo - Cost Share	1	Construction Administration	EA	479,974.00	0.00	479,974.00	36,247.25	516,221.25	1.00	36,247.25
									City of Fargo - Cost Share Sub Total ($)	36,247.25

Summary

Source Of Funding	Special Assessments
Net Amount Change Order # 2 ($)	36,247.25
Previous Change Orders ($)	0.00
Original Contract Amount ($)	666,369.00
Total Contract Amount ($)	702,616.25

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
12/31/2021	08/10/2021	0.00	12.00	12/31/2021	08/22/2021

Description 12 day time extension for milestone #1 from November 10 to November 22, 2020

Completions above to don't correlate due to interim completion dates

APPROVED **APPROVED DATE**

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

For Contractor
Southeast Cass Water Resource District

Title

Secretary-Treasurer

Department Head

Mayor

Attest

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Improvement District No	FM-20-C0	**Change Order No**	3
Project Name	Drain 53 Improvements & Levee		
Date Entered	7/15/2021	**For**	Southeast Cass Water Resource

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: Filling of mined excavation area

Cost of work $17,115 / 2 = $8557.50 (50% city share)

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 ($)	C/O Ext Price ($)
City of Fargo - Cost Share	1	Construction Administration	EA	479,974.00	0.00	479,974.00	8,557.50	488,531.50	1.00	8,557.50
									City of Fargo - Cost Share Sub Total ($)	8,557.50

Summary

Source Of Funding	Special Assessments
Net Amount Change Order # 3 ($)	8,557.50
Previous Change Orders ($)	0.00
Original Contract Amount ($)	666,369.00
Total Contract Amount ($)	674,926.50

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
12/31/2021	08/22/2021	0.00	0.00	12/31/2021	08/22/2021

Description

APPROVED

For Contractor

Southeast Cass Water Resource District

APPROVED DATE

Department Head

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Title

Secretary-Treasurer

Mayor

Attest

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Improvement District No	FM-20-C0	**Change Order No**	4
Project Name	Drain 53 Improvements & Levee		
Date Entered	7/15/2021	**For**	Southeast Cass Water Resource

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: Over excavatio of west bank for more clay materialCost of this work is $128,033.88 /2 = $64,016.94 (

west bank excavation for levee embankment material and LOMR - F areas

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 ($)	C/O Ext Price ($)
City of Fargo - Cost Share	1	Construction Administration	EA	479,974.00	0.00	479,974.00	64,016.94	543,990.94	1.00	64,016.94
									City of Fargo - Cost Share Sub Total ($)	64,016.94

Summary

Source Of Funding	Special Assessments
Net Amount Change Order # 4 ($)	64,016.94
Previous Change Orders ($)	0.00
Original Contract Amount ($)	666,369.00
Total Contract Amount ($)	730,385.94

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
12/31/2021	08/22/2021	0.00	0.00	12/31/2021	08/22/2021

Description

APPROVED

For Contractor

Southeast Cass Water Resource District

APPROVED DATE

Department Head

THE CITY OF Fargo FAR MORE

CITY OF FARGO
ENGINEERING DEPARTMENT
CHANGE ORDER REPORT

Title		
	Secretary-Treasurer	Mayor
		Attest

THE CITY OF Fargo FAR MORE

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

(30)

July 21, 2021

Honorable Board of City
Commissioners
City of Fargo
Fargo, ND

Re: Improvement District No. BN-21-K1

Dear Commissioners:

Bids were opened at 11:45 AM on Wednesday, July 21, 2021, for New Paving and Utility Construction, Improvement District No. BN-21-K1, located at Eagle Valley 5th Addition.

The bids were as follows:

Master Construction Co., Inc.	$ 845,213.55
Key Contracting, Inc.	$ 883,586.10
Northern Improvement Co.	$ 888,997.84
Fox Underground, Inc.	$ 918,293.05
Dirt Dynamics	$ 934,546.84
Ryan Contracting	$ 952,878.00
Sellin Brothers, Inc.	$ 1,095,116.35
Dakota Underground Co.	$ 1,138,685.30
Engineer's Estimate	$ 972,316.28

The special assessment escrow is not required.

This office recommends award of the contract to Master Construction Co. in the amount of $845,213.55 as the lowest and best bid. No protests have been received.

Sincerely,

Brenda E. Derrig
City Engineer

BED/klb

THE CITY OF Fargo FAR MORE

ENGINEER'S STATEMENT OF ESTIMATED COST

IMPROVEMENT DISTRICT # BN-21-K1

New Paving and Utility Construction

Eagle Valley 5th Addition

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

NOW THEREFORE Brenda Derrig, do hereby certify as follows:

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

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

New Paving and Utility Construction Improvement District # BN-21-K1 of the City of Fargo, North Dakota.

Line Description	Unit	Quantity	Unit Price ($)	Amount ($)
Sanitary Sewer				
1 Remove Pipe All Sizes All Types	LF	10.00	5.00	50.00
2 Connect Sewer Service	EA	31.00	355.00	11,005.00
3 F&I Manhole 4' Dia Reinf Conc	EA	7.00	4,340.00	30,380.00
4 F&I Pipe SDR 26 - 6" Dia PVC	LF	1,850.00	26.00	48,100.00
5 F&I Pipe SDR 26 - 8" Dia PVC	LF	1,146.00	31.00	35,526.00
6 F&I Pipe SDR 35 - 10" Dia PVC	LF	135.00	35.00	4,725.00
			Sanitary Sewer Total	129,786.00
Cass Rural Water User District				
7 Remove Pipe All Sizes All Types	LF	10.00	5.00	50.00
8 F&I Fittings C153 Ductile Iron	LB	730.00	7.10	5,183.00
9 F&I Hydrant	EA	4.00	4,440.00	17,760.00
10 Connect Pipe to Exist Pipe	EA	2.00	350.00	700.00
11 F&I Pipe C900 DR 18 - 6" Dia PVC	LF	34.00	33.00	1,122.00
12 F&I Pipe C900 DR 18 - 8" Dia PVC	LF	1,300.00	37.00	48,100.00
13 F&I Pipe 1" Dia Water Service	LF	810.00	15.75	12,757.50
14 F&I CS & Box 1" Dia	EA	27.00	390.00	10,530.00
15 Connect Water Service	EA	27.00	275.00	7,425.00
16 F&I Gate Valve 6" Dia	EA	4.00	1,310.00	5,240.00
17 F&I Gate Valve 8" Dia	EA	4.00	1,750.00	7,000.00
18 F&I Hydrant Ext. 12" High	EA	2.00	500.00	1,000.00
			Cass Rural Water User District Total	116,867.50
Storm Sewer				
19 F&I Manhole 4' Dia Reinf Conc	EA	6.00	2,900.00	17,400.00
20 F&I Manhole 5' Dia Reinf Conc	EA	1.00	4,410.00	4,410.00
21 F&I Inlet - Single Box (SBI) Reinf Conc	EA	8.00	2,100.00	16,800.00
22 F&I Inlet - Round (RDI) Reinf Conc	EA	3.00	1,350.00	4,050.00
23 Connect Pipe to Exist Pipe	EA	1.00	300.00	300.00
24 Connect Pipe to Exist Structure	EA	1.00	300.00	300.00
25 F&I Pipe 12" Dia	LF	545.00	33.00	17,985.00
26 F&I Pipe 15" Dia	LF	73.00	49.00	3,577.00
27 F&I Pipe 18" Dia	LF	350.00	53.00	18,550.00
28 F&I Pipe 24" Dia	LF	280.00	64.00	17,920.00
29 F&I Pipe 30" Dia	LF	102.00	88.00	8,976.00
30 F&I Pipe w/GB 15" Dia Reinf Conc	LF	125.00	60.00	7,500.00

THE CITY OF Fargo FAR MORE

ENGINEER'S STATEMENT OF ESTIMATED COST

IMPROVEMENT DISTRICT # BN-21-K1

New Paving and Utility Construction

31 F&I Pipe w/GB 24" Dia Reinf Conc	LF	80.00	74.00	5,920.00
32 F&I Flared End Section 12" Dia Reinf Conc	EA	2.00	500.00	1,000.00
			Storm Sewer Total	124,688.00
Paving				
33 Clear & Grub	LS	1.00	500.00	500.00
34 Remove Pavement All Thicknesses All Types	SY	196.00	10.00	1,960.00
35 Remove Curb & Gutter	LF	157.00	5.50	863.50
36 Rem & Repl Shared Use Path 5" Thick Reinf Conc	SY	200.00	49.00	9,800.00
37 Topsoil - Strip	CY	7,960.00	1.75	13,930.00
38 Excavation	CY	4,800.00	7.05	33,840.00
39 Subcut	CY	1,000.00	2.00	2,000.00
40 Subgrade Preparation	SY	5,600.00	1.50	8,400.00
41 F&I Woven Geotextile	SY	5,600.00	1.50	8,400.00
42 F&I Class 5 Agg - 8" Thick	SY	2,900.00	9.10	26,390.00
43 F&I Class 5 Agg - 9" Thick	SY	2,750.00	10.15	27,912.50
44 F&I Asphalt Pavement FAA 43 w/ PG58H-34	TON	2,400.00	64.00	153,600.00
45 F&I Edge Drain 4" Dia PVC	LF	3,000.00	7.75	23,250.00
46 F&I Curb & Gutter Mountable (Type I)	LF	1,575.00	16.00	25,200.00
47 F&I Curb & Gutter Standard (Type II)	LF	1,275.00	16.00	20,400.00
48 F&I Valley Gutter Reinf Conc	SY	40.00	47.00	1,880.00
49 F&I Shared Use Path 5" Thick Reinf Conc	SY	300.00	43.50	13,050.00
50 F&I Sidewalk 4" Thick Reinf Conc	SY	205.00	43.00	8,815.00
51 F&I Sidewalk 6" Thick Reinf Conc	SY	45.00	47.50	2,137.50
52 F&I Det Warn Panels Cast Iron	SF	72.00	41.00	2,952.00
53 Casting to Grade - Blvd	EA	12.00	150.00	1,800.00
54 GV Box to Grade - Blvd	EA	8.00	50.00	400.00
55 GV Box to Grade - no Conc	EA	14.00	125.00	1,750.00
56 Mulching Type 1 - Hydro	SY	28,600.00	0.45	12,870.00
57 Seeding Type C	SY	28,600.00	0.32	9,152.00
58 Stormwater Management	LS	1.00	750.00	750.00
59 Inlet Protection - Existing Inlet	EA	6.00	160.00	960.00
60 Inlet Protection - New Inlet	EA	13.00	160.00	2,080.00
61 Traffic Control - Type 1	LS	1.00	2,000.00	2,000.00
			Paving Total	417,042.50
Street Lighting				
62 F&I Base 5' Deep Reinf Conc	EA	8.00	2,300.00	18,400.00
63 F&I Conductor #6 USE Cu	LF	4,023.00	2.10	8,448.30
64 F&I Innerduct 1.5" Dia	LF	1,291.00	7.75	10,005.25
65 F&I Luminaire Type A	EA	8.00	210.00	1,680.00
66 F&I Pull Box	EA	1.00	2,335.00	2,335.00
67 F&I Light Standard Type A	EA	8.00	1,700.00	13,600.00
			Street Lighting Total	54,468.55
Signing				
68 F&I Diamond Grade Cubed	SF	48.60	25.00	1,215.00
69 F&I High Intensity Prismatic	SF	9.00	24.00	216.00

THE CITY OF Fargo FAR MORE

ENGINEER'S STATEMENT OF ESTIMATED COST

IMPROVEMENT DISTRICT # BN-21-K1

New Paving and Utility Construction

70 F&I Sign Assembly	EA	4.00	75.00	300.00
71 F&I Sign Assembly & Anchor	EA	7.00	90.00	630.00
			Signing Total	2,361.00
			Total Construction in $	**845,213.55**
		Engineering	10.00 %	84,521.36
		Legal & Misc	3.00 %	25,356.41
		Contingencies	5.00 %	42,260.68
		Administration	4.00 %	33,808.54
		Interest	4.00 %	33,808.54
			Total Estimated Costs	**1,064,969.07**
			Special Assessments	917,716.02
			Cass Rural WUD Funds	147,253.05
			Unfunded Costs	**0.00**

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

Date: 07/21/2021

Brenda Derrig
City Engineer

REGISTERED PROFESSIONAL ENGINEER
BRENDA E. DERRIG
PE-5833
DATE: 7-21-21
NORTH DAKOTA