

FARGO CITY COMMISSION AGENDA  
Monday, June 27, 2022 - 5:00 p.m.

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

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, June 13, 2022; Special Meeting, June 9, 2022).

**CONSENT AGENDA – APPROVE THE FOLLOWING:**

- 1. Letter of Support for Susan’s Daycare, LLC.
- 2. 1st reading of a Gas Franchise Ordinance.
- 3. 2nd reading and final adoption of an Ordinance Rezoning a Certain Parcel of Land Lying in MHB Guardian Addition; 1st reading, 6/13/22.
- 4. Accept the resignation of Justin Nachatilo in exchange for a waiver and withdrawal of any and all claims relative to his employment with the City of Fargo.
- 5. Resolution Establishing Northern States Power Franchise Fee.
- 6. Site Authorizations for Games of Chance:
  - a. Fargo Youth Hockey Association at H.A. Thompson Arena.
  - b. Fargo Youth Hockey Association at Buffalo Wild Wings.
- 7. Applications for Games of Chance:
  - a. El Zagal Misfits for a raffle on 10/22/22.
  - b. St. Anthony of Padua Church for bingo and a raffle on 9/25/22.
  - c. El Zagal Shrine Temple for a calendar raffle the last day of each month January – December of 2023.
  - d. Fargo Gateway Lions for a raffle on 7/12/22.
  - e. EagleRidge Legacy Fund, Inc. for a raffle on 7/21/22; Public Spirited Resolution.
- 8. Extension of the Class “FARZ” Alcoholic Beverage License for the New Monte’s, Inc. d/b/a Twist until 12/31/22.
- 9. Extension of the Class “A-8” Alcoholic Beverage License for BFG, Inc. d/b/a Borrowed Buck’s Roadhouse until 12/31/22.
- 10. City of Fargo Resolution Authorizing Officers to Make Deposits and Withdrawals and approve the Designated Depositories.
- 11. Bid award for Project No. FM-22-B1.

12. Contract Amendment No. 1 with Metro COG in the amount of \$44,976.65 for Project No. MS-21-H0.
13. Change Order No. 1 for an increase of \$149,943.80 for Project No. FM-19-C1.
14. Reallocation of funds in the amount of \$63,547.00 for additional cleaning services at City Hall with Automated Maintenance Service (RFP21014-B), pending Finance Committee approval.
15. Reallocation of funds in the amount of \$25,000.00 to reimburse Fargo Baseball, LLC for the leveling of the infield at Newman Outdoor Stadium (SSP22062), pending Finance Committee approval.
16. Reallocation of funds in the amount of \$439,080.00 for the buildout of the PD Substation and Interstate Parking Offices at the Mercantile Parking Ramp, pending Finance Committee approval.
17. Rate of \$.30/minute for the Electric Vehicle Charger at City Hall effective 7/1/22.
18. Receive and file General Fund – Budget to Actual through May 2022 (unaudited).
19. State Water Commission request for cost reimbursement in the amount of \$1,391,419.51 for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.
20. Contract with EAPC for the remodeling of Fire Station No. 2 and the construction of Fire Station No. 8 (RFQ22059).
21. Notice of Grant Award Amendment from the ND Department of Health for PHEP – Statewide Response Team (CFDA #93.069).
22. Notice of Grant Award Amendment from the ND Department of Health for local public health unit Tobacco Prevention and Control Program.
23. Notice of Grant Award from the ND Department of Health and Human Services for Increasing Immunization Rates for local public health units (CFDA #93.268).
24. Agreement for Services with AE2S (SSP22105).
25. Resolutions Approving the following Plats:
  - a. GPK Addition.
  - b. Asleson Commercial Third Addition.
26. Direct the City Attorney to examine Chapters 18-03 and 11-02.
27. Memorandum of Understanding with the United States Postal Inspection Service.
28. Amendments to Contract Nos. 38190959 and 38190973 with the ND Department of Transportation.
29. Contract with Valley Green & Associates for Transit Passenger Shelter and Hub Snow Clearing and Hauling Services.
30. Contract with Valley Green & Associates for Transit Passenger Shelter Maintenance Services.

31. Water Utility personnel to provide written comments to the EPA regarding new State Revolving Fund (SRF) program requirements.
32. Contract and bond for Project No. SW 22-01, GTC Elevator Modernization (AFB22087) and Municipal Court Reroof Project (AFB22088).
33. Bills.
34. Change Order No. 3 for an increase of \$39,512.07 for Improvement District No. BN-21-H1.
35. Payment to Lumen in the amount of \$1,227.18 for relocation of a utility hand hole (Improvement District No. BN-22-F1).
36. Change Order No. 3 for a time extension to the substantial and final completion dates to 10/1/22 and 10/31/22 for Improvement District No. BR-21-C1.
37. Permanent Easement (Storm Sewer) with V V Estates, LLC in association with Improvement District No. BN-21-E1.
38. Permanent Easement (Storm Sewer) with 76th Street Holdings, LLC in association with Improvement District No. BN-22-J1.
39. The use of ACE Fibers with no modification to the asphalt oil and associated change order for Improvement District No. PN-22-A1.
40. Contract and bond for Improvement District No. BN-22-F1.

**REGULAR AGENDA:**

41. **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](https://FargoND.gov/VirtualCommission)).
42. **\*Public Input Opportunity\* - PUBLIC HEARINGS - 5:15 pm:**
  - a. Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2022.
  - b. Hearing on a dangerous building located at 1108 18th Street North.
  - c. Proposed Amendments to the 2021 and 2022 HUD Action Plans.
  - d. Proposed Amendments to the 2021 Action Plan Activities for HOME American Rescue Plan (ARP) Program.
  - e. Revised Developer Agreement with Grove Enclave LLC for Tax Increment Financing District No. 2021-03 (2301 University Drive South).
  - f. Application for the transfer of a Class "Z" Alcoholic Beverage License from D & C Lab, LLP d/b/a Labby's Bar and Grill to be located at 1100 19th Avenue North; ownership change only.
43. Recommendation to accept the results of the Cass County Canvassing Board.

44. Discussion regarding the University Drive and 10th Street Corridor Study.
45. Application for Property Tax Exemptions for Improvements Made to Buildings for James and Jodi Spaeth, 262 Oakwood Court South (5 year).
46. Recommendation for appointment to the Board of Appeals.
47. Wess Philome would like to discuss Fargo PDs Internal Investigations.


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](http://www.FargoND.gov/citycommission).



## MEMORANDUM

**TO:** Fargo City Commission

**FROM:** Jim Gilmour, Director of Strategic Planning and Research 

**DATE:** June 21, 2022

**SUBJECT:** Letter of Support for Susan's Daycare

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The City of Fargo is a member of the North Dakota Opportunity Fund Consortium along with 37 other communities in North Dakota. This fund originated as part of the Small Business Jobs Act of 2010.

The fund provides loans and investments to small businesses. In order for a business to receive support, the Consortium requires an endorsement letter from the City indicating support for the project and North Dakota Opportunity Fund (NDOF) involvement in the financing. There is no City financial support included required with the letter of support.

Susan's Daycare is applying to the NDOF for support for relocating and expanding the daycare business. The new location would be 2600 9th Avenue South in Fargo. NDOF money would be used to buy down the interest rate in a Bank of North Dakota program. The letter of request is attached.

The Economic Development Incentives Committee is not meeting in June, but has supported another daycare business using the ND Opportunity Fund. Because of the need for daycare in the community and the need to make a decision soon, Deputy Mayor Dave Piepkorn and I are recommending City Commission approval of this request.

### Recommended Motion

Provide a letter in support of the Susan's Daycare project and the North Dakota Opportunity Fund providing match of the Bank of ND interest buy down program.

## FAITHWORKS | LC

June 20th, 2022

**Jim Gilmour, Director of strategic Planning and Research**  
City of Fargo  
225 4th St. N.  
Fargo, ND 58102  
(701) 241-1476

To Whom It May Concern:

Susan's Daycare, LLC is requesting support to participate in the community match interest buydown for the ND Opportunity Fund. Below is an overview of the company, its purpose and mission.

Susan's Daycare, LLC is currently located in Fargo, ND (south fargo) it is a home based daycare looking to relocate, rebrand as faithworks learning center and transition as a center in a facility, the purpose of this is to serve more families who are looking for childcare. Susan, along with her son Arnaud, founded Susan's Daycare, LLC in 2019, the name was registered in 2020. The business was in very high demand from the beginning. Over the past year the demand for childcare has grown drastically.

Susan Wilson, Owner; has been in the childcare business since her youth in her native country, she discovered her passion for early childhood development and business while caring for her 6 children. She has been a hands-on mother caring for her children's well-being while focusing on their overall development.

With such low inventory when it comes to commercial spaces for daycares, luckily the property located at 2600 9th Ave South Fargo, ND 58103 came on the market for sale, Susan's Daycare, LLC took the opportunity and signed a purchase agreement in support of families and serving the community. The property will be purchased by a holding company. The holding company will finance the real estate. This property was a previous office building, it's a standalone building, 6,371 squarefoot with onsite parking for up to 35 vehicles.

With the purchase of this building it will open doors to more families looking for childcare, this will allow families to work effectively. Thank you City of Fargo for the opportunity to serve our community!

Sincerely,

Susan Wilson  
Owner  
Susan's Daycare, LLC

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**GAS FRANCHISE ORDINANCE**

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

**CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**

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:

**AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSES OF CONSTRUCTING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF FARGO, NORTH DAKOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO THE CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH THE CITY AND TO USE THE PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.**

**THE CITY COUNCIL OF THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA, ORDAINS:**

**SECTION 1. DEFINITIONS.**

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

**City.** The City of Fargo, County of Cass, State of North Dakota.

**City Utility System.** Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.

**Commission.** The North Dakota Public Service Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate Gas retail rates now vested in the North Dakota Public Service Commission.

**Company.** Northern States Power Company, a Minnesota corporation, its successors and assigns.

**Gas.** "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

**Gas Facilities.** Pipes, mains, regulators, and other facilities owned or operated by Company for the purpose of providing gas service for public use.

**Notice.** A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the General Counsel, 401 Nicollet Mall, 8<sup>th</sup> Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Administrator, 225 4<sup>th</sup> Street, Fargo, ND 58102. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

**Public Ground.** Land owned by the City, for whatever purpose deemed necessary and appropriate by City.

**Public Way.** Any street, walkway or other public right-of-way within City.

## SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant of Franchise. City hereby grants Company, for a period of 20 years from the date passed and approved by the City, a non-exclusive franchise ("Franchise"), except as otherwise provided by the Public Service Commission, the right to transmit and furnish Gas energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways of City, subject to the provisions of this Franchise Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance.

2.2 Effective Date; Written Acceptance. This franchise Ordinance shall be in force and effect from and after passage of this Ordinance, its acceptance by Company, and its publication as required by law. City by board of city commission resolution may revoke this franchise Ordinance if Company does not file a written acceptance with the City within 90 days after publication.

2.3 Service and Rates. The service to be provided and the rates to be charged by Company for Gas service in City, termination provisions, assignment and merger terms, and all operational decisions that apply shall continue to be subject to the jurisdiction of the Public Service Commission of this State or its successor agency.

2.4 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the

default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court, Cass County, North Dakota, to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

**SECTION 3. LOCATION, OTHER REGULATIONS.**

3.1 Location of Facilities. Gas Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Gas Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Gas Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company shall be required to comply with North Dakota Century Code Ch. 49-23 One-Call Excavation Notice System as underground gas facilities may be abandoned underground in place, from time to time, provided, at City's request, Company will remove abandoned metal pipe interfering with a City improvement project, but only to the extent such metal pipe is uncovered by excavation as part of the City's improvement project. To the extent inconsistent with state law, state law shall control.

3.2 Street Openings. Company shall not open or disturb any Public Way for any purpose without first having obtained a permit from the City in accordance with Fargo Municipal Code Article 18-09, for which the City may impose a reasonable fee or otherwise giving notice thereof to the city engineer in accordance with Fargo Municipal Code §18-0912. Permit conditions, if any, imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. In the event of an emergency, Company shall notify the city engineer on the first working day after such work is commenced, and shall secure such permits, if necessary.

3.3 Restoration. After undertaking any work requiring the opening of any Public Way, Company shall restore the same, including paving and its foundation, in accordance with Fargo Municipal Code Article 18-09, unless otherwise agreed to by the parties. Company shall be permitted to use non-reinforced concrete instead of cold mix asphalt for temporary restoration purposes. City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

3.4 Avoid Damage to Gas Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

3.5 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Ways where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the

improvements, (ii) the Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Gas Facilities.

**SECTION 4. RELOCATIONS.**

4.1 Relocation of Gas Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Gas Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 2, Company shall relocate its Gas Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. Nothing in this Franchise Agreement requires Company to relocate, remove, replace or reconstruct at its own expense its Gas Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Projects with Federal Funding. Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of North Dakota Century Code Chapter 24-01, as supplemented or amended. It is understood that the right herein granted to Company is a valuable right. City shall not order Company to remove or relocate its Gas Facilities when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment Costs of such relocation and the loss and expense resulting therefrom are first paid to Company, but the City need not pay those portions of such for which reimbursement to it is not available.

4.3 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way was established, or Company's rights under state or county permit.

**SECTION 5. TREE TRIMMING.**

Company understands and agrees that it is also granted the permission and authority to trim shrubs, trees and other vegetation, including roots, in the Public Ways of City to the extent Company finds necessary and in accordance with City excavation permit requirements, including Emergency provisions therein, to avoid interference with the proper construction, operation, repair and maintenance of Gas Facilities, provided that Company shall save City harmless from any liability in the premises. Company agrees that if tree or vegetation impacts are possible, Company will consider alternate methods of construction when appropriate and reasonable.

**SECTION 6. INDEMNIFICATION.**

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

**SECTION 7. VACATION OF PUBLIC WAYS.**

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under North Dakota Century Code, Chapter 40-39.

**SECTION 8. CHANGE IN FORM OF GOVERNMENT.**

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

**SECTION 9. FRANCHISE FEE.**

9.1 Fee Schedule. During the term of the franchise hereby granted, and in lieu of any permit or other fees being imposed on the Company, the City may impose on Company a franchise fee ("Franchise Fee") as described herein.

9.2 General Franchise Fee. The franchise fee payable by the Company to the City shall be determined by a separate Resolution of the board of city commissioners as a percentage of Company's Gross Revenues. "Gross Revenues" means all sums, excluding any surcharge or similar addition to the

Company's charges to customers for the purpose of reimbursing the Company for the cost resulting from the franchise fee, received by the Company from the sale of gas to its retail customers within the corporate limits of City. The Resolution shall not be adopted until at least 90 days after written notice enclosing such proposed Resolution has been served upon Company by certified mail. The fee shall not become effective until the beginning of a Company billing month at least 90 days after written notice enclosing such adopted Resolution has been served upon Company by certified mail. Section 2.4 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate Resolution.

9.3 Application of franchise fee to customer. The franchise fee shall be payable monthly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee on all customer billings for gas service. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by Resolution from time to time; however, each change shall meet the same notice requirements and not occur more often than annually. The time and manner of collecting the franchise fee may be subject to the approval of the Commission. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers by imposing a surcharge in Company's applicable rates for gas service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times.

9.4 Fee Adjustments. City and Company agree that City, in its sole discretion, may raise or lower the percentage Franchise Fee on a non-discriminatory basis, and Company may raise or lower the corresponding surcharge to its customers accordingly. This franchise ordinance shall not be construed as a limitation on the City's power to tax the Company, if any.

9.5 Equivalent Fee Requirement. City agrees it will not grant additional franchises for other gas providers in City on terms more favorable or less burdensome than this franchise Ordinance, provided that City has the authority to require a franchise fee.

9.6 Large Volume User Franchise Fee. Upon written approval by the board of City Commissioners determining eligibility as a Large Volume User and commensurate benefit thereto, the franchise fee for the sale or transmission of gas to large volume gas customers who are so classified by the Company because their maximum daily requirements are 200 MCF or more, shall be .75%.

9.7 Annual Franchise Performance and Planning Meeting; Annual Reporting. Company and City shall meet annually to discuss items of concern or interest related to this Franchise, including, but not limited to, collaborative infrastructure planning, vegetation management and reliability performance. Upon request of City, Company shall annually provide to City reporting information on service reliability, customer usage, program participation, outage data, and infrastructure improvements



and capital improvements, the exact format and content of which shall be mutually agreed to by City and Company, and in a manner consistent with all applicable laws, regulations and Commission orders.

**SECTION 10. INSURANCE AND WORKERS COMPENSATION.**

10.1 Insurance. As of the effective date of this franchise agreement Company will, at its sole expense, maintain during the entire term of this franchise agreement public liability insurance with a company licensed to do business in the State of North Dakota with a rating by Best of not less than "A" that will protect Company, the City, and the City's officials, officers, employees, and agents from claims which may arise from operations under this Franchise, whether such operations are by the Company, its officials, officers, directors, employees, or agents, or any subcontractors of Company. This liability insurance will include, but will not be limited to, protection against claims arising from bodily and personal injury, death, and damage to property resulting from the Company's automobiles, products, and completed operations. The amount of such insurance shall be subject to periodic changes as described in this Section, or as may be required by applicable law, but will be not less than the following:

- (a) General liability insurance:  
Bodily injury and/or death per Person \$1,000,000  
Bodily injury and/or death per occurrence \$1,000,000  
Property damage per occurrence \$1,000,000  
Property damage and bodily injury, aggregate \$2,000,000
- (b) Automobile insurance:  
Combined single limit \$1,000,000
- (c) Umbrella coverage: \$2,000,000

The liability policy will provide for the following, by endorsement or otherwise:

- (a) The policy will cover personal injury as well as bodily injury.
- (b) The policy will cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries, and property damage.
- (c) Broad form property damage liability will be afforded.
- (d) The City will be included as an additional insured on the policy.
- (e) The coverage is primary insurance and no other insurance or fund of the City will be called upon to contribute to a loss under this coverage.
- (f) Standard form of cross-liability will be afforded.
- (g) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

The automobile insurance policy will provide for the following, by endorsement or otherwise:

- (a) The City will be included as an additional insured on the policy.
- (b) The policy will not be canceled without thirty (30) days prior written notice of such cancellation to the City.

Upon ninety (90) days prior written notice to Company, the City reserves the right to adjust the limit coverage requirements no more than once every five (5) years. Any such adjustment by the City will be no greater than the increase in the State of North Dakota Consumer Price Index for such five (5) year period, unless otherwise required by applicable law.

Company will submit to the City documentation of the required insurance including a certificate of insurance signed by the insurance agent and companies named, as well as all properly executed endorsements required. The certificate of insurance should confirm that the required endorsements are in effect.

10.2. Self-Insurance. With the City's consent, which shall not be unreasonably withheld, the Company shall have the option of providing a program of self-insurance to meet its obligation under this Ordinance. In such event, the Company shall submit to the City a Certificate of Self-Insurance or other documents showing proof of its financial responsibility.

## **SECTION 11. DEVELOPMENT OF ENERGY EFFICIENCIES AND RENEWABLE ENERGY.**

City and Company have demonstrated their intent to strive for energy efficiency in City. City and Company agree to further commit to collaborate, cooperate, and strive for an increase in the use of increased energy efficiencies and renewable energies. Areas of collaboration may include future agreements and activities in the areas of public education, promotion of alternative energy sources, promotion of energy efficiencies and conservation, along with the development of residential and commercial building weatherization strategies.

## **SECTION 12. PROVISIONS OF ORDINANCE.**

12.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

12.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

12.3 Governing Law. This Franchise Ordinance shall be deemed to be executed in the State of North Dakota, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with applicable laws of the State of North Dakota as applicable to contracts entered into and performed entirely within the State.

**SECTION 13. AMENDMENT PROCEDURE.**

Either party to this franchise ordinance may at any time propose that the Ordinance be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective as provided herein.

**SECTION 14. PREVIOUS FRANCHISES SUPERSEDED.**

This Franchise Agreement supersedes any previous Gas franchise granted to Company or its predecessor. This ordinance shall be in full force and effect after passage and approval as provided by law.

**SECTION 15. EFFECTIVE DATE.**

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

Passed and approved: \_\_\_\_\_, 20\_\_.

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

Attest:

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

Introduction \_\_\_\_\_  
First Reading \_\_\_\_\_  
Second Reading and Adoption \_\_\_\_\_  
Publication \_\_\_\_\_

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA



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

1 AN ORDINANCE REZONING A CERTAIN PARCEL  
2 OF LAND LYING IN MHB GUARDIAN ADDITION  
3 TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

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

8 WHEREAS, the Fargo Planning Commission recommended approval of the rezoning  
9 request on May 3, 2022; and,

10 WHEREAS, the rezoning changes were approved by the City Commission on June 13,  
11 2022,

12 NOW, THEREFORE,

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

14 Section 1. The following described property:

15 Lot Two (2), Block One (1) of MHB Guardian Addition to the City of Fargo, Cass  
16 County, North Dakota;

17 is hereby rezoned from “DMU”, Downtown Mixed-Use, District to “P/I”, Public and Institutional,  
18 District.

19 Section 2. The following described property:

20 Lot One (1), Block One (1) of MHB Guardian Addition to the City of Fargo, Cass  
21 County, North Dakota;

22 that is currently zoned “DMU”, Downtown Mixed-Use, District, will hereby retain the base  
23 zoning of “DMU”, Downtown Mixed-Use, District.

OFFICE OF THE CITY ATTORNEY  
FARGO, NORTH DAKOTA

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

1  
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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.

(SEAL)

Attest:

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

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

First Reading:  
Second Reading:  
Final Passage:

**CITY ATTORNEY**

Nancy J. Morris

4

**ASSISTANT CITY ATTORNEYS**

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

June 22, 2022

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Dear Mayor and Commissioners,

Justin Nachatilo accepted the city of Fargo's counteroffer to accept his resignation without vacating the decision of the Civil Service Commission. Presented to you today is his letter of resignation waiving all claims. Your approval is sought to fully and finally resolve this employment matter without further hearing or litigation.

**SUGGESTED MOTION:** I move to accept the resignation of Justin Nachatilo as of July 12, 2022, in exchange for a waiver and withdrawal of any and all claims relative to his employment with the city of Fargo.

Regards,



Nancy J. Morris

Enclosure



*Leo F. J. Wilking, J.D.*  
www.WilkingLaw.com

3003 32nd Ave. South, Suite 240  
Fargo, ND 58103

PO Box 3085  
Fargo, ND 58108-3085  
(701) 356-6823 *Phone*  
(701) 478-7621 *Fax*

**HAND DELIVERED**

June 14, 2022

Board of City Commissioners  
City of Fargo  
Fargo City Hall  
225 – 4<sup>th</sup> St. N.  
Fargo, N.D. 58102

**Re: Resignation**

Dear Board of City Commissioners:

Enclosed is Justin Nachatilo's letter of resignation. A copy of this letter has been provided to City Attorney Nancy Morris.

Sincerely,

WILKING LAW FIRM

A handwritten signature in black ink, appearing to read 'Leo F. J. Wilking', is written over the printed name.

Leo F.J. Wilking

cc: City Attorney Nancy Morris (via e-mail)

*Justin Nachatilo*

  
*Fargo, N.D. 58104*

**HAND DELIVERED**

June 14, 2022

Board of City Commissioners  
City of Fargo  
Fargo City Hall  
225 – 4<sup>th</sup> St. N.  
Fargo, N.D. 58102

**Re: Resignation**

Dear Board of City Commissioners:

Pursuant to a written proposal made this morning to my attorney by City Attorney Nancy Morris, I hereby submit my resignation from the Fargo Police Department with an effective date of January 12, 2022. It is my understanding that this retroactive resignation is substituted for the termination of my employment that was scheduled to take effect on January 12, 2022, but was appealed to the Fargo Civil Service Commission and the Fargo City Commission without a final determination.

In connection with this resignation I waive and withdraw any and all potential future claims against the Fargo Police Department and the City of Fargo arising out of my employment in the Department.

It was an honor and privilege to serve the citizens of Fargo during my employment at the Fargo Police Department between 2003 and 2022.

Sincerely,



Justin Nachatilo



**CITY ATTORNEY**

Nancy J. Morris

**ASSISTANT CITY ATTORNEYS**

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

5

June 22, 2022

Board of City Commissioners  
City Hall  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Dear Mayor and Commissioners,

Please find attached the necessary Franchise Fee Resolution establishing the Gas Distribution Franchise Fee in the amount of 2%, in accordance with the terms of the Franchise Ordinance.

**SUGGESTED MOTION:** I move to approve the Resolution Establishing Northern States Power Franchise Fee, establishing the Gas Distribution Franchise in the amount of 2%.

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

Regards,



Nancy J. Morris

Enclosure

COMMISSIONER \_\_\_\_\_ introduced the following resolution and moved its adoption:

**RESOLUTION ESTABLISHING NORTHERN STATES POWER FRANCHISE FEE**

**WHEREAS**, the City of Fargo has enacted Article 24-05 of the Fargo Municipal Code which authorizes the Franchise Ordinance for Northern States Power and use of the public ways for purposes of establishing a Gas Distribution System; and

**WHEREAS**, Section 24-0502 of the Fargo Municipal Code authorizes the Board of City Commission to adopt a Franchise Fee by Resolution.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF CITY COMMISSIONERS,**

1. The Northern States Power Franchise Fee for a Gas Distribution System shall be in the amount of 2%.

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

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

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

ATTEST:

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



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

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

Full, Legal Name of Gaming Organization **Fargo Youth Hockey Association**

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 **H.A. Thompson Arena**

|                              |                   |                       |                    |
|------------------------------|-------------------|-----------------------|--------------------|
| Street <b>831 17th Ave N</b> | City <b>Fargo</b> | ZIP Code <b>58102</b> | County <b>Cass</b> |
|------------------------------|-------------------|-----------------------|--------------------|

|  |  |  |
|--|--|--|
| Beginning Date(s) Authorized <b>7/1/22</b> | Ending Date(s) Authorized <b>6/30/23</b> | Number of twenty-one tables if zero, enter "0": <b>0</b> |
|--|--|--|

Specific location where games of chance will be conducted and played at the site (required) **First Floor Lobby**

If conducting Raffle or Poker activity provide date(s) or month(s) of event(s) if known  
**Raffle Drawings to be determined by Fargo Youth Hockey Association**

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

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

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

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

**APPROVALS**

|  |                          |
|--|--------------------------|
| Attorney General   | Date                     |
| Signature of City/County Official  | Date<br><b>6/27/2022</b> |
| PRINT Name and official position of person signing on behalf of city/county above<br><b>Steve Sprague/City Auditor</b> |                          |

**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



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

(66)

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

Full, Legal Name of Gaming Organization **Fargo Youth Hockey Association**

**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 <b>Buffalo Wild Wings</b>  |  |  |                    |
| Street <b>1515 19th Ave N</b>   | City <b>Fargo</b>                        | ZIP Code <b>58102</b>                                    | County <b>Cass</b> |
| Beginning Date(s) Authorized <b>7/1/22</b>  | Ending Date(s) Authorized <b>6/30/23</b> | Number of twenty-one tables if zero, enter "0": <b>0</b> |                    |
| Specific location where games of chance will be conducted and played at the site (required) <b>2 Etab machines just south of West Bathrooms</b><br><b>1 Etab machine just south of West Bathrooms</b> |  |  |                    |
| 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)

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

**APPROVALS**

|  |                       |
|--|-----------------------|
| Attorney General   | Date                  |
| Signature of City/County Official  | Date <b>6/27/2022</b> |
| PRINT Name and official position of person signing on behalf of city/county above<br><b>Steve Sprague/City Auditor</b> |                       |

**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



**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9338 (04-2020)

✓1085  
 25.00  
 6/13/22

(7a)

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

Games to be Conducted  
 Bingo     Raffle     Raffle Board     Calendar Raffle     Sports Pool     Poker\*     Twenty-One\*     Paddlewheels\*

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

|  |  |   |                          |
|--|--|---|--------------------------|
| Name of Organization or Group of People permit is issued to<br><b>EL Zagal Misfits</b> | Dates of Activity<br><b>10/22/2022</b> | If raffle, provide drawing date         |                          |
| Organization or Group Contact Person<br><b>Michael Dow</b>                             | Title or Position<br><b>President</b>  | Telephone Number<br><b>701-730-5956</b> |                          |
| Business Address<br><b>1429 3rd ST N</b>   | City<br><b>Fargo</b>                   | State<br><b>ND</b>                      | ZIP Code<br><b>58102</b> |
| Mailing Address (if different)   | City                                   | State                                   | ZIP Code                 |
| Site Name (where gaming will be conducted)<br><b>EL Zagal Shrine Center</b>            |  |   |                          |
| Site Address<br><b>1429 3rd ST N</b>   | City<br><b>Fargo</b>                   | ZIP Code<br><b>ND</b>                   | County<br><b>Cass</b>    |

| Game Type    | Description of Prize         | Retail Value of Prize |
|--------------|------------------------------|-----------------------|
| 5 - Raffles  | Ruger Rifle @ \$700 each     | \$700 / 3500          |
| 5 - Raffles  | Benelli Shotgun @ \$600 each | \$600 / 3000          |
| 5 - Raffles  | Cash @ \$1000 each           | \$1000 / 5000         |
| 10 - Raffles | Cash @ \$500 each            | \$500 / 5000          |
| 10 - Raffles | Cash @ \$250 each            | \$250 / 2500          |
| 70 - Raffles | Cash @ \$100 each            | \$100 / 2000          |

Total (limit \$40,000 per year)    **\$ 21,000**

Intended Uses of Gaming Proceeds  
**Shriner's Childrens Clinic**

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

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

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

Organization or Group Contact Person

|   |                      |   |   |
|---|----------------------|---|---|
| Name<br><b>Michael Dow</b>  | Title<br><b>Pres</b> | Telephone Number<br><b>701-730-5956</b> | E-mail Address<br><b>mwdowe@msn.com</b> |
| Signature of Organization or Group's Top Official<br><i>Michael Dow</i> |                      | Title<br><b>President</b>               | Date<br><b>06/13/2022</b>               |



# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

LICENSING SECTION

SFN 9338 (09-2021)

76

25.00  
6/16/22

✓ 3680

Applying for (check one)

Local Permit       Restricted Event Permit\*

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

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

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

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

|   |  |   |  |   |                          |
|---|--|---|--|---|--------------------------|
| Name of Organization or Group of People permit is issued to<br><u>St. Anthony of PADUA Church</u> |  | Dates of Activity<br><u>9-25-22</u>         |  | If raffle, provide drawing date<br><u>9-25-22</u> |                          |
| Organization or Group Contact Person<br><u>Bonnie Kroetsch</u>                                    |  | Title or Position<br><u>RAFFLE CHAIRMAN</u> |  | Telephone Number<br><u>701-235-9515</u>           |                          |
| Business Address<br><u>710 -10 St. S.</u>   |  | City<br><u>FARGO</u>                        |  | State<br><u>ND</u>                                | ZIP Code<br><u>58103</u> |
| Mailing Address (if different)<br><u>1419 7 Ave S</u>   |  | City<br><u>FARGO</u>                        |  | State<br><u>ND</u>                                | ZIP Code<br><u>58103</u> |
| Site Name (where gaming will be conducted)<br><u>St. Anthony of PADUA Church</u>                  |  |   |  |   |                          |
| Site Address<br><u>710 10 St. S.</u>  |  | City<br><u>FARGO</u>                        |  | ZIP Code<br><u>58103</u>                          | County<br><u>CASS</u>    |

### Description and Retail Value of Prizes to be Awarded

| Game Type                       | Description of Prize   | Retail Value of Prize |
|---------------------------------|--|-----------------------|
| RAFFLE                          | CASH Prizes 1 @ \$500 <sup>00</sup> 1 @ \$250 <sup>00</sup> - 3 @ \$100 <sup>00</sup> - 3 @ \$50 <sup>00</sup> | \$1050.00             |
| RAFFLE                          | 55" TV @ <del>350</del> \$375 <sup>00</sup> Yeti cooler @ 350 <sup>00</sup>                                    | \$ 725.00             |
| RAFFLE                          | outdoor cement Statue @ 200 <sup>00</sup> Nativity set 150 <sup>00</sup>                                       | \$ 350.00             |
| Bingo                           | CASH - Blackouts \$50 <sup>00</sup> Prizes \$150 <sup>00</sup>   | \$ 200.00             |
| Total (limit \$40,000 per year) |  | \$ 2325.00            |

Intended Uses of Gaming Proceeds  
cost for ADDING ADDITIONAL CONFESSORIAL in church

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

Yes     No

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

Yes     No

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

No     Yes - Total Retail Value: \$1900<sup>00</sup> (This amount is part of the total prize limit of \$40,000 per year)

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

Yes     No

### Organization or Group Contact Person

|   |                                 |   |   |
|---|---------------------------------|---|---|
| Name<br><u>Bonnie Kroetsch</u>  | Title<br><u>RAFFLE CHAIRMAN</u> | Telephone Number<br><u>701-235-9515</u> | E-mail Address<br><u>bonnie.kroetsch@icloud.com</u> |
| Signature of Organization or Group's Top Official<br><u>Bonnie Kroetsch</u> |                                 | Title<br><u>RAFFLE CHMn</u>             | Date<br><u>6-16-22</u>                              |



**APPLICATION FOR A LOCAL OR RESTRICTED EVENT PERMIT**  
 NORTH DAKOTA OFFICE OF ATTORNEY GENERAL  
 LICENSING SECTION  
 SFN 9338 (04-2020)

70

V 7031  
 25.00  
 6/21/22

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

Games to be Conducted  
 Bingo     Raffle     Raffle Board     Calendar Raffle     Sports Pool     Poker\*     Twenty-One\*     Paddlewheels\*

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

|  |  |  |  |   |                          |
|--|--|--|--|---|--------------------------|
| Name of Organization or Group of People permit is issued to<br><b>EL Zagal Shrine Temple</b> |  | Dates of Activity<br><b>Last Day of ea. month. Jan - Dec '22</b> |  | If raffle, provide drawing date         |                          |
| Organization or Group Contact Person<br><b>Bruce Ridgway</b>                                 |  | Title or Position<br><b>Oriental Guide</b>                       |  | Telephone Number<br><b>706-429-0542</b> |                          |
| Business Address<br><b>1429 3rd St North</b>   |  | City<br><b>Fargo</b>   |  | State<br><b>ND</b>                      | ZIP Code<br><b>58102</b> |
| Mailing Address (if different)   |  | City   |  | State                                   | ZIP Code                 |
| Site Name (where gaming will be conducted)<br><b>1429 3rd St North</b>                       |  |  |  |   |                          |
| Site Address   |  | City<br><b>Fargo</b>   |  | ZIP Code                                | County                   |

| Game Type       | Description of Prize | Retail Value of Prize                        |
|-----------------|----------------------|--|
| Calendar Raffle | Cash                 |  |
|                 |                      | 25 <sup>00</sup> each Day, \$100 each Sunday |
|                 |                      | \$300 3 <sup>rd</sup> Tuesday                |
|                 |                      |  |
|                 |                      |  |
|                 |                      |  |
|                 |                      |  |

Total (limit \$40,000 per year)    \$16,250

Intended Uses of Gaming Proceeds  
**Temple Functions and Administration of Transportation Funds**

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

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

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

|   |       |  |
|---|-------|--|
| Organization or Group Contact Person                                      |       |  |
| Name<br><b>EL Zagal Shrine</b>  | Title | Telephone Number<br><b>718-841-8533</b>    |
| Signature of Organization or Group's Top Official<br><i>Bruce Ridgway</i> |       | E-mail Address<br><b>slarson@arvig.net</b> |
| Title   |       | Date<br><b>6/21/22</b>                     |





# APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

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

7d

\$25.00  
✓ 2403

Applying for (check one)  
 Local Permit     Restricted Event Permit\* **Lions All Star Basketball games**

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

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

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

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

|   |  |  |                          |   |  |
|---|--|--|--------------------------|---|--|
| Name of Organization or Group of People permit is issued to<br><b>Fargo Gateway Lions</b> |  | Dates of Activity<br><b>July 12, 2022</b>  |                          | If raffle, provide drawing date         |  |
| Organization or Group Contact Person<br><b>Darrell Costain</b>                            |  | Title or Position<br><b>Co-Chair games</b> |                          | Telephone Number<br><b>701-730-4575</b> |  |
| Business Address<br><b>527 Kingston Place</b>   |  | City<br><b>West Fargo</b>                  | State<br><b>ND</b>       | ZIP Code<br><b>58078</b>                |  |
| Mailing Address (if different)<br><b><del>Darrell</del> West Fargo, ND</b>                |  | City<br><del>West Fargo</del>              | State                    | ZIP Code                                |  |
| Site Name (where gaming will be conducted)<br><b>Darrell High School</b>                  |  |  |                          |   |  |
| Site Address<br><b>7150 25th St So</b>  |  | City<br><b>Fargo,</b>                      | ZIP Code<br><b>58104</b> | County<br><b>Cass</b>                   |  |

### Description and Retail Value of Prizes to be Awarded

| Game Type                       | Description of Prize                        | Retail Value of Prize |
|---------------------------------|---|-----------------------|
| 50-50                           | Sell \$1.00 chances. Winner get half of pot | \$400                 |
| Chance on BB                    | Autographed Basketball Ball                 | \$100                 |
|                                 |   |                       |
|                                 |   |                       |
|                                 |   |                       |
| Total (limit \$40,000 per year) |   |                       |

Intended Uses of Gaming Proceeds  
**Proceeds of the games go to local charities, blind initiatives + diabetes**

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

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

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

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

### Organization or Group Contact Person

|   |                          |   |  |
|---|--------------------------|---|--|
| Name<br><b>Darrell Costain</b>  | Title<br><b>Co-chair</b> | Telephone Number<br><b>701-730-4575</b> | E-mail Address<br><b>d-a-costain@msn.com</b> |
| Signature of Organization or Group's Top Official<br><b>Mike Little - President</b> |                          | Title<br><b>President</b>               | Date<br><b>6-20-22</b>                       |





**APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT**

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

*(Handwritten initials)*

*CC 25.00  
6/21/22*

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

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

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

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

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

|   |  |                                 |  |   |                   |
|---|--|---------------------------------|--|---|-------------------|
| Name of Organization or Group of People permit is issued to<br>EagleRidge Legacy Fund, Inc. |  | Dates of Activity<br>07/21/2022 |  | If raffle, provide drawing date<br>07/21/2022 |                   |
| Organization or Group Contact Person<br>Abbey Heilig  |  | Title or Position               |  | Telephone Number<br>701-936-8095              |                   |
| Business Address<br>3280 Veterans Blvd, Suite 303   |  | City<br>Fargo                   |  | State<br>ND                                   | ZIP Code<br>58104 |
| Mailing Address (if different)  |  | City                            |  | State   | ZIP Code          |
| Site Name (where gaming will be conducted)<br>EagleRidge Plaza                              |  |                                 |  |   |                   |
| Site Address<br>3280 Veterans Blvd  |  | City<br>Fargo                   |  | ZIP Code<br>58104                             | County<br>Cass    |

**Description and Retail Value of Prizes to be Awarded**

| Game Type                              | Description of Prize  | Retail Value of Prize |
|--|---|-----------------------|
| 50/50 Raffle                           | 50% of the total dollar amount collected, but no greater than \$8,000 |                       |
|  |   |                       |
|  |   |                       |
|  |   |                       |
|  |   |                       |
| <b>Total (limit \$40,000 per year)</b> |   | <b>\$8,000</b>        |

Intended Uses of Gaming Proceeds  
 Given as scholarships to students pursuing careers in the construction trades, or to others in need

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

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

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

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

Organization or Group Contact Person

|   |       |                                  |   |
|---|-------|----------------------------------|---|
| Name<br>Abbey Heilig  | Title | Telephone Number<br>701-936-8095 | E-mail Address<br>aheilig@eagleridgecompanies.com |
| Signature of Organization or Group's Top Official<br><i>(Handwritten Signature)</i> |       | Title<br>Director                | Date<br>6/21                                      |

**MEMORANDUM**

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TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Twist

DATE: June 27, 2022

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from New Monte's, Inc. d/b/a Twist until December 31, 2022

Monte's was originally issued a license in 2002, the business changed hands but there has been a restaurant in that space since that time. Twist began operations in 2018. The owners are requesting an extension of ordinance 25-1512 in order to develop a new concept and repurpose the liquor license.

Please see the attached letter from the company.

Please approve an extension of 25-1512 for New Monte's, Inc. d/b/a Twist until December 31, 2022.

**Recommended Motion:**

**Move an extension of the requirements of 25-1512 to New Monte's, Inc. d/b/a Twist until December 31, 2022.**



From: Dan Hurder  
Owner  
New Monte's Inc. previously DBA Twist  
670 4<sup>th</sup> Ave N  
Fargo, ND 58102  
701-318-1080

To: Fargo City Commission  
Steve Sprague, City Auditor

Re: reinstatement/extension of FA-RZ1 at 220 Broadway

I am writing to request a reinstatement and extension of the FA-RZ1 liquor license that was used at the business previously known as Twist. I was unaware that the license had gone into inactive mode. If any sort of communications were sent from the city, I apologize that I missed it.

We are in the process of developing a new lunch/brunch concept that will rely heavily on food sales but still include a beverage program appropriate to those meal segments.

I am happy to answer any questions you might have, and apologize I did not reach out sooner regarding the status of this license.

Respectfully,

A handwritten signature in black ink, appearing to be "DH" or "Dan Hurder".

Dan Hurder

**MEMORANDUM**

---

TO: Board of City Commissioners

FROM: Steven Sprague, City Auditor

SUBJECT: Liquor License Extension – Borrowed Bucks

DATE: June 27, 2022

The Auditor's office received a request to grant an extension of the requirements of 25-1512 from BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2022

Borrowed Bucks has been in operation in the City of Fargo since 1991. Borrowed Bucks closed its doors June 5<sup>th</sup> 2022. The owners are requesting an extension of ordinance 25-1512 in order to develop a new concept and repurpose the liquor license.

Please see the attached letter from the company.

Please approve an extension of 25-1512 for BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2022.

**Recommended Motion:**

**Move an extension of the requirements of 25-1512 to BFG, Inc. d/b/a Borrowed Bucks Roadhouse until December 31, 2022.**



**BFG, INC.**  
**P.O. BOX 2043**  
**FARGO, ND 58107**  
**Phone (701) 237-5151**

June 7, 2022

City of Fargo  
City Auditor's Office  
225 4th Street North  
Fargo, ND 58102

ATTN: Steve Sprague

Dear Steve:

BFG, Inc. is the owner of Alcoholic Beverage License #A-8 issued by the City of Fargo. As you are aware, BFG, Inc. dba Borrowed Bucks Roadhouse closed permanently after the business day on Saturday/Sunday, June 4th/5th. As such, alcoholic beverages will no longer be sold at this location on a continuous basis.

Alternative options for the use of this license are currently being researched and discussed within our ownership group. It is our desire to keep this license in good standing in order that it is available for use at a future date. Once a decision is made and a new operating corporation is created, we will request that the license be transferred to that corporation at that time.

At this time, we are requesting an extension of FMC 25-2512 for License #A8 for a six month period. By then we will have a better idea of how and where this license will be used in the future. If at any time during the six month period a decision is made, we will update you on that.

If you have any questions or need additional information, please feel free to contact me at (701) 237-5151, extension 11, or Vonnie at extension 11.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Randy Thorson".

Randy Thorson  
PRESIDENT

(10)

## MEMORANDUM

---

**TO: Board of City Commissioners**

**FROM: Steven Sprague, City Auditor**

**SUBJECT: Designated Depositories**

**DATE: June 15, 2022**

Due to Kent Costin's retirement and adding Terri Gayhart as the new Director of Finance, it is time to update our authorized signors.

I would like to designate all financial institutions and brokerage firms located in the City of Fargo as designated depositories of the City of Fargo in addition please designate PFM Financial Advisors Group as asset managers. Also, it is time to update the authorized signors of public funds.

Copies of the updated resolution will be forwarded to financial institutions located in the City.

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

**Recommended Motion:**

**Approve the Resolution Authorizing Officers to make Deposits and Withdrawals and approve the Designated Depositories.**

**CITY OF FARGO RESOLUTION AUTHORIZING OFFICERS TO MAKE DEPOSITS AND WITHDRAWALS**

**WHEREAS**, The City of Fargo, a municipal corporation existing under the laws of the State of North Dakota, must designate depositories of the funds of the City of Fargo,

**NOW THEREFORE BE IT RESOLVED**, That the Board of City Commissioners of the City of Fargo, North Dakota hereby designates any City of Fargo Financial Institution or Brokerage Firm and PFM Financial Advisors to be a depository of the funds of the City of Fargo, and that the said funds be subject to withdrawal upon checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders for the payment of money when signed by two signatures of the following: Timothy J. Mahoney, Mayor; Kent Costin, Director of Finance, Jill Pagel, Deputy City Auditor and Steven Sprague, City Auditor with one of the signatures being either Steven Sprague or Kent Costin.

**BE IT FURTHER RESOLVED**, That the depository institution is authorized to pay any such checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders and also to receive the same for the credit of or in payment from the payee or any other holder without inquiry as to the circumstance of issue or the disposition of the proceeds thereof, even if drawn to the individual order of any signing officer or payable to said firm or others for his account, or tendered in payment of his individual obligation.

**BE IT FURTHER RESOLVED**, That any and all endorsements for or on behalf of the City of Fargo upon checks, drafts, notes or instruments for deposit or collection made with the said Firm may be written or stamped endorsements of the City of Fargo without any designation of the person making such endorsements.

**BE IT FURTHER RESOLVED**, That said Firm be promptly notified in writing by the City Auditor or any other officer of the City of Fargo of any change in these resolutions and that until it has actually received such notice in writing said Firm is authorized to act in pursuance of these resolutions.

**WE FUTHER CERTIFY**, That these resolutions are within the power of the Board of City Commissioners to pass as provided in the Home Rule Charter to the City of Fargo.

Adopted at the meeting of the Board of City Commissioners this 27<sup>th</sup> Day of June 2022.

SEAL

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

IN WITNESS WHEREOF, I have hereunto set my hand as City Auditor of the City of Fargo and affixed the corporate seal this 27<sup>th</sup> day of June, 2022.

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

The following are the Signatures of the authorized officers of the City of Fargo to sign for the deposited funds as adopted on June 27, 2022.

\_\_\_\_\_

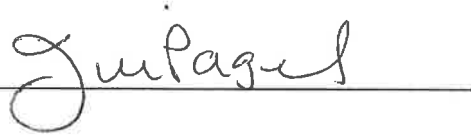
Timothy J. Mahoney, Mayor

\_\_\_\_\_

Terri Gayhart, Director of Finance

\_\_\_\_\_

Steven Sprague, City Auditor

\_\_\_\_\_

Jill Pagel, Deputy City Auditor





June 22, 2022

Honorable Board of City  
Commissioners  
City of Fargo  
Fargo, ND

Re: Project No. FM-22-B1

Dear Commissioners:

Bids were opened at 11:45 AM on Wednesday, June 22, 2022, for Lift Station Repl/Rehab, Project No. FM-22-B1, located at Storm Sewer Lift Station #15 located on 26<sup>th</sup> Avenue South by the Fargo Country Club.

For the bidding and advertising of this project, the North Dakota Century Code Section 48-01.2-06 was utilized due to the Engineer's estimated electrical costs for the project to be greater than \$50,000.00. Therefore, the North Dakota Century Code required bids for this project to be received for the following: General Construction, Electrical Construction and Combined.

The bids received were as follows:

| <u>Company</u>                    | <u>General</u> | <u>Electrical</u> | <u>Combined</u> |
|-----------------------------------|----------------|-------------------|-----------------|
| CC Steel, LLC                     | \$712,120.57   | -                 | \$761,640.57    |
| Swanberg Construction, Inc.       | \$746,637.70   | -                 | \$820,637.70    |
| Northern Plains Contracting, Inc. | \$789,383.00   | -                 | \$864,169.93    |

Original Engineer's Estimate \$ 749,738.00

As a result of the bids received, the apparent low bid is the combined bid submitted by CC Steel, LLC. in the amount of \$761,640.57.

The special assessment escrow is not required.

**Recommended Motion:**

Engineering staff is recommending award of the Combined Construction contract to CC Steel, LLC in the amount of \$761,640.57 as the lowest and best bid received. The bid award shall be contingent upon approval of the North Dakota Department of Environmental Quality.

Sincerely,

Tom Knakmuhs  
Assistant City Engineer



**ENGINEER'S STATEMENT OF ESTIMATED COST**

**PROJECT # FM-22-B1**

**Lift Station Repl/Rehab**

STS LS #15 located on 26th Avenue South by the Fargo Country Club.

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

NOW THEREFORE Tom Knakmuhs, do hereby certify as follows:

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

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

Lift Station Repl/Rehab Project # FM-22-B1 of the City of Fargo, North Dakota.

| Line   | Description                               | Unit | Quantity | Unit Price (\$) | Amount (\$)          |
|--|---|------|----------|-----------------|----------------------|
| <b>Site #1: Lift Station #15 Modifications</b>                 |   |      |          |                 |                      |
| 1  | Mobilization                              | LS   | 1.00     | \$ 28,000.00    | \$ 28,000.00         |
| 2  | Stormwater Management                     | LS   | 1.00     | \$ 2,500.00     | \$ 2,500.00          |
| 3  | Modify Lift Station                       | EA   | 1.00     | \$ 257,287.67   | \$ 257,287.67        |
| 4  | F&I Lift Station Pumps & Controls         | LS   | 1.00     | \$ 256,650.00   | \$ 256,650.00        |
| 5  | F&I Sluice Gate 72" Dia Stainless Steel   | EA   | 2.00     | \$ 44,000.00    | \$ 88,000.00         |
| 6  | F&I Flap Gate 24" Dia Stainless Steel     | EA   | 1.00     | \$ 19,485.00    | \$ 19,485.00         |
| 7  | F&I Flap Gate 18" Dia Stainless Steel     | EA   | 2.00     | \$ 5,735.00     | \$ 11,470.00         |
| 8  | F&I Sidewalk 4" Thick Reinf Conc          | SY   | 7.10     | \$ 125.00       | \$ 887.50            |
| 9  | Inlet Protection - Existing Inlet         | EA   | 2.00     | \$ 300.00       | \$ 600.00            |
| 10   | F&I Swing Gate                            | EA   | 1.00     | \$ 8,500.00     | \$ 8,500.00          |
| 11   | Topsoil - Import                          | CY   | 15.00    | \$ 50.00        | \$ 750.00            |
| 12   | Seeding Type B                            | SY   | 300.00   | \$ 7.00         | \$ 2,100.00          |
| 13   | Mulching Type 1 Hydro                     | SY   | 300.00   | \$ 7.00         | \$ 2,100.00          |
| 14   | Traffic Control - Minor                   | LS   | 1.00     | \$ 600.00       | \$ 600.00            |
| 15   | Temp Fence - Safety                       | LF   | 245.40   | \$ 11.00        | \$ 2,699.40          |
| 16   | Temp Pumping                              | LS   | 1.00     | \$ 1.00         | \$ 1.00              |
| 17   | F&I Fence Ornamental                      | LF   | 53.00    | \$ 249.00       | \$ 13,197.00         |
| 18   | Remove Driveway All Thicknesses All Types | SY   | 11.00    | \$ 25.00        | \$ 275.00            |
| 19   | F&I Driveway 7" Thick Reinf Conc          | SY   | 10.00    | \$ 250.00       | \$ 2,500.00          |
| <b>Site #1: Lift Station #15 Modifications Total</b>           |   |      |          |                 | <b>\$ 697,602.57</b> |
| <b>Site #2: Southwood Swing Gate &amp; Gatewell Mods</b>       |   |      |          |                 |                      |
| 20   | F&I Swing Gate                            | EA   | 1.00     | \$ 7,018.00     | \$ 7,018.00          |
| 21   | Modify Gatewell                           | EA   | 1.00     | \$ 7,500.00     | \$ 7,500.00          |
| <b>Site #2: Southwood Swing Gate &amp; Gatewell Mods Total</b> |   |      |          |                 | <b>\$ 14,518.00</b>  |
| <b>Site #1: Lift Station #15 Electrical</b>                    |   |      |          |                 |                      |
| 22   | F&I Lift Station Electrical               | LS   | 1.00     | \$ 34,320.00    | \$ 34,320.00         |
| <b>Site #1: Lift Station #15 Electrical Total</b>              |   |      |          |                 | <b>\$ 34,320.00</b>  |

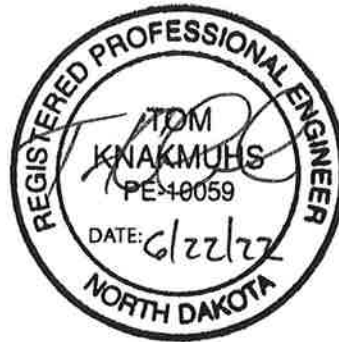
**Site #2: Southwood Gatewell Electrical**

|   |            |      |    |           |    |                      |
|---|------------|------|----|-----------|----|----------------------|
| 23 F&I Lift Station Electrical                      | LS         | 1.00 | \$ | 15,200.00 | \$ | 15,200.00            |
| <b>Site #2: Southwood Gatewell Electrical Total</b> |            |      |    |           |    | \$ 15,200.00         |
| <b>Total Construction in \$</b>                     |            |      |    |           |    | <b>\$ 761,640.57</b> |
| Outside Eng.  | Fixed Cost |      |    |           | \$ | 39,217.00            |
| Contingency   | 10.00%     |      |    |           | \$ | 76,164.06            |
| <b>Total Estimated Costs</b>                        |            |      |    |           |    | <b>\$ 877,021.63</b> |
| Sales Tax Funds - Flood Control 460                 |            |      |    |           |    | \$ 877,021.63        |
| <b>Unfunded Costs</b>                               |            |      |    |           |    | <b>\$ -</b>          |

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

Date: 6/22/2022

  
\_\_\_\_\_  
Tom Knakmuhs  
Assistant City Engineer



REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. MS-21-H0

Type: Contract Amendment #1

Date of Hearing: 6/20/2022

|                 |                      |
|-----------------|----------------------|
| <u>Routing</u>  | <u>Date</u>          |
| City Commission | <u>6/27/2022</u>     |
| PWPEC File      | <u>X</u>             |
| Project File    | <u>Jeremy Gorden</u> |

The Committee reviewed the accompanying correspondence from Division Engineer, Jeremy Gorden, related to Contract Amendment #1 submitted by Metro COG in the amount of \$44,976.65 for additional work.

Staff is recommending approval of Contract Amendment #1 in the amount of \$44,976.65, bringing the total contract amount to \$219,976.65.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Contract Amendment #1 to Metro COG.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Contract Amendment #1 in the amount of \$44,976.65, bringing the total contract amount to \$219,976.65 to Metro COG.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Fed Funds, Sales Tax & Traffic Funds

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

COMMITTEE

|  | <u>Present</u>                      | <u>Yes</u>                          | <u>No</u>                | <u>Unanimous</u>                           |
|--|-------------------------------------|-------------------------------------|--------------------------|--|
|  |                                     |                                     |                          | <u><input checked="" type="checkbox"/></u> |
| Tim Mahoney, Mayor                       | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Nicole Crutchfield, Director of Planning | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mark Williams                              |
| Steve Dirksen, Fire Chief                | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Bruce Grubb, City Administrator          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Ben Dow, Director of Operations          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Steve Sprague, City Auditor              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Brenda Derrig, City Engineer             | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |  |
| Terri Gayhart, Finance Director          | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |  |

ATTEST:

B. E. D.  
Brenda E. Derrig, P.E.  
City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC

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

**Date:** June 16, 2022

**Re:** Project No. MS-21-H0 – Amendment #1 with Metro COG as part of the Fargo Transportation Plan

---

**Background:**

In 2021, Metro COG contracted with Kimley-Horn to complete a Transportation Plan for the City of Fargo. This effort was designed to set broad goals for the transportation network; determine metrics for the when, where, and what types of bicycle and pedestrian facilities should be included in the roadway cross sections; and link transportation with the surrounding land use context. The original contract was a Metro COG contract, and the total cost was \$175k, with \$33k coming from the Traffic Engineering budget, \$10k coming from the Sales Tax fund, and the remainder, \$132k coming in the form of federal planning funds (CPG).

As the project is progressing into its final stages, the project team would like to circle back in order to look at particular transportation issues more closely. We also want to integrate more involvement with City Management and Elected Officials as well as retool efforts that had already been completed by the Consultant during the plan's development.

Kimley-Horn, Metro COG, and Fargo staff met to discuss our desire to retool previously completed efforts and integrate enhanced public involvement. Kimley-Horn suggested adding tasks to the project's scope of work as well as the modification of existing tasks. They presented a scope of work and associated supplemental fee for the new work to be completed. Both Metro COG and staff reviewed the proposed amendment materials and concluded it was in the best interest of the study to move forward with modifying the contract to include the additional work tasks.

The additional work is in the amount of \$44,976.65. I support the Contract Amendment using Sales Tax funds to fund this work.

Included as attachments to this memorandum are a modified scope of work, inclusive of the additional work tasks, and the associated fee the Consultant would charge to complete those tasks.

The Amendment is for \$44,976.65. This will bring the contract amount for this project to \$219,976.65, with the funding breakdown being 15% TE funds, 25% Sales Tax funds, and 60% being federal planning funds.

**Recommended Motion:**

Approval of Contract Amendment #1 with Metro COG, as it relates to out of scope services associated with this project being completed by Kimley-Horn.

JMG/klb

Attachments



Fargo-Moorhead Metropolitan  
Council of Governments

Case Plaza Suite 232 | One 2nd Street North  
Fargo, North Dakota 58102-4807  
p: 701.532.5100 | f: 701.232.5043  
e: metrocog@fmmetrocog.org  
www.fmmetrocog.org

**To:** Transportation Technical Committee  
**From:** Michael Maddox  
**Date:** June 2, 2022  
**Re:** **Fargo Transportation Plan – Contract Amendment #1**

In 2021, Metro COG contracted with Kimley-Horn to complete a Transportation Plan for the City of Fargo. This effort was designed to set broad goals for the transportation network; determine metrics for the when, where, and what types of bicycle and pedestrian facilities should be included in the roadway cross sections; and link transportation with the surrounding land use context.

As the project progressed into its final stages, City of Fargo staff wanted to circle back in order to look at particular transportation issues more closely. They also would like to integrate more involvement with city management and elected officials as well as retool efforts that had already been completed by the consultant during the plan's development.

Kimley-Horn, Metro COG, and City of Fargo staff met to discuss the City's desire to retool previously completed efforts and integrate enhanced public involvement. After this meeting, Kimley-Horn suggested adding tasks to the project's scope of work as well as the modification of existing tasks. They presented a scope of work and associated supplemental fee for the new work to be completed. Each agency reviewed the proposed amendment materials and concluded it was in the best interest of the study to move forward with modifying the contract to include the additional work tasks.

The City of Fargo - Engineering Department agreed that they would be able to fund the additional work solely with local funds in the amount of \$44,976.65.

Included as attachments to this memorandum are a modified scope of work, inclusive of the additional work tasks, and the associated fee the consultant would charge to complete those tasks.

**Requested Action:**  
**Recommend Policy Board approval of the Amendment #1 to the Fargo Transportation Plan contract with Kimley-Horn.**



## **Fargo Transportation Plan Scope of Services**

### **MAY 2022 AMENDMENT**

#### **TASK 1: PROJECT MANAGEMENT AND COORDINATION**

##### **1.1: Ongoing Project Leadership Team Coordination Meetings**

The Client will identify a project leadership team to review project deliverables, identify potential questions and project approach alternatives, and set next steps and project direction. The Consultant will meet with the project team up to six (6) times during process. Typical meetings will last up to 60 minutes in duration, with two meetings reserved as work sessions to last up to 90 minutes, if necessary. These meetings will be conducted virtually via Microsoft Teams or a platform of the Client's choosing.

The Consultant will be responsible for creating materials and agendas in advance of these meetings, and for facilitating discussion. The Consultant will summarize the meeting and provide brief meeting notes to include major decision points, presentation materials, and action items following the meeting.

- Recommend 2 additional SRC Meetings, likely 90 minutes each – assume virtual
- Additional meeting before each SRC – smaller “greenlight” committee to review recommendations

##### **1.2: Concurrent Planning Process Coordination**

The Consultant will meet with members of other concurrent planning efforts to coordinate on key recommendations that should be included in the Fargo Transportation Plan. To facilitate efficient coordination and communication among all parties, the Client will facilitate up to two (2) 90-minute meetings among leadership members of relevant concurrent processes to share schedule updates, key outcomes, and findings. The meetings will take place at a point in the planning process of the Client's choosing. The Consultant will participate in these meetings and will incorporate any relevant topics into ongoing planning work.

- Two additional coordination meetings with bike/ped planning team
  - One to discuss coordination
  - One to review plan recommendations for consistency
- One meeting to coordinate with TDP team to review recommendations and ensure their consistency with TDP

##### **1.3: Project Management Updates**

The Consultant and Client will meet monthly to review project progress, identify challenges and key questions, and discuss project next steps. These meetings are anticipated to occur on a two-week offset from project leadership team meetings and will last up to 30 minutes in duration. These meetings will be conducted virtually via Microsoft Teams or a platform of the Client's choosing.

#### **1.4: Monthly Invoicing and Progress Reports**

The Consultant will provide monthly progress reports, documentation of any and all travel and expense receipts, and monthly invoices.

##### **Task 1 Deliverables:**

- Virtual project coordination meetings agenda, supporting materials, and notes
- Monthly progress reports and invoices

### **TASK 2: STAKEHOLDER AND PUBLIC ENGAGEMENT**

#### **Task 2.1: Project Branding and Webpage**

The Consultant will develop a simple set of design templates for all project materials, including a Word document, PowerPoint presentation, InDesign Template, and map template. This will include a color scheme and fonts that are consistent with City and COG branding. The Consultant will not develop a project-specific logo or project moniker.

The Client will manage a project webpage throughout the duration of the project, to be hosted on the City or COG's website. The Consultant will provide introductory content for the page at project launch, and at three (3) key points throughout the plan. It is intended that this page will include updated project materials, as well as be a launching point for online engagement.

#### **Task 2.2: Technical Stakeholder Work Sessions**

The Consultant will assist the Client in identifying a set of key stakeholders to be represented in the study process. These stakeholders are intended to include technical staff from the City or other associated agencies involved with implementing transportation projects. Up to two groups will be identified. Each group will meet virtually for two 90-minute work sessions. The work sessions will be consolidated, with both groups meeting on a single day (four work sessions total over the course of two days total). The first work session will occur during the policy diagnostic phase and will focus on identifying major challenges and barriers. The second work session will occur during the policy modernization phase and will focus on refining final policy and implementation recommendations.

The Client will identify stakeholder participants, schedule the sessions, and send invitations to attend. The Consultant will facilitate these work sessions and provide key takeaways to the project leadership team.

#### **Task 2.3: Elected & Appointed Official Work Sessions**

The Consultant will facilitate two work sessions with elected and appointed officials to familiarize them with the planning process and obtain their feedback on recommendations. The Client will identify the appropriate officials to invite and will schedule and coordinate invitations to the virtual work sessions. The Consultant will prepare a presentation and any relevant materials and facilitate discussion. Two work sessions will occur at key points in the process, to be identified in conjunction with the Client. These 90-minute work sessions will be conducted virtually on a platform of the Client's choosing and will be recorded. The recorded work sessions will be posted online for the public to view and provide



additional comments. Following each session, the Consultant will provide a brief summary of input and action items arising from the work session.

- One additional work session with Elected officials
- One-on-one meetings with commissioners as desired (up to 5 meetings)
- One additional meeting with Planning Commission to review plan and how to use the strategy

#### **Task 2.4: Public Engagement**

Public engagement for the Project will be limited and secondary to stakeholder engagement efforts. The recorded Official Work Sessions (Task 2.3) will be posted on the project webpage, along with relevant project materials of the Client's choosing. The Client will maintain a simple comment form or contact option for public feedback and provide a consolidated set of any comments provided to the Consultant.

#### **Task 2 Deliverables:**

- Word, PowerPoint, and InDesign templates for project use
- One stakeholder work session summary for each round of engagement (2 rounds), including key takeaways
- Presentations and materials for two official work sessions
- Summary of action items arising from each official work session (2 total)
- Recorded official work sessions for posting on the project webpage

### **TASK 3: PLANNING FOUNDATIONS**

#### **Task 3.1: Data Needs Request**

Within two weeks of Notice to Proceed, the Consultant will submit a comprehensive list of data needs to the City. This request will be discussed during the initial project leadership team meeting in order to clarify any questions regarding the type of data or data availability. The Client will then transfer materials to the Consultant via a fileshare link provided by the Consultant. The timely delivery of all relevant materials will influence the timeline and schedule of the project.

#### **Task 3.2: Consolidated Plans Map**

The Client will identify a set of up to eight (8) relevant transportation plans that are currently influencing decision-making within the City of Fargo. The Client will provide any geospatial data related to these plans. The Consultant will create a consolidated map that identifies major transportation recommendations resulting from these plans. The map will identify areas of conflict with overlapping recommendations.

#### **Task 3.3: Consolidated Land Use Mapping**

The Client will provide consolidated land use planning data from relevant plans that are currently influencing decision-making within the City of Fargo. The Client will provide fully updated and consolidated geospatial data, and the Consultant will rely on the accuracy of this data. The Consultant will symbolize the land use map in a manner that informs future street design and

operational needs, as well as inform the policy analysis. Key takeaways from the land use map that should inform future decision-making will be presented in the Foundations Report.

#### **Task 3.4: Policy Inventory**

*Option 1 (If Policies and Processes are well documented)*

The Consultant will work with the project leadership team to develop a list of key transportation policies to examine. Together with the project leadership team, the Consultant will identify a set of key documents and adopted plans currently influencing transportation planning and project implementation. These should be policies that are used or cited frequently, have been identified as challenges, or are not in alignment with current plans and may need to be targeted for amendments. The Consultant will inventory up to thirty (30) key documented policies for exploration and possible modernization through later stages in the planning processes. These policies will be summarized in a matrix and documented in the Foundations Report (Task 3.7).

*Option 2 (If Policies and Processes are not well documented)*

The Consultant will work with the Client to identify a set of up to five (5) recent planning decisions that embody the City's major planning challenges. The Consultant will interview key partners involved in these decisions to develop case studies that identify the process undertaken, involved players, challenges, outcomes, and any missed opportunities. These case studies will be summarized in the Foundations Report (Task 3.7) and used to inform the modernization work in later stages of the planning process.

#### **Task 3.5: Plan Review and Goals Integration**

The Consultant will work with the Client to identify up to eight (8) transportation plans from the past fifteen years that guide the current community vision. These plans are anticipated to be the same plans selected for the consolidated plans mapping, but modifications may be made if necessary. The Consultant will perform a high-level review of these plans to inventory the goals, performance measures, and desired outcomes documented. The Consultant will summarize these findings and identify consistent themes and overlaps. Based on these findings, the Consultant will develop a set of guiding principles for the Fargo Transportation Plan that build on previously adopted goals. These guiding principles will be used to identify and analyze policy and mobility recommendations to ensure the plan builds toward a consistent long-term direction. The draft guiding principles will be refined in consultation with the project leadership team, before being documented in the Foundations Report document (Task 3.7).

#### **Task 3.6: Multimodal Needs Evaluation**

The Consultant will evaluate the City's existing multimodal performance and potential needs in three ways:

##### **Multimodal Level of Service**

The Consultant will utilize GIS automation to evaluate multimodal level of service (MMLOS) along each of the functionally classified corridors for vehicles, pedestrians, bicycles and transit. This will be

accomplished using two primary data sources: Streetlight data and existing city or Metro COG owned GIS Shapefiles. Streetlight data would include vehicular speeds, ADTs, truck percentages, daily distributions, and origins and destinations. GIS Shapefiles would include pedestrian and bicycle facilities, transit routes and timing, pavement conditions, ADTs, parking and others. Only functionally classified roadways will be evaluated. MMLOS standards will be developed for each functional classification. A complete MMLOS map will be generated for each mode of travel, as well a combined MMLOS map.

### **Network Safety Analysis**

The Consultant will use the proprietary tool GAZER to complete a high-level network safety review that identifies intersections, links, and corridors with overrepresented crash rates or trends. The tool will generate City-wide crash hot spot maps, proactively assess improvement strategies, and generate reports.

### **Intersection Review**

Aggregating the results from the MMLOS assessment, network safety assessment and an additional layer of intersection ADT cross-product analysis, the consultant will identify any functionally classified roadways that are deficient in the areas of efficiency, safety, and/or traffic control. A map will be developed to illustrate potential intersections of concern.

### **Task 3.7: Foundations Report**

The key outcomes of the Planning Foundations task will be compiled into a Foundations Report that defines the project goals, the City's multimodal needs, and summarizes the existing direction provided in previous plans and document. The report will be developed consistent with project branding standards and will be intentionally brief with an emphasis on graphics. The Consultant will provide the draft plan to the Client for review and will finalize the plan based on a single consolidated set of comments.

#### **Task 3 Deliverables:**

- Data Needs Request
- A draft and final Foundations Report, to be included in the final plan document, including:
  - Previous Transportation Recommendations Map
  - Future Land Use Map
  - Plan Guiding Principles
  - Policy Inventory Summary
  - Multimodal Needs Assessment

## **TASK 4: POLICY & MOBILITY INTEGRATION**

### **Task 4.1: Policy Diagnostic**

*Option 1 (If Policies and Processes are well documented)*

The policy diagnostic will build on the policy inventory developed in Task 3 to define the major challenges and organizational barriers occurring as a result of current processes. The Consultant will analyze each of the policies inventoried and identify each as:

- Relevant and should be carried forward
- Relevant but in need of updated standards
- Obsolete and should not be carried forward

After the assessment of existing policy is complete, the Consultant will work with the Client to identify major policy gaps where the development of new policy may be beneficial. Typically, these are the policies that often deal with emerging and contemporary topics, such as emerging technologies, Vision Zero, micro- and shared mobility, and transit-oriented development.

The findings from the from the Policy Diagnostic will be presented to the Technical Stakeholder Groups, and their input will help refine the identified challenges and confirm major takeaways. The Policy Diagnostic results will be summarized in a brief memo, including key focus group takeaways. The Consultant will provide a draft memo to the project leadership team for comments and will finalize the memo based on one round of consolidated comments.

*Option 2 (If Policies and Processes are not well documented)*

The policy diagnostic will build on the policy case studies developed in Task 3. The Consultant will analyze the case studies presented to define specific challenges, barriers, and missed opportunities occurring as a result of current processes.

After the assessment of existing policy is complete, the Consultant will work with the Client to identify major policy gaps where the development of new policy may be beneficial. Typically, these are the policies that often deal with emerging and contemporary topics, such as emerging technologies, Vision Zero, micro- and shared mobility, and transit-oriented development.

The findings from the from the Policy Diagnostic will be presented to the Technical Focus Groups, and their input will help refine the identified challenges and confirm major takeaways. The Policy Diagnostic results will be summarized in a brief memo, including key focus group takeaways. The Consultant will provide a draft memo to the project leadership team for comments and will finalize the memo based on one round of consolidated comments.

#### **Task 4.2: Street Design Principles**

The Consultant will prepare a unique street design typology map and street design guidance. In coordination with the Client, the Consultant will produce a consolidated land use map summarizing the City's current land use character areas into up to four (4) character types. The Consultant will also produce a functional class map showing the current classification of all City roadways, as well as any anticipated future functionally classified roadways. The map will be produced based on data provided by the Client, and classifications may be combined or modified to include a compact and useful set of categories. Any modification or combination of categories will be completed in coordination with the Client. The modified land use and functional class data will then be combined to create a street

typology system that provides street design guidance based on desired land use character and street function.

High-level design guidance will be provided for each street typology, to include example cross sections and a street design table that conveys typical design considerations. Specific information included in the design tables will be finalized in coordination with the Client, but may include number and width of lanes, design speed, and multimodal accommodations. The information provided in the Street Design Table will build on and update existing design guidance provided in previous planning documents.

- Finalize and tweak Street Design Matrix
- Recommend tweaking to focus on priority bikeways/transitways instead of low and high-speed streets

New tasks:

- Development of Multimodal toolkit
  - Roadway
  - Bicycle
  - Pedestrian
  - Transit

**Task 4 Deliverables:**

- Policy Diagnostic Memo with Focus Group takeaways
- Street Design Typology Map, consisting of consolidated land use and modified functional classifications
- Street Design Table providing information and example cross sections for each typology

## **TASK 5: IMPLEMENTATION GUIDEBOOK**

### **Task 5.1: Policy Modernization**

Based on the findings from the policy inventory and policy diagnostic tasks, the Consultant will prepare recommendations to modernize the city's transportation policies and processes. Recommendations will be based on national best practices, professional judgment, and stakeholder input. The Consultant will work with the Client to identify up to ten (10) top policy priorities. Each policy priority will be documented as a one-page guide that identifies key recommendations, next steps, goals, and responsible parties. These one-page summaries will be graphical and are intended to be included in the final plan documentation. A draft of the policy recommendations will be provided to the Client for review, and the recommendations will be summarized based on a single round of consolidated edits provided by the Client.

- Tweak/update existing policy recommendations as necessary

### **Task 5.2: Roadway Master Plan**

The mapping, multimodal needs assessment, and street design principles developed earlier in the project will be combined to create a single, roadway master plan that aligns previous efforts with current goals and provides functional design guidance for every functionally classified thoroughfare in the City of Fargo. This guidance will align relevant recommendations from corridor plans, small area plans, and mode specific plans, and integrate a context-sensitive approach to street design to develop a multimodal street network that serves each area appropriately. The plan will consist of a single consolidated map to provide basic street design guidance for every corridor.

As part of this roadway master plan, more refined analysis will create a vision plan for up to ten (10) locations (corridors or intersections) in the City of Fargo. These locations will be selected based on Client input and results from the multimodal needs assessment. Using intuition, professional judgment, and multimodal best practices, the study team will develop concepts that apply the street design principles and policy guidance developed throughout the plan. This may include qualitative assessments and high-level quantitative assessments of the conditions for all modes (vehicles, pedestrians, cyclists, transit users, parking, ride-hailing, safety, and cost and impacts).

The Master Plan map and corridor and intersection concepts will be developed in close coordination with the Client and will be presented in a graphic manner similar to the Downtown Fargo Playbook.

- Update roadway master plan to reflect conflict resolution exercise (identify bicycle and transit priority corridors)
  - Better explain neighborhood commercial nodes (how it influences street design)
- Include identification of new connections
- Edit existing corridor concepts work to focus on “lessons learned” – no additional analysis needed

### **Task 5.3: Action Plan**

The roadway recommendations and policy modernization will be brought together through a detailed action plan matrix. The content of this matrix will include information most relevant to the City of Fargo, and may include elements such as measurable goals, likely cost, who is best positioned to lead, what partners need to be engaged, and potential funding sources. The action plan will be documented in an easy-to-understand playbook that is also graphically memorable and easy to use.

- Tweak/update action plan to reflect new additions

### **Optional Task 5.4: Peer Agency Learning Sessions**

As part of the Policy Modernization exercise, the Consultant team will facilitate up to three (3) learning sessions with peer agencies from across the country who have found success navigating major challenges. The peer agencies will be identified in coordination with the Client based on major challenges and recommendations the Client would like to further explore. These learning sessions will include an informal interview process to probe key lessons learned through previous experience and will be documented in a summary for the client’s benefit. Any key takeaways from the peer learning sessions will be incorporated into the Policy Modernization recommendations and action plan.

**Task 5 Deliverables:**

- Up to ten (10) one-page policy guides for inclusion in the final report
- Roadway Master Plan Map
- Vision Plans for up to ten (10) locations within the City, including up to two concepts per corridor and an alternative comparison matrix.
- Action Plan Matrix documenting key recommendations and next steps
- Optional: Peer Agency Learning Session summary

## **TASK 6: DOCUMENTATION AND APPROVAL**

### **Task 6.1: Final Plan Document**

The Consultant will compile information from the previous tasks into a final report. This document will be attractive and graphically focused documents they are easy to understand for people from all backgrounds and of all abilities. The Consultant will provide the final document to the project team at least one month before the approval process is set to begin for review and comments. The document will be revised based on one single round of consolidated Client comments, and the document will be posted for public and elected official review on the project webpage. The Client will be responsible for advertising the availability of the plan and collecting any comments. The plan will be finalized following adoption based on any comments received through the public review and adoption process.

- Update of existing content to create new final plan document

### **Task 6.2: Adoption Support**

The Consultant will support the Client through the plan's adoption process and assist in communication of the plan's concepts and outcomes. The Consultant will produce a single-page plan handout to be distributed to commission and board members. The handout will support the final plan by answering frequently asked questions and providing any necessary background on the process necessary to facilitate adoption. The Consultant will attend and facilitate discussion at up to two (2) board or commission meetings where adoption is considered (selected in coordination with the project team), and will provide a presentation for use by the Client to facilitate any further adoption hearings.

- *Consultant present at city council adoption hearing*
- *Roadshow presentation*

### **Task 6.3: Technical Data and Digital Files**

The Consultant will compile necessary technical documentation (e.g. spreadsheets, GIS map packages, and geodatabases) and data files (e.g. high-resolution graphics, maps) for delivery to the Client via USB or ShareFile.

- Provide all files and data to City

**Task 6 Deliverables:**

- Draft final plan for project team review

- Final draft plan for public review and adoption process
- Final Plan document based on public review (10 bound hard copies and PDF)
- All electronic project files
- Project Handout/Fact Sheet
- Adoption presentation content



| Task No. | Task Description                                     | L Statz<br>Project Manager | B Bartz/J Guy<br>QC/Advisory | Barrett/Caroline<br>Analyst | Task Hours | Task Fee            |
|----------|--|----------------------------|------------------------------|-----------------------------|------------|---------------------|
|          |  | \$ 148                     | \$ 277                       | \$ 109                      |            |                     |
| <b>1</b> | <b>Project Management and Coordination</b>           | <b>36</b>                  | <b>0</b>                     | <b>10</b>                   | <b>46</b>  | <b>\$ 6,398.48</b>  |
|          | Ongoing Project Team Coordination Meetings (up to 4) | 4                          |                              |                             | 4          | \$ 590.02           |
|          | SRC Meetings   | 20                         |                              | 10                          | 30         | \$ 4,038.41         |
|          | Concurrent Planning Process Coordination             | 8                          |                              |                             |            | \$ 1,180.03         |
|          | Project Management Updates                           | 4                          |                              |                             |            | \$ 590.02           |
| <b>2</b> | <b>Stakeholder and Public Engagement</b>             | <b>60</b>                  | <b>0</b>                     | <b>10</b>                   | <b>70</b>  | <b>\$ 9,938.58</b>  |
|          | Elected & Appointed Officials Work Sessions          | 60                         |                              |                             | 70         | \$ 9,938.58         |
| <b>4</b> | <b>Policy and Mobility Integration</b>               | <b>25</b>                  | <b>3</b>                     | <b>60</b>                   | <b>88</b>  | <b>\$ 11,048.63</b> |
|          | Street Design Principles                             | 15                         | 3                            |                             | 48         | \$ 6,308.62         |
|          | Multimodal Toolkit                                   | 10                         |                              |                             | 40         | \$ 4,740.01         |
| <b>5</b> | <b>Implementation</b>                                | <b>35</b>                  | <b>3</b>                     | <b>80</b>                   | <b>118</b> | <b>\$ 14,700.32</b> |
|          | Policy Modernization                                 | 10                         | 2                            |                             | 22         | \$ 3,117.42         |
|          | Roadway Master Plan                                  | 20                         |                              |                             | 80         | \$ 9,480.03         |
|          | Action Plan  | 5                          | 1                            |                             | 16         | \$ 2,102.87         |
| <b>6</b> | <b>Approval</b>                                      | <b>45</b>                  | <b>10</b>                    | <b>80</b>                   | <b>135</b> | <b>\$ 18,114.56</b> |
|          | Draft Plan Documentation                             | 15                         | 5                            |                             | 60         | \$ 7,951.00         |
|          | Final plan Documentation                             | 10                         | 3                            |                             | 43         | \$ 5,571.10         |
|          | Council Presentation                                 | 10                         |                              |                             |            | \$ 1,475.04         |
|          | PPT development                                      | 10                         | 2                            |                             | 22         | \$ 3,117.42         |
|          | <b>Total Hours</b>                                   | <b>201</b>                 | <b>16</b>                    | <b>240</b>                  | <b>457</b> |                     |
|          | Raw rate   | \$ 44.73                   | \$ 84.00                     | \$ 33.00                    |            |                     |
|          | Labor Costs  |                            |                              |                             |            | \$ 18,253.93        |
|          | Overhead   |                            |                              |                             |            | \$ 35,496.58        |
|          | Fixed Fee  |                            |                              |                             |            | \$ 6,450.06         |
|          | Total KH Labor Costs                                 |                            |                              |                             |            | \$ 60,200.57        |
|          | Travel Costs (assume up to 4 trips for one person)   |                            |                              |                             |            | \$ 1,160.00         |
|          | Materials and Supplies Costs                         |                            |                              |                             |            | \$ -                |
|          | <b>Total Cost</b>                                    |                            |                              |                             |            | <b>\$ 61,360.57</b> |

\$ 18,253.93  
 \$ 35,496.58  
 \$ 6,450.06  
 \$ 60,200.57  
 \$ 1,160.00  
 \$ -  
**\$ 61,360.57**

194.46%  
 12%

Remaining Contract budget  
Amendment Needed

\$ 16,383.92  
\$ 44,976.65

13

REPORT OF ACTION

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Project No. FM-19-C1 Type: Change Order #1  
 Location: Woodcrest Neighborhood Date of Hearing: 6/20/2022

| <u>Routing</u>  | <u>Date</u> |
|-----------------|-------------|
| City Commission | 6/27/2022   |
| PWPEC File      | X           |
| Project File    | Rob Hasey   |

The Committee reviewed the accompanying correspondence from Project Manager, Rob Hasey, related to Change Order #1, in the amount of \$149,943.80, which is needed to include the electrical bid items to the general contract. When the bids were opened, there was no compliant electrical bid. State Statute allows the negotiation to add the electrical work to the awarded General Contract.

Staff is recommending approval of Change Order #1 in the amount of \$149,943.80, which brings the total contract amount to \$4,286,882.50.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Change Order #1 to Industrial Builders.

RECOMMENDED MOTION

Concur with the recommendations of PWPEC and approve Change Order #1 in the amount of \$149,943.80, bringing the total contract amount to \$4,286,882.50 to Industrial Builders.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Flood Sales Tax


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

COMMITTEE

|  | <u>Present</u>                      | <u>Yes</u>                          | <u>No</u>                | <u>Unanimous</u>                    |
|--|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Tim Mahoney, Mayor                       | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Nicole Crutchfield, Director of Planning | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mark Williams                       |
| Steve Dirksen, Fire Chief                | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Bruce Grubb, City Administrator          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Ben Dow, Director of Operations          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Steve Sprague, City Auditor              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Brenda Derrig, City Engineer             | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Terri Gayhart, Finance Director          | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |                                     |

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 City Engineer

## Memorandum

**To:** Members of PWPEC  
**From:** Rob Hasey, Project Manager  
**Cc:** Nathan Boerboom, Division Engineer  
**Date:** June 20, 2022  
**Re:** Project No. FM-19-C1 – CO #1 Add Electrical Bid Items to General Contract

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### **Background:**

Project No. FM-19-C1 is for the installation of an earthen levee and storm water lift station in the Woodcrest Neighborhood located along North & South Woodcrest Drive near Willow Road North.

When bids were opened on 5/25/2022 we received one electrical bid and it was returned unopened to the bidder due to non-conformance with the bid submittal requirements. We received three General Contract bids and zero Combined Contract bids. The General Contract was awarded to Industrial Builders.

IBI was asked to provide pricing for the electrical bid items to add them to IBI's General Contract.

### **Recommended Motion:**

Approve Change Order #1 for adding the electrical bid items to the General Contract in the amount of \$149,943.80.

Source of Funding: Infrastructure Sales Tax Funds – Flood Control - 460.

RJH  
Attachments

*Industrial Builders, Inc.*

PAUL W. DIEDERICH, PRESIDENT  
 DONN O. DIEDERICH, EXECUTIVE VICE PRESIDENT



*General Contractors*

PHONE 701/282-4977 FAX 701/281-1409  
 P.O. BOX 406 FARGO, NORTH DAKOTA 58107-0406

LETTING DATE: June 09, 2022  
 PROJECT #'S: FM-19-C1  
 COUNTY: Cass  
 TYPE OF WORK: Woodcrest Flood Risk Management Project -  
 Change Order - Electrical Work

QUOTE TO CITY OF FARGO

| LINE NO.      | DESCRIPTION                 | APPROX. QTY. | UNIT | UNIT BID PRICE | AMOUNT BID   |
|---------------|-----------------------------|--------------|------|----------------|--------------|
| 001           | F&I Lift Station Electrical | 1.000        | L S  | \$114,500.00   | \$114,500.00 |
| 002           | Remove Street Light         | 3.000        | EA   | \$1,050.00     | \$3,150.00   |
| 003           | F&I Base 5' Deep Reinf Conc | 3.000        | EA   | \$1,050.00     | \$3,150.00   |
| 004           | Remove Base                 | 3.000        | EA   | \$1,050.00     | \$3,150.00   |
| 005           | F&I Conductor #6 USE Cu     | 813.000      | LF   | \$7.35         | \$5,975.55   |
| 006           | F&I Innerduct 1.5" Dia      | 271.000      | LF   | \$15.75        | \$4,268.25   |
| 007           | F&I Luminaire Type A        | 3.000        | EA   | \$3,150.00     | \$9,450.00   |
| 008           | F&I Light Standard Type A   | 3.000        | EA   | \$2,100.00     | \$6,300.00   |
| TOTAL SUM BID |                             |              |      |                | \$149,943.80 |

TERMS AND CONDITIONS:

- 1.) We will require a 30 day time extension for Milestone 4.

Signature:  *Industrial Builders, Inc.*  
 Kent M. Sand, Vice President Estimating Cell # 701-799-9507



**CHANGE ORDER REPORT**  
**WOODCREST FLOOD RISK MANAGEMENT PROJECT**  
**PROJECT NO. FM-19-C1**  
**STARTING AT 119 SOUTH WOODCREST DRIVE NORTH AND ENDING AT 150 NORTH**  
**WOODCREST DRIVE NORTH.**

**Change Order No** 1      **Change Order Date** 6/14/2022  
**Contractor**

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

**EXPLANATION OF CHANGE**      Change Order # 1  
 Add Electrical Bid Items to General Contract. Add 30 calendar days to Milestone No. 4: 3/01/2023 + 30 = 3/31/2023.

| 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 (\$) |                     |
|----------------|---------------------------------|-----------------------------|------|---------------|--------------|---------------|--------------|--------------|-----------------|--------------------|---------------------|
| Change Order 1 | 7                               | F&I Lift Station Electrical | LS   | 0             | 0            | 0             | 1            | 1            | \$114,500.00    | \$114,500.00       |                     |
|                | 8                               | Remove Street Light         | EA   | 0             | 0            | 0             | 3            | 3            | \$1,050.00      | \$3,150.00         |                     |
|                | 9                               | F&I Base 5' Deep Reinf Conc | EA   | 0             | 0            | 0             | 3            | 3            | \$1,050.00      | \$3,150.00         |                     |
|                | 10                              | Remove Base                 | EA   | 0             | 0            | 0             | 3            | 3            | \$1,050.00      | \$3,150.00         |                     |
|                | 11                              | F&I Conductor #6 USE Cu     | LF   | 0             | 0            | 0             | 813          | 813          | \$7.35          | \$5,975.55         |                     |
|                | 12                              | F&I Innerduct 1.5" Dia      | LF   | 0             | 0            | 0             | 271          | 271          | \$15.75         | \$4,268.25         |                     |
|                | 13                              | F&I Luminaire Type A        | EA   | 0             | 0            | 0             | 3            | 3            | \$3,150.00      | \$9,450.00         |                     |
|                | 14                              | F&I Light Standard Type A   | EA   | 0             | 0            | 0             | 3            | 3            | \$2,100.00      | \$6,300.00         |                     |
|                | <b>Change Order 1 Sub Total</b> |                             |      |               |              |               |              |              |                 |                    | <b>\$149,943.80</b> |

**Summary.**

**Source Of Funding**

|                                  |  |
|----------------------------------|--|
| Net Amount Change Order # 1 (\$) |  |
| Previous Change Orders (\$)      |  |
| Original Contract Amount (\$)    |  |
| Total Contract Amount (\$)       |  |

|                                   |  |
|-----------------------------------|--|
| Infrastructure Sales Tax Fund 460 |  |
| \$149,943.80                      |  |
| \$0.00                            |  |
| \$4,136,938.70                    |  |
| \$4,286,882.50                    |  |

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

APPROVED  
 For Contractor   
 Title Vice President Estimating  
 KENT M. SAND

APPROVED DATE   
 Department Head  
 Mayor  
 Attest  
 6/23/22



## Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Additional Funding for AMS Cleaning (RFP21014B)

---

Dear Commissioners:

At the March 23, 2022 Finance Committee meeting, a request was submitted on the Consent Agenda for the Sole Source Procurement to Automated Maintenance Services, Inc. in order to contract additional staff to clean the third floor which had previously been cleaned by City of Fargo staff. Bruce Grubb made the motion to approve all items on the Consent Agenda, Kent Costin seconded the motion and the Committee unanimously approved the motion.

The request for reallocated funds to cover the additional cost in 2022 in the amount of \$63,547.00 was left outstanding. Therefore, it was brought to the Finance Committee June 27, 2022 for approval.

**Recommended Motion:**

Pending approval by the Finance Committee, approve the reallocation of funds in the amount of \$63,547.00 from account 101-1050-409.11-00, Buildings & Grounds Full Time Staff Salaries, to account 101-1050-409.42-06, Buildings & Grounds Cleaning Service Contract, for additional cleaning services at City Hall.



# Memorandum

**To:** Finance Committee  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Additional Funding for AMS Cleaning (RFP21014B)

---

At the March 23, 2022 Finance Committee meeting, a request was submitted on the Consent Agenda for the Sole Source Procurement to Automated Maintenance Services, Inc. in order to contract additional staff to clean the third floor which had previously been cleaned by City of Fargo staff. Bruce Grubb made the motion to approve all items on the Consent Agenda, Kent Costin seconded the motion and the Committee unanimously approved the motion.

The request for funds to cover the additional cost in 2022 in the amount of \$63,547.00 was left outstanding. Therefore, it is being brought to the Finance Committee today for approval. Facilities is requesting to reallocate funds from account 101-1050-409.11-00, Buildings & Grounds Full Time Staff Salaries, due to salary savings from unfilled Maintenance Attendant I positions.

**Recommended Motion:**

Approve the reallocation of funds in the amount of \$63,547.00 from account 101-1050-409.11-00 to account 101-1050-409.42-06, Buildings & Grounds Cleaning Service Contract, for additional cleaning services at City Hall.

# Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Funding for Newman Outdoor Field Leveling (SSP22062)

---

Dear Commissioners:

At the March 23, 2022 Finance Committee meeting, a request was submitted on the Consent Agenda for the Sole Source Procurement to Fargo Baseball, LLC (the RedHawks) in order for the City to reimburse the RedHawks for an amount of no more than \$25,000 to level the infield at Newman Outdoor Field. Bruce Grubb made the motion to approve all items on the Consent Agenda, Kent Costin seconded the motion and the Committee unanimously approved the motion.

The request for reallocated funds in the amount of \$25,000 was left outstanding. Therefore, it was brought to the Finance Committee June 27, 2022 for approval.

**Recommended Motion:**

Pending approval by the Finance Committee, Approve the reallocation in the amount of \$25,000 from account 268-1003-464.74-50, Special Revenue Funds, to account 101-1003-464.43-10, RedHawks Stadium Repairs and Maintenance, to reimburse the RedHawks \$25,000 towards the cost of leveling the infield.

# Memorandum

**To:** Finance Committee  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Newman Outdoor Field Leveling Funding

---

At the March 23, 2022 Finance Committee meeting, a request was submitted on the Consent Agenda for the Sole Source Procurement to Fargo Baseball, LLC (the RedHawks) in order for the City to reimburse the RedHawks for an amount of no more than \$25,000 to level the infield at Newman Outdoor Field. Bruce Grubb made the motion to approve all items on the Consent Agenda, Kent Costin seconded the motion and the Committee unanimously approved the motion.

The request for reallocated funds was left outstanding. Therefore, it is being brought to the Committee today for approval. Facilities is requesting the reallocation of funds in the amount of \$25,000 from Special Revenue Funds account 268-1003-464.74-50 to account 101-1003-464.43-10, RedHawks Stadium Repairs and Maintenance.

**Recommended Motion:**

Approve the reallocation in the amount of \$25,000 from account 268-1003-464.74-50 to account 101-1003-464.43-10 to reimburse the RedHawks \$25,000 towards the cost of leveling the infield.

# Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Mercantile Buildout - PD Substation and Interstate Parking Office

---

Dear Commissioners:

During the October 7, 2019 City Commission meeting, several actions were brought forward for approval related to the Mercantile Parking Garage Development Agreement, Police Substation and Finance Plan. One of these actions was to approve a resolution on project financing. This resolution was adopted by the City Commission.

During the February 7, 2022 City Commission meeting, the lease and build-to-suit agreement for a PD Substation and an Interstate Parking Office were presented on the Consent Agenda for approval. The motion to approve the items on the Consent Agenda was carried.

The build-to-suit agreement included a small tenant improvement (TI) allowance, but not nearly enough to cover the costs of the project. No additional funds were budgeted for the buildout of the leased spaces. The estimated buildout costs, above and beyond the TI allowance are \$439,080.00.

The Mercantile Parking Ramp is complete and has been operational for some time. Finance has determined that there is still \$615,675.54 left from project BP0059: Mercantile Parking Ramp.

At the June 27, 2022 Finance Committee meeting, Facilities is requesting approval to utilize the remaining funds from the BP0059: Mercantile Parking Ramp project to fund the buildout of the PD Substation and Interstate Parking Office spaces in the adjacent building. Finance has assigned project number BP0064.

**Recommended Motion:**

Pending approval by the Finance Committee, approve the reallocation of funds from project BP0059: Mercantile Parking Ramp to Project BP0064: PD Substation and Interstate Parking Office Buildout.

## Memorandum

**To:** Finance Committee  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** Mercantile Buildout - PD Substation and Interstate Parking Office

---

During the October 7, 2019 City Commission meeting, several actions were brought forward for approval related to the Mercantile Parking Garage Development Agreement, Police Substation and Finance Plan. One of these actions was to approve a resolution on project financing. This resolution was adopted by the City Commission.

During the February 7, 2022 City Commission meeting, the lease and build-to-suit agreement for a PD Substation and an Interstate Parking Office were presented on the Consent Agenda for approval. The motion to approve the items on the Consent Agenda was carried.

The build-to-suit agreement included a small tenant improvement (TI) allowance, but not nearly enough to cover the costs of the project. No additional funds were budgeted for the buildout of the leased spaces. The estimated buildout costs, above and beyond the TI allowance are as follows:

- Project Management: \$ 15,000.00
- Design Fees: \$ 24,600.00
- Construction: \$382,835.00
- Construction Management: \$ 16,645.00
  
- **TOTAL** **\$439,080.00**

The Mercantile Parking Ramp is complete and has been operational for some time. Finance has determined that there is still \$615,675.54 left from project BP0059: Mercantile Parking Ramp. There was an open PO for \$246,274.54 to The Title Company from 2019, however, Jim Gilmour stated that Kent Costin was going to close that PO and the only remaining cost is \$5,000-8,000 in legal fees to create the Condo Association.

Facilities is requesting approval to utilize the remaining funds from the BP0059: Mercantile Parking Ramp project to fund the buildout of the PD Substation and Interstate Parking Office spaces in the adjacent building. Finance has assigned project number BP0064.

**Recommended Motion:**

Approve the reallocation of funds from project BP0059: Mercantile Parking Ramp to Project BP0064: PD Substation and Interstate Parking Office Buildout.



**Kilbourne Group**  
210 Broadway, Suite 300  
Fargo, ND 58102  
p: (701) 237-2279  
e: info@kilbournegroup.com  
www.kilbournegroup.com

January 21, 2021

Jim Gilmour  
City of Fargo  
225 4<sup>th</sup> St North  
Fargo, ND 58102

Re: Scope of Services – 511 & 515 4<sup>th</sup> Ave N Build Out

Dear Mr. Gilmour,

Thank you for allowing Kilbourne Group this opportunity to provide a scope of services proposal, providing project management services for a build-to-suit project at 511 and 515 4<sup>th</sup> Ave N, Fargo, N 58102. We value our past project partnership with the City and look forward to continuing that partnership in this project.

Within this document you will find a general outline of services provided by Kilbourne Group and an associated fee structure for that scope of work. Our intent is to provide a single sourced, turn-key project management solution for the City, thereby streamlining the project and the efficiency to completion.

Kilbourne Group Scope of Services – Project Management, Construction Management

- Project Management General Services
  1. Solicit, vet, procure, and contract Design Team necessary to complete project needs. Scope of design to be discussed and agreed to between Kilbourne Group and City of Fargo. Kilbourne Group to hold design contract(s).
  2. Solicit, vet, procure, and contract Construction Management services necessary for preconstruction and construction services. Kilbourne Group to hold construction contract(s). We anticipate using KCM for this scope of work.
  3. Coordinate design and construction services with City provided project services. Kilbourne Group is anticipating that furniture design and procurement, IT or specialty security services, or other similar services, will be provided by the City. Kilbourne Group will coordinate scheduling and design to accommodate these needs.
  4. Present, inform, and maintain overall project budget. Kilbourne Group will work with City of Fargo to establish the original project budget and maintain it through design, material sections, or value engineering processes as necessary.



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5. Establish and maintain overall project schedule. Kilbourne Group will provide mater scheduling services for the overall project, providing regular updates to the City of Fargo.
  6. Coordinate meetings between primary project stake holders. Kilbourne Group will proactively plan and coordinate stakeholder meetings for design consideration/input, budget review, and schedule review throughout the course of the project.
- Project Design and Construction Phase Management Services
1. Pre-Construction/Pre-Design
    - Construction Contract Management engagement
    - Establish schedule and manage with CM
    - Establish budget and manage with CM
    - Document organization/review/approvals
    - Identify budgets/budget adjustments
    - Coordinate site access and construction logistics with landlord
    - Specification Review
    - Communication with Owner
  2. Design Phase
    - Coordination of A/E team in Schematic Design, Design Development and Construction Documents phases
    - Design document review and recommendations for approval as required
    - Value engineering as needed to manage budget
    - Evaluation of Alternates and Substitutions
    - Evaluation of bids and project budget
  3. Construction Phase
    - Payment schedule approvals/Draw submission review/management
    - Bidding, buyout and contracting of project subcontractors
    - Schedule, Quality, and Change Order management
    - Owner purchased equipment coordination
    - Regular progress reporting (minimum monthly)
    - Project observations
  4. Post Construction
    - Closeout Documentation Coordination and Review
    - Coordination of building operations and handoff to landlord
- Project Budget and Billing Management
1. Establish Original project Budget and budget controls for approval by City of Fargo. Budget to include the following breakouts.
    - Design Team Costs
    - Construction Costs
    - Construction Contingency





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- Construction Fee
  - Owner Provided furniture and equipment
  - Owner provided consulting fees (IT, Security, etc. if needed)
  - Legal Fees
  - KG Management Fee
  - Owner Contingency
  - Total Project Costs
2. Manage pay-app process and prepare monthly billings for City of Fargo sign-off and funding
    - Billing to include design, construction, and management services in one pay app
  3. Manage construction budget and change order process for timely updates and coordination of project related issues

**Kilbourne Group Scope of Services – Services Fee Structure**

- Kilbourne Group Project Management Services – T&M billable up to \$15,000
  1. PM Billable Project Manager Rate: \$85/hr
  2. Sr. PM Billable Project Manager Rate: \$105/hr
  3. Standard reimbursable expenses billed at cost – printing, mileage, material samples, etc.
- Kilbourne Construction Management Services – Construction Cost + 5% Fee
  1. Cost of work plus 5% fee contract – contracted to Kilbourne Group
  2. Contract Cost to include KCM team time and recommended 5% construction contingency.
    - Open Book review of all subcontracts, POs and general conditions
    - Billable team time determined by actual team time spent on project: PM \$80/hr, Superintendent \$80/hr

Thank you for this opportunity.

Keith Leier  
Vice President – Kilbourne Group

Approval:

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

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



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#### Standard Terms and Conditions

##### Article 1 Termination

A. Either Client or Kilbourne Group may terminate this Agreement upon seven days written notice.

B. If terminated, Client agrees to pay Kilbourne Group for all Basic, Consultants and Additional Services rendered and Reimbursable Expenses incurred up to the date of termination.

C. Upon not less than seven days' written notice, Kilbourne Group may suspend the performance of its services if Client fails to pay Kilbourne Group in full for services rendered or expenses incurred. Kilbourne Group shall have no liability because of such suspension of services or termination due to Client's nonpayment.

##### Article 2 Dispute Resolution

A. Client and Kilbourne Group agree to mediate claims or disputes arising out of or relating to this Agreement before initiating litigation. The mediation shall be conducted by a mediation service acceptable to the parties. A party shall make a demand for mediation within a reasonable time after a claim or dispute arises, and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

##### Article 3 Use and Ownership of Kilbourne Group's Documents

A. Upon the parties signing this Agreement, Kilbourne Group grants Client a nonexclusive license to use Kilbourne Group's documents as described in this Agreement, provided Client performs in accordance with the terms of this Agreement. No other license is implied or granted under this Agreement. All instruments of professional service prepared by Kilbourne Group, including but not limited to, budgets, contracts, drawings and specifications, are the property of Kilbourne Group. These documents shall not be reused on other projects without Kilbourne Group's written permission. Kilbourne Group retains all rights, including copyrights, in its documents. Client or others cannot use Kilbourne Group's documents to complete this Project with others unless Kilbourne Group is found to have materially breached this Agreement.

##### Article 4 Miscellaneous Provisions.

A. This Agreement is governed by the law of Kilbourne Group's principal place of business.

B. This Agreement is the entire and integrated agreement between Client and Kilbourne Group and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Agreement only by a written instrument signed by both Client and Kilbourne Group.



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C. In the event that any term or provision of this Agreement is found to be unenforceable or invalid for any reason, the remainder of this Agreement shall continue in full force and effect, and the parties agree that any unenforceable or invalid term or provision shall be amended to the minimum extent required to make such term or provision enforceable and valid.

D. Neither Client nor Kilbourne Group shall assign this Agreement without the written consent of the other.

E. Should any legal proceeding be commenced between the parties to this Agreement seeking to enforce any of its provisions, including, but not limited to, fee provisions, the prevailing party in such proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' and expert witnesses' fees, which shall be determined by the court or forum in such a proceeding or in a separate action brought for that purpose. For purposes of this provision, "prevailing party" shall include a party that dismisses an action for recovery hereunder in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.

F. Client and Kilbourne Group waive consequential damages for any claims, disputes or other matters in question arising out of or relating to this Agreement. Landscape Architect's waiver of consequential damages, however, is contingent upon the Client requiring contractor and its subcontractors to waive all consequential damages against Landscape Architect for claims, disputes or other matters in question arising out of or relating to the Project.

G. Nothing in this Agreement shall create a contractual relationship for the benefit of any third party.



January 7, 2022

RE: Fargo PD / Interstate Parking Fit-Up

Heather McCord  
Kilbourne Group  
210 Broadway, Suite 300,  
Fargo, ND 58102  
p. 701.205.7909 | heather@kilbournegroup.com

### **PROPOSAL FOR PROFESSIONAL SERVICES**

Heather,

Thank you for the opportunity to submit this proposal for the architectural design services of the Fargo Police Department Sub-station / Interstate Parking fit-up space. This proposal will form the basis of professional fee services for the above referenced project. We appreciate your interest and consideration of the Craftwell Architecture + Construction team.

### **PROJECT UNDERSTANDING**

The proposed office fit-up to be located within the newly constructed Mercantile Mixed-Use Wrap shell project. The project will include approximately 2,200 s.f. of office space for (2) tenants, which are the Fargo Police Department Sub-station and Interstate Parking. A target construction cost to be approximately \$100.00 / s.f. Certificate of Occupancy for shell project anticipated for April 1, 2022, with this project to be completed following shell completion and CO. Coordination will be required with the Police Departments IT/Security along with the existing electrical infrastructure. KCM Construction will be the builder. M/E Contractors will be Custom Aire and Magnum Electric.

### **SCOPE OF SERVICES**

Architectural services will include the review and validation of previous conceptual studies, design and coordination from schematic design through construction documents, shop drawing review, and construction administration services. The architectural scope will include the planning for office space within existing building shell and materials selections. The architectural team will lead the coordination and review of consultant deliverables and engineered drawings. Review and coordination with the City of Fargo and City of Fargo Police Department will take place as required. Architectural drawings and specifications will be produced for bidding, permitting, and construction.

*Please note: site surveys, geotechnical services, FFE, permitting/ plan review fees, mileage/ travel expenses, construction management, specialty consultants, and printing are outside of the scope of this proposal.*

## COMPENSATION

Compensation shall be based on a fixed fee and as outlined below. Changes in scope, project complexity, design schedule, and owner-directed changes following completion of the Construction Documents phase may be subject to additional compensation at the prevailing hourly rate or at a fixed fee which shall be negotiated at that time.

### Design Team Fees:

- Architectural Design Services: **\$15,600.00**
- o Excludes basic engineering fees
  - o Fee breakdown
    - Schematic Design (10-15%)
    - Design Documents (20%)
    - Construction Documents/ Specifications (40%)
    - Bidding and Negotiation (5%)
  - o Project Team Billable Rates
    - One Hundred Sixty Dollars (\$160.00), Principal Architect Rate
    - One Hundred Forty Dollars (\$140.00), Project Architect Rate
    - One Hundred Thirty Dollars (\$130.00), Construction Manager/Project Manager Rate
    - Ninety Dollars (\$90.00), Intern Level III/Superintendent Rate
    - Eighty Dollars (\$80.00), Intern Level II Rate
    - Seventy Dollars (\$70.00), Intern Level I Rate
    - Fifty Dollars (\$50.00), Administrative Staff Rate

### Consulting Design Service Fees

- MBN Mechanical and Electrical Engineering Lump Sum Fee: **\$9,000.00**

**Total Fee Proposed:** **\$24,600.00**

## ADDITIONAL SERVICES

Additional services outside of the defined project scope will be performed on a time and material basis as required and agreed upon. These may include, but are not limited to, project branding / marketing, additional renderings, animations, and as-built drawings.

We appreciate this opportunity and look forward to working with you. Please feel free to call with any questions.

Sincerely,

  
Chris Hawley, AIA  
Principal

Craftwell Architecture + Construction  
[ch@wecraftwell.com](mailto:ch@wecraftwell.com) | 701.478.4600



Project: Police Station - Interstate Parking Fit up  
 Description: Project Estimate  
 Date: 6/21/2022



| Cost Code                                     | Description  | Bid Price        | Addendum 1       | Notes   |
|---|--|------------------|------------------|---|
| <b>Division 1: General Requirements</b>       |  |                  |                  |   |
| 01.10.20                                      | Permits  | \$ 1,800         |                  |   |
| 01.10.40                                      | Builders Risk  | \$ 100           |                  |   |
| 01.20.15                                      | Site Protection/Fencing/Cameras                          | \$ 800           |                  |   |
| 01.20.20                                      | Temporary Signage/Traffic Control                        | \$ 250           |                  |   |
| 01.30.10                                      | Temporary Electricity                                    | \$ 450           |                  |   |
| 01.30.15                                      | Temporary Gas/Heat                                       | \$ 250           |                  |   |
| 01.30.20                                      | Temporary Toilets  | \$ 1,000         |                  |   |
| 01.40.15                                      | Dumpsters/Trash Removal                                  | \$ 2,000         |                  |   |
| 01.50.20                                      | Final Cleaning   | \$ 3,212         |                  |   |
| 01.50.25                                      | General Labor & Material                                 | \$ 2,000         |                  |   |
| 01.60.10                                      | Site Testing   | \$ 675           |                  |   |
| 01.80.05                                      | Project Manager  | \$ 5,000         |                  |   |
| 01.80.10                                      | Project Coordinator                                      | \$ 2,500         |                  |   |
| 01.80.15                                      | Project Superintendent                                   | \$ 10,000        |                  |   |
| <b>Division 1: General Requirements TOTAL</b> |  | <b>\$ 30,037</b> | <b>\$ -</b>      | Excludes winter conditions, excludes supply and install of art, excludes window coverings, excludes FFE,  |
| <b>Division 3: Concrete</b>                   |  |                  |                  |   |
| 03.20.00                                      | Concrete Demo, Removal, and Replacement                  | \$ 2,540         | \$ -             |   |
| 03.54.00                                      | Wood Stoop   | \$ 2,000         | \$ -             | Allowance   |
|   | Level parking garage entry into new opening and move MEP | \$ 5,000         | \$ -             | Allowance. This is pending door locations from the precast engineer.  |
| <b>Division 3: Concrete TOTAL</b>             |  | <b>\$ 9,540</b>  | <b>\$ -</b>      |   |
| <b>Division 6: Finish Carpentry</b>           |  |                  |                  |   |
| 06.10.20                                      | Rough Carpentry Materials                                | \$ 1,750         | \$ -             |   |
| 06.20.10                                      | Finish Carpentry Labor                                   | \$ 18,283        | \$ -             |   |
| <b>Division 6: Openings TOTAL</b>             |  | <b>\$ 20,033</b> | <b>\$ -</b>      |   |
| <b>Division 7:</b>                            |  |                  |                  |   |
| 07.00.00                                      | Caulking   | \$ 4,000         | \$ -             |   |
| <b>Division 7: TOTAL</b>                      |  | <b>\$ 4,000</b>  | <b>\$ -</b>      |   |
| <b>Division 8: Openings</b>                   |  |                  |                  |   |
| 08.13.00                                      | Doors, Frames, Hardware                                  | \$ 10,772        | \$ 2,273         | Excludes rekeying/coring existing openings. Allowance. Mirrors and HM glazing; Excludes vinyl covering. Excludes any changes existing glazing. Excludes bullet proof glazing. |
| 08.43.00                                      | Aluminum-Framed Entrances and Storefronts                | \$ 1,000         | \$ 8,450         |   |
| <b>Division 8: Openings TOTAL</b>             |  | <b>\$ 11,772</b> | <b>\$ 10,723</b> |   |
| <b>Division 9: Finishes</b>                   |  |                  |                  |   |
| 09.21.00                                      | Gypsum Board Assemblies                                  | \$ 44,180        | \$ 3,650         | Excludes existing framing, insulation, and sheetrock at existing walls. Excludes demising West wall.  |
|   | Add soffits and lower ceilings for M/E                   | \$ 1,500         | \$ -             | Allowance.  |
| 09.31.50                                      | Flooring   | \$ 22,666        | \$ 3,504         |   |
|   | Patching drywall   | \$ 1,500         | \$ -             | Allowance   |
| 09.91.25                                      | Interior Painting  | \$ 6,894         | \$ -             | Excludes exterior painting.   |
| 09.51.05                                      | Acoustical Ceilings                                      | \$ 10,109        | \$ -             | Assumed standard color. Excludes moving existing M/E for new ceiling heights.   |
| <b>Division 9: Finishes TOTAL</b>             |  | <b>\$ 86,849</b> | <b>\$ 7,154</b>  |   |
| <b>Division 10: Specialties</b>               |  |                  |                  |   |
| 10.14.05                                      | Interior Signage   | \$ 750           | \$ -             | Allowance. Exterior signage excluded  |
| 10.28.05                                      | Toilet, Bath, and Laundry Accessories                    | \$ -             | \$ -             |   |
|   | Toilet Accessories                                       | \$ 4,997         | \$ -             | Excludes whiteboard supply and install.   |
|   | Fire Protection  | \$ 333           | \$ -             |   |
|   | Metal Lockers  | \$ 9,933         | \$ -             |   |
|   | Bike Racks   | \$ 1,921         | \$ -             |   |
|   | Tax  | \$ 1,289         | \$ -             |   |
| <b>Division 10: Specialties TOTAL</b>         |  | <b>\$ 19,223</b> | <b>\$ -</b>      |   |
| <b>Division 12: Furnishings</b>               |  |                  |                  |   |
| 12.40.00                                      | Cabinets   | \$ 17,560        | \$ (200)         | Laminate wood grain white melamine interiors, hardware allowance  |
|   | Countertops  | \$ 5,685         | \$ -             | Excludes window sills   |
| <b>Division 12: Furnishings TOTAL</b>         |  | <b>\$ 23,245</b> | <b>\$ (200)</b>  |   |
| <b>Division 21: Fire Suppression</b>          |  |                  |                  |   |
| 21.13.10                                      | Wet Fire Sprinkler System                                | \$ 2,995         | \$ -             |   |
| <b>Division 21: Fire Suppression TOTAL</b>    |  | <b>\$ 2,995</b>  | <b>\$ -</b>      |   |
| <b>Division 22: Plumbing</b>                  |  |                  |                  |   |
| 22.00.00                                      | Plumbing   | \$ 19,575        | \$ 1,020         |   |
| <b>Division 22: Plumbing TOTAL</b>            |  | <b>\$ 19,575</b> | <b>\$ 1,020</b>  |   |

|                          |      |                                |                  |
|--------------------------|------|--------------------------------|------------------|
| <b>Division 23: HVAC</b> |      |                                |                  |
| 23.00.00                 | HVAC | \$ 30,235                      | \$ -             |
|                          |      | <b>Division 23: HVAC TOTAL</b> | <b>\$ 30,235</b> |

|                                |            |                                      |                              |
|--------------------------------|------------|--------------------------------------|------------------------------|
| <b>Division 26: Electrical</b> |            |                                      |                              |
| 26.00.00                       | Electrical | \$ 51,520                            | \$ 5,180                     |
|                                |            |                                      | Price is for MC not conduit. |
|                                |            |                                      | \$ -                         |
|                                |            | <b>Division 26: Electrical TOTAL</b> | <b>\$ 5,180</b>              |

|                          |                   |                  |
|--------------------------|-------------------|------------------|
| <b>SUBTOTAL</b>          | <b>\$ 309,023</b> | <b>\$ 23,877</b> |
| <b>CONTINGENCY (10%)</b> | <b>\$ 30,902</b>  | <b>\$ 2,388</b>  |
| <b>CM FEES (5%)</b>      | <b>\$ 15,451</b>  | <b>\$ 1,194</b>  |
| <b>TOTAL</b>             | <b>\$ 355,376</b> | <b>\$ 27,459</b> |

**Total Including addendum 1**      **\$ 382,835**

|                     |          |  |           |           |  |
|---------------------|----------|--|-----------|-----------|--|
| <b>Alternate #1</b> | 08.43.00 | Bullet Proof Glazing at Fargo Police Station Only. | \$ 76,000 | \$ 76,000 | Existing window system to remain, only replacing the glazing. SG5 and SG4 types of glazing were used depending on the size of glazing. |
|                     |          | Sidewalk closure                                   | \$ 3,000  | \$ 3,000  |  |

|                          |                  |                  |
|--------------------------|------------------|------------------|
| <b>SUBTOTAL</b>          | <b>\$ 79,000</b> | <b>\$ 79,000</b> |
| <b>CONTINGENCY (10%)</b> | <b>\$ 7,900</b>  | <b>\$ 7,900</b>  |
| <b>CM FEES (5%)</b>      | <b>\$ 3,950</b>  | <b>\$ 3,950</b>  |
| <b>TOTAL</b>             | <b>\$ 90,850</b> | <b>\$ 90,850</b> |

|                     |          |  |          |          |
|---------------------|----------|--|----------|----------|
| <b>Alternate #2</b> | 09.31.50 | Flooring - Plastic laminate plank flooring in lieu of luxury vinyl plank | \$ 2,144 | \$ 2,144 |
|                     |          |  | \$ -     | \$ -     |

|                          |                 |                 |
|--------------------------|-----------------|-----------------|
| <b>SUBTOTAL</b>          | <b>\$ 2,144</b> | <b>\$ 2,144</b> |
| <b>CONTINGENCY (10%)</b> | <b>\$ 214</b>   | <b>\$ 214</b>   |
| <b>CM FEES (5%)</b>      | <b>\$ 107</b>   | <b>\$ 107</b>   |
| <b>TOTAL</b>             | <b>\$ 2,466</b> | <b>\$ 2,466</b> |



# Memorandum

**To:** Board of City Commissioners  
**From:** Bekki Majerus, Director of Facilities Management  
**Date:** June 27, 2022  
**Re:** City Hall Electric Vehicle Charger Rate

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Dear Commissioners:

In 2021, a Level 3 DCFC (fast charger) electric vehicle (EV) charger was installed in the West visitor lot at City Hall. This installation was made possible through a grant from Volkswagen. As a condition of the grant, the charger was made available to consumers at no charge for the first year. We are reaching the end of that year and on July 1, 2022 will begin collecting a fee for use of the EV charger.

In the initial application for the grant, a \$1.00 per hour fee, billed by the minute (\$.0167) was proposed. The fee was calculated at that time to cover the cost of operation and maintenance of the charging station. Before implementing this proposed fee, Facilities reviewed several factors: current utility costs, current maintenance costs, and the prevailing rates in the area.

The City's current per kWh rate is between \$.06 and \$.07 per kWh depending upon variables such as fuel and transportation costs. There are also fixed fees for electrical service to factor in. This can move the cost anywhere between \$.10 and \$.20 per kWh.

In the Fargo/Moorhead/West Fargo area, all public Level 3 DCFC chargers are showing a rate of \$.30/minute and a \$4.95 flat rate.

Facilities recommendation is to set a rate of \$.30 per minute with no flat rate.

**Recommended Motion:**

Approve the recommended rate of \$0.30/minute for the Electric Vehicle Charger at City Hall to go into effect on July 1, 2022.



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**CITY OF FARGO  
GENERAL FUND - BUDGET TO ACTUAL  
THROUGH MAY 2022  
(UNAUDITED)**

|  | 2022<br>BUDGET       | 2022<br>ACTUAL       | VARIANCE              |
|--|----------------------|----------------------|-----------------------|
| <b>REVENUES:</b>                                   |                      |                      |                       |
| Taxes  | \$ 33,487,520        | \$ 32,474,372        | \$ (1,013,148)        |
| Licenses & Permits                                 | 2,701,565            | 1,986,335            | (715,230)             |
| Fines & Traffic Tickets                            | 949,359              | 527,591              | (421,768)             |
| Intergovernmental Revenue                          | 7,591,419            | 8,418,803            | 827,384               |
| Charges for Services                               | 4,410,105            | 3,466,236            | (943,869)             |
| Interest   | 941,660              | 1,577,699            | 636,039               |
| Miscellaneous Revenue                              | 420,075              | 469,807              | 49,732                |
| Transfers In                                       | 7,849,264            | 4,332,604            | (3,516,660)           |
| <b>Total Revenues</b>                              | <b>\$ 58,350,967</b> | <b>\$ 53,253,447</b> | <b>\$ (5,097,520)</b> |
| <b>EXPENDITURES:</b>                               |                      |                      |                       |
| City Administrator                                 | \$ 4,368,318         | \$ 4,062,325         | \$ 305,993            |
| Finance  | 3,314,767            | 3,061,995            | 252,772               |
| Planning & Development                             | 2,386,202            | 1,604,670            | 781,532               |
| Public Works                                       | 7,383,982            | 7,496,272            | (112,290)             |
| Fire Department                                    | 6,662,794            | 6,639,082            | 23,712                |
| Police   | 10,127,091           | 9,149,344            | 977,747               |
| Health   | 5,006,768            | 6,018,983            | (1,012,215)           |
| Library  | 2,065,336            | 2,031,375            | 33,961                |
| Commission   | 314,040              | 314,540              | (500)                 |
| Social Services                                    | 256,144              | 246,116              | 10,028                |
| Capital Outlay                                     | 1,159,819            | 250,277              | 909,542               |
| Vehicle Replacement/IT                             | -                    | (6,722)              | 6,722                 |
| Contingency  | (492,685)            | (2,871)              | (489,814)             |
| Transfers Out                                      | 3,264,914            | 2,708,536            | 556,378               |
| <b>Total Expenditures</b>                          | <b>\$ 45,817,490</b> | <b>\$ 43,573,922</b> | <b>\$ 2,243,568</b>   |
| <b>Excess of Revenue Over (Under) Expenditures</b> | <b>\$ 12,533,477</b> | <b>\$ 9,679,525</b>  | <b>\$ (2,853,952)</b> |

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**TO: BOARD OF CITY COMMISSIONERS**

**FROM: TERRI GAYHART, DIRECTOR OF FINANCE** *TG*

**RE: STATE WATER COMMISSION COST REIMBURSEMENT APPROVAL**

**DATE: JUNE 23, 2022**

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

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

**Suggested Motion:**

Approve a State Water Commission request for cost reimbursement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project costs totaling \$1,391,419.51.

June 22, 2022

Andrea J. Travnicek, PHD.  
 North Dakota State Water Commission  
 900 East Boulevard Avenue, Dept 770  
 Bismarck, ND 58505-0850

Dear Andrea,

The Metro Flood Diversion Authority is submitting eligible costs for reimbursement request #125 pursuant to the terms and conditions of House Bill 1020 for costs incurred from April 1, 2022 - April 30, 2022 on the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. These costs are summarized in the attached cost summaries and are supported by detailed disbursement records included within this submission.

The total amount of the claim for reimbursement is \$1,391,419.51

| State Funds Available | Amount Spent Previous Request | Amount Spent This Period | State Cost Share | Reimbursement Request This Period | Balance of State Funds |
|-----------------------|-------------------------------|--------------------------|------------------|-----------------------------------|------------------------|
| \$ 354,500,000.00     | \$ 345,012,079.37             | \$ 2,782,839.02          | 50%              | \$ 1,391,419.51                   | \$ 8,096,501.12        |

**Project Narrative, this request:**

| Project Number | Project Description   |
|----------------|---|
| V01701         | Earnest Payment for homeowner living in areas of the diversion project. |
| V02823         | Pay App #12 –WP-42G General Landscaping and Plantings                   |
| V04806         | I-29 Utility Relocation   |

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

| Expense Type                  | Amount              |
|-------------------------------|---------------------|
| Engineering Services          | 597,854.50          |
| Construction Management       | 1,179,084.02        |
| Legal Services                | 112,968.90          |
| Financial Advisor             | 1,437.50            |
| Consulting Services           | 45,211.91           |
| Trustee Fees                  | 16,480.00           |
| <b>Total Eligible Expense</b> | <b>1,953,036.83</b> |

We certify that \$101,279,533 has been expended on the acquisition of homes and that these costs are eligible for the local matching share requirements of SB 2020. Records relating to these costs are on file with the City of Fargo in the Office of the City Auditor.

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

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

Sincerely,



Terri Gayhart  
Director of Finance, City of Fargo  
Metro Flood Diversion Authority

**Required Local Approvals:**

\_\_\_\_\_  
City of Fargo

\_\_\_\_\_  
Cass County Commission

\_\_\_\_\_  
Cass County Joint Water Resource Dist.

| Check_Number | Vendor_Number | Vendor_Name                                   | Transaction_Amount  | Expense_Description                 | Project_Number | Project_Description       |
|--------------|---------------|---|---------------------|-------------------------------------|----------------|---------------------------|
| 3            | 318687        | 24895 AECOM TECHNICAL SERVICES, INC           | 20,211.25           | CULTURAL RESOURCES INVEST           | V01004         | SEAI CULTURAL RES INVEST  |
| 9            | 319096        | 11604 ADVANCED ENGINEERING INC                | 292,420.01          | DIVERSION 2/12-3/18/22              | V00302         | PROGRAM MGMT SERVICES     |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 74,852.23           | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
| 1            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 56,307.91           | PROJ MGMT, SUPPORT SERV             | V01634         | H&H MITIG & PERMIT SUPPO  |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 39,252.89           | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
| 1            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 24,183.50           | PROJ MGMT, SUPPORT SERV             | V01634         | H&H MITIG & PERMIT SUPPO  |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 557.00              | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
| 1            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 14,302.22           | PROJ MGMT, SUPPORT SERV             | V01634         | H&H MITIG & PERMIT SUPPO  |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 46,836.55           | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 3,733.00            | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
| 0            | 319136        | 21007 HOUSTON-MOORE GROUP LLC                 | 25,197.94           | PROJ MGMT, CONTROLS,                | V01633         | DESIGN & CONST. SUPPORT   |
|              |               | <b>Total Engineering</b>                      | <b>597,854.50</b>   |                                     |                |                           |
|              | 929           | 17842 P CARD BMO                              | 87,955.75           | OHNSTAD TWICHELL PC                 | V00102         | General & Admin. WIK      |
|              | 929           | 17842 P CARD BMO                              | 21,670.65           | OHNSTAD TWICHELL PC                 | V00102         | General & Admin. WIK      |
| 8            | 318791        | 25585 PLEASANT TOWNSHIP                       | 3,342.50            | REIMB GARAAS LAW INVOICE            | V06801         | PLEASANT TOWNSHIP MOU     |
|              |               | <b>Total Legal Services</b>                   | <b>112,968.90</b>   |                                     |                |                           |
| 8            | 319278        | 24991 PROGRAM ADVISOR SERVICES, LLC           | 45,211.91           | PROGRAM CONSULTING SERV             | V05801         | CONSULTING SERVICES       |
|              |               | <b>Total Consulting Services</b>              | <b>45,211.91</b>    |                                     |                |                           |
| 11           | 318785        | 16980 OXBOW, CITY OF                          | 922.50              | MOORE ENGINEERING, INC              | V02421         | OXBOW MOU-MOORE PROJ MGMT |
|              | 319108        | 20663 CH2M HILL ENGINEERS INC                 | 578,847.39          | P3 SUPPORT SERVICES                 | V00212         | P3 PROCUREMENT SUPPORT    |
|              | 319108        | 20663 CH2M HILL ENGINEERS INC                 | 584,359.02          | PROGRAM MGMT & SERVICES             | V00211         | CH2M HILL-6/2019-12/2021  |
|              | 319108        | 20663 CH2M HILL ENGINEERS INC                 | 13,090.51           | PROPERTY ACQUISITION MGMT           | V00210         | CH2M HILL-LAND ACQUISITON |
| 1            | 319268        | 16980 OXBOW, CITY OF                          | 1,864.60            | REIMB MOORE ENG INVOICE             | V02421         | OXBGW MOU-MOORE PROJ MGMT |
|              |               | <b>Total Construction Management Services</b> | <b>1,179,084.02</b> |                                     |                |                           |
| 2            | 319200        | 23666 AON RISK SERVICES CENTRAL, INC          | 1,437.50            | RISK ADVISORY SERVICES              | V03201         | PRE-AWARD P3 RISK ADVISOR |
|              |               | <b>Total Financial Advisor</b>                | <b>1,437.50</b>     |                                     |                |                           |
|              | 9420          | 16770 CITY OF FARGO-AUDITORS OFFICE           | 16,480.00           | BND TRUSTEE FEE 4/2022              | V08502         | MONTHLY TRUSTEE FEE       |
|              |               | <b>Total Trustee Fees</b>                     | <b>16,480.00</b>    |                                     |                |                           |
| E504220017   | 16770         | CITY OF FARGO-AUDITORS OFFICE                 | 800,000.00          | Red River Valley & Western Railroad | V01701         | RD LAND PURCH-OUT OF TOWN |
|              |               | <b>Total Land Purchases</b>                   | <b>800,000.00</b>   |                                     |                |                           |
|              | 319133        | 21124 HOFFMAN & MCNAMARA NURSERY&LANDSCAP     | 4,150.00            | LANDSCAPE & PLANTINGS               | V02823         | LANDSCAPING & PLANTINGS   |
|              |               | <b>Total Landscaping</b>                      | <b>4,150.00</b>     |                                     |                |                           |
|              | 319216        | 23591 CENTURYLINK                             | 25,652.19           | UTILITY RELOCATION                  | V04806         | UTILITY RELOCATION        |
|              |               | <b>Total Utilities</b>                        | <b>25,652.19</b>    |                                     |                |                           |
|              |               | <b>Total Expense for Period - April 2022</b>  | <b>2,782,839.02</b> |                                     |                |                           |

CITY OF  
**Fargo Fire Department**

(20)

MEMORANDUM

**TO: BOARD OF CITY COMMISSIONERS**

**FROM: FIRE CHIEF STEVE DIRKSEN**

**DATE: June 22, 2022**

**SUBJECT: ARCHITECTURE CONTRACT FOR FIRE STATION 2 and STATION 8 PROJECTS**

At the April 18, 2022 Commission Meeting the Fargo City Commission approved authorizing the sale of bonds for the construction of Fire Station 8 and an addition to Fire Station 2. An RFQ for architectural services was advertised.

At the May 2, 2022 Commission Meeting the Fargo City Commission approved authorizing staff to complete a contract with EAPC for schematic design, bid documents, and provide administration of the project.

Staff and the architect have completed the work and have come to terms on a contract for services.

**RECOMMENDED MOTION:** To approve the contract between the City of Fargo and EAPC for the remodel of Fire Station 2 and construction of Fire Station 8.

# **AIA** Document B101™ – 2017

## **Standard Form of Agreement Between Owner and Architect**

**AGREEMENT** made as of the 31st day of May in the year 2022  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

City of Fargo Fire Department  
637 NP Ave  
Fargo, ND 58102

and the Architect:  
*(Name, legal status, address and other information)*

Engineers-Architects, P.C. (herein known as EAPC Architects Engineers)  
112 Roberts Ste N, Ste 300  
Fargo, ND 58102  
Telephone Number: 701-461-7222

for the following Project:  
*(Name, location and detailed description)*

Station #2 Remodel  
Southside Station  
3020 25<sup>th</sup> St S  
Fargo, ND 58103

New Station #8  
6617 33<sup>rd</sup> St S.  
Fargo, ND 58104

EAPC Project# 20222800

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 SUPPLEMENTAL AND ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

The program for both facilities shall be set through mutual collaboration and consent with the owner.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Fire Station #2 Remodel will include an addition of approximately 550 sq ft to the north side of the existing structure. The addition will consist of two rooms, one room will be approximately 350 sq ft to accommodate physical fitness training and the second room will be approximately 200 sq ft to accommodate structural firefighting gear storage and gear laundering equipment. It will also include enlarging (raising) the overhead drive through doors to accommodate all fire department apparatus. It is necessary that Fire Station 2 remain operational during construction.

The new Fire Station #8 will include living quarters for nine firefighters; office space for three officers; classroom/training area with amenities for six individual work stations with room capacity of 30; apparatus/operations area with space for three fire department vehicles in three bays, two of which must be drive through; parking for a minimum of 20 vehicles; interior equipment storage; three-tiered decontamination design (hot, warm, cold); ensuring all contaminated gear and equipment be located away from living quarters and offices.



§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:  
(Provide total and, if known, a line item breakdown.)

Station #2 Remodel: \$350,000

Fire Station #8: \$5,200,000.

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Early July 2022 Start Up

.2 Construction commencement date:

Station #2: Winter 2022/2023

Station #8: Spring 2023

.3 Substantial Completion date or dates:

Station #2: Summer 2023

Station #8: Spring 2024

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Standard Design, Bid, Build.

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:  
(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
(List name, address, and other contact information.)

Chief Steve Dirksen  
Fargo Fire Department  
637 NP Ave  
Fargo, ND 58102  
Telephone Number: 701-241-1540  
Email: SDirksen@farognd.gov

Init.

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

N/A

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

N/A

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Nicholas Naujokas  
112 Roberts St N Suite 300  
Fargo, ND 58102  
Telephone Number: 701-461-7482  
Email Address: nicholas.naujokas@eapc.net

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

EAPC (In-House)

.2 Mechanical Engineer:

EAPC (In-House)

**.3 Electrical Engineer:**

EAPC (In-House)

**.4 Civil Engineer:**

Burian & Associates  
Kellen Grubb  
4340 18<sup>th</sup> Ave S, Suite 120  
Fargo, ND 58103  
Telephone Number: 701-641-8759  
Email: Kellen.grubb@burianassocates.com

**§ 1.1.11.2 Consultants retained under Supplemental Services:**

N/A

**§ 1.1.12 Other Initial Information on which the Agreement is based:**

N/A

**§ 1.2** The Owner and Architect may reasonably rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203<sup>TM</sup>-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203<sup>TM</sup>-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202<sup>TM</sup>-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

**§ 2.1** The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement.

§ 2.5.1 Commercial General Liability with policy limits of not less than Five million five hundred and fifty thousand dollars (\$ 5,550,000 ) for each occurrence and Five million five hundred and fifty thousand dollars (\$ 5,550,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000 ) each accident, one million dollars (\$ 1,000,000 ) each employee, and one million dollars (\$ 1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than five million dollars (\$ 5,000,000 ) per claim and five million dollars (\$ 5,000,000 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.6 The Architect understands the performance of the Architect's Services will require communication with various entities involved in the completion of the Work, and the Architect will, at no additional cost to the Owner, so communicate and take all steps necessary to ensure compliance with the Conditions.

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to reasonably rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without prior notice to the Architect.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.2 Schematic Design Phase Services**

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. The Construction Documents shall comply with the laws of the State of North Dakota and the local government including the municipality in which the project is located.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. After Owner's review, the Architect shall incorporate Owner's comments into final Construction Documents.

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§ 3.4.6 Any design errors or omissions in the Construction Documents furnished by the Architect will be promptly corrected by the Architect at no cost to the Owner. If, due to the Architect's negligence, omission or failure to perform in accordance with the terms of this Agreement, a required item or component of the Project is omitted from the Construction Documents or if, due to such negligence, omission or failure, the Construction Documents must be modified through a Change Order, the Architect shall be responsible for paying the cost required to add or modify such item or component to the Project, excluding reasonable cost that would have been incurred by the Owner at the time of the original bid for such Project item or component to the extent that such item or component would have been required and included in the original Construction Documents. In no event shall the Owner pay more than once for an item or component of the Project.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions and for the negligent acts or omissions of the Architect's consultants and subcontractors and for the failure of the Architect, and the Architect's Consultants and subcontractors to comply with the requirements of this Agreement, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of any other persons or entities performing portions of the Work, including the Contractor and the Contractor's subcontractors.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work, and require in writing with ten (10) working days the Contractor's plan of action to remedy the known deviation(s). The Architect shall advise the Owner in writing on the status of the completion of the corrective work prior to substantial completion of the project.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.



**§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

**§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

**§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year and two years from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

| Supplemental Services  | Responsibility<br><i>(Architect, Owner, or not provided)</i> |
|--|--|
| § 4.1.1.1 Programming  | Architect/Owner  |
| § 4.1.1.2 Multiple preliminary designs   | Not Provided   |
| § 4.1.1.3 Measured drawings  | Architect  |
| § 4.1.1.4 Existing facilities surveys  | Not Provided   |
| § 4.1.1.5 Site evaluation and planning   | Architect/Civil  |
| § 4.1.1.6 Building Information Model management responsibilities               | Architect  |
| § 4.1.1.7 Development of Building Information Models for post construction use | Not Provided   |
| § 4.1.1.8 Civil engineering  | Architect/Civil  |
| § 4.1.1.9 Landscape design   | Architect/Civil  |
| § 4.1.1.10 Architectural interior design                                       | Architect/Interiors  |
| § 4.1.1.11 Value analysis  | Not Provided   |
| § 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3        | Not Provided   |
| § 4.1.1.13 On-site project representation                                      | Not Provided   |
| § 4.1.1.14 Conformed documents for construction                                | Not Provided   |
| § 4.1.1.15 As-designed record drawings   | Architect  |
| § 4.1.1.16 As-constructed record drawings                                      | Architect/Contractor   |
| § 4.1.1.17 Post-occupancy evaluation   | Not Provided   |

| Supplemental Services   | Responsibility<br><i>(Architect, Owner, or not provided)</i> |
|---|--|
| § 4.1.1.18 Facility support services                              | Not Provided   |
| § 4.1.1.19 Tenant-related services                                | Not Provided   |
| § 4.1.1.20 Architect's coordination of the Owner's consultants    | N/A  |
| § 4.1.1.21 Telecommunications/data design                         | Architect/Electrical   |
| § 4.1.1.22 Security evaluation and planning                       | Architect/Electrical   |
| § 4.1.1.23 Commissioning  | Not Provided   |
| § 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3 | Not Provided   |
| § 4.1.1.25 Fast-track design services                             | Not Provided   |
| § 4.1.1.26 Multiple bid packages                                  | Not Provided   |
| § 4.1.1.27 Historic preservation                                  | Not Provided   |
| § 4.1.1.28 Furniture, furnishings, and equipment design           | Owner with Architect   |
| § 4.1.1.29 Other services provided by specialty Consultants       | Not Provided   |
| § 4.1.1.30 Other Supplemental Services                            | Not Provided   |

**§ 4.1.2 Description of Supplemental Services**

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

All services noted as "Architect" provided shall be part of basic services.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

N/A

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

**§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;

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- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.
- .12 Making revisions in drawings, specifications, or other documents, when such revisions are inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustment in the Owner's program or Project budget.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 \* visits to the site by the Architect during construction  
\*Visits per Exhibit "C"- attached to this Contract.
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within thirty-six ( 36 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect may thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. These services are not provided directly to the Architect or for the Architect's benefit.

Init.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service provided, however, that the Owner shall have no obligation to investigate for the purpose of becoming aware of the faults, defects, errors, omissions, or inconsistencies.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at anytime the Architect's estimate of the Cost of the Work deviates from the Cost of the Work most recently approved by the Owner, the Architect shall, upon the Owner's request, provide a written explanation of the deviation and propose design changes that would bring the Project within the Cost of Work. If the proposed design changes are unacceptable to the Owner, the Owner may terminate the Agreement.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by North Dakota law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

**ARTICLE 8 CLAIMS AND DISPUTES**

**§ 8.1 General**

§ 8.1.1 The applicable statute of limitations shall commence when the Owner first knows or should have known that a cause of action exists. Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be governed by North Dakota Century Code Sec. 28-01-04 (Statute of Repose).

*(Paragraph deleted)*

§ 8.1.3 North Dakota law governs claims for consequential damages and said damages are not waived by this Contract.

§ 8.1.4 This Agreement shall be governed by the law of North Dakota.

**§ 8.2 Mediation**

*(Paragraph deleted)*

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims between them by mediation. But nothing prevents the parties from litigating those claims.

*(Paragraph deleted)*

§ 8.2.4 If the parties do not resolve a dispute through mediation, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

*(Paragraphs deleted)*

§ 8.2.5 Venue Clause: Civil action shall take place in District Court located in Fargo/Cass County North Dakota

**ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

Init.



§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect or for funding purposes, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

Remaining amount of work to completed to date as a percentage of completion of that phase.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

TBD – Mutually agreed upon.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the laws of the State of North Dakota. If legal action is necessary to enforce or interpret this Agreement, any such action shall be filed in a court located in Cass County, North Dakota.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect

Init.

for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives confidential records, as defined by North Dakota open records law, the receiving party shall keep the confidential. Architect understands that, in Owner must disclose to the public upon request any records it received from Architect. Architect further understands that any records obtained or generated by Architect under this Agreement may, under certain circumstances, be open to the public upon request under the North Dakota public records laws. At no charge to Owner, Architect shall provide Owner with copies of records necessary to comply with the aforementioned open records laws.

*(Paragraph deleted)*

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**ARTICLE 11 COMPENSATION**

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum  
*(Insert amount)*

N/A

.2 Percentage Basis  
*(Insert percentage value)*

\* ( \* ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

\*See Exhibit 'A' Part One Attached

.3 Other  
*(Describe the method of compensation)*

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Hourly with mutual consent of scope.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent ( 10 %), or as follows:

*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

|                              |             |           |     |    |
|------------------------------|-------------|-----------|-----|----|
| Schematic Design Phase       | Fifteen     | percent ( | 15  | %) |
| Design Development Phase     | Twenty      | percent ( | 20  | %) |
| Construction Documents Phase | Forty       | percent ( | 40  | %) |
| Procurement Phase            | Five        | percent ( | 5   | %) |
| Construction Phase           | Twenty      | percent ( | 20  | %) |
| Total Basic Compensation     | one hundred | percent ( | 100 | %) |

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See EAPC Hourly Rate Structure- FY2019, Exhibit "B", Attached.

| Employee or Category | Rate (\$0.00) |
|----------------------|---------------|
|----------------------|---------------|

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the *(Paragraphs deleted)*

Project. Reimbursable expenses are listed in Exhibit A.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

*(Paragraphs deleted)*

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of N/A (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

1/2 % monthly

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

This contract is subject to termination by the Owner pending the successful ongoing efforts of the architect and continuity of the current design team member's involvement.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect as amended by City of Fargo.
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

Not Used

- .3 Exhibits:

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:

**AIA Document B101™ – 2017.** Copyright © 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 10:41:07 CT on 06/23/2022 under Order No.2114305155 which expires on 04/11/2023, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail [copyright@aia.org](mailto:copyright@aia.org).

*(Insert the date of the E204-2017 incorporated into this agreement.)*

Not Used

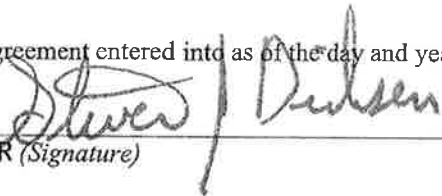
[  ] Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

- Exhibit A: Part One, Fee Structure & Reimbursables
- Exhibit A: Part Two, Fee Curve
- Exhibit B: Hourly Rate Structure- FY2022
- Exhibit C: Site Visitation Schedule

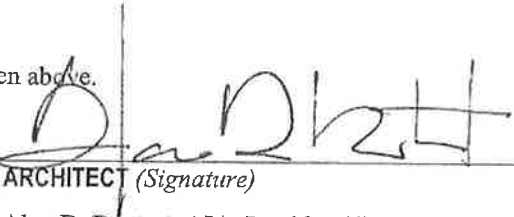
.4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

N/A

This Agreement entered into as of the day and year first written above.

  
 \_\_\_\_\_  
 OWNER *(Signature)*

Steven J. Dirksen, Fire Department Chief  
*(Printed name and title)*

  
 \_\_\_\_\_  
 ARCHITECT *(Signature)*

Alan D. Dostert, AIA, President/CEO ND Lic No.  
1057  
*(Printed name, title, and license number, if required)*

Exhibit 'A' Part One Fee Structure and Reimbursables



Exhibit 'A' Fee Summary  
 Fargo Fire Stations #2 and #8  
 31-May-22

The following fee summary is based upon our understanding of the project to date:  
 Full Service A/E Design Services for Architectural, Structural, Mechanical, Electrical, and Civil Engineering.  
 Project Delivery to be thru Standard Design, Bid, Build - Three Prime Contracts.

Construction Budget Station #2: \$ 350,000.00 \*  
 Construction Budget Station #8: \$ 5,200,000.00 \*

\* to be adjusted by actual bids/construction costs

A. Base Design Percentage (From the EAPC Fee Curve).

|                     |            |       |
|---------------------|------------|-------|
| Base Fee Percentage | Station #2 | 9.50% |
|                     | Station #8 | 8.50% |

B. Design Fee Break Down

|                             |                |
|-----------------------------|----------------|
| Typical EAPC Breakdown      | Standard Scope |
| Schematic Design            | 15%            |
| Design Development          | 20%            |
| Construction Documents      | 40%            |
| Bidding/Negotiation         | 5%             |
| Construction Administration | 20%            |
|                             | <u>100%</u>    |

C. Final Fee as a Percent of Construction

|            |       |                      |               |
|------------|-------|----------------------|---------------|
| Station #2 | 9.50% | \$ 33,250.00         |               |
| Station #8 | 8.50% | <u>\$ 442,000.00</u> | \$ 475,250.00 |

EAPC Proposes the following (approx 12% reduction) \$ 420,000.00

D. Reimbursables

|   |                  |                    |
|---|------------------|--------------------|
| Geotech Survey/Soil borings (By Others)     | \$ 3,000.00      | not included       |
| Site Survey (By Others)                     | \$ 3,500.00      | not included       |
| 3D Digital Rendering (allowance - optional) | \$ 2,500.00      |                    |
| Photocopies/Prints, Etc. (allowance)**      | \$ 250.00        |                    |
| Postage/Misc. Office Expense (allowance)**  | <u>\$ 250.00</u> |                    |
|   |                  | <u>\$ 3,000.00</u> |

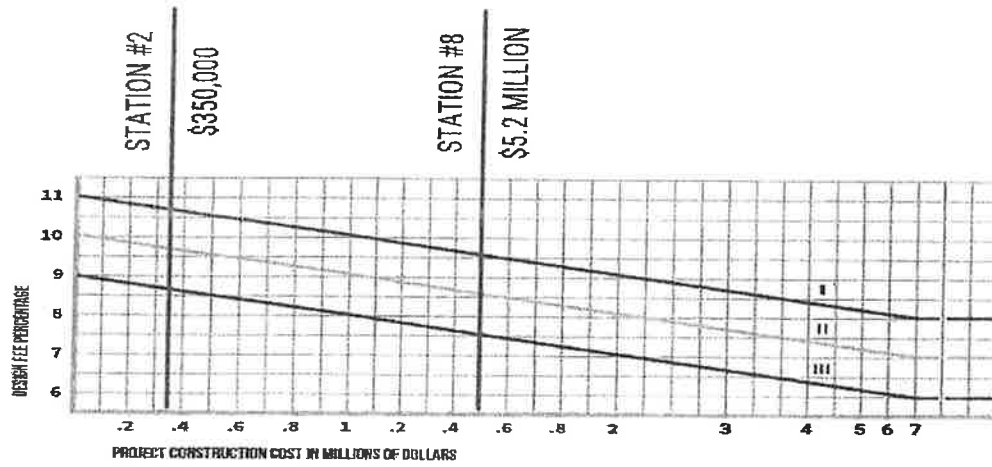
\*\*Costs to be billed on actual basis plus 10% not to exceed \$500.00 \$ 423,000.00

TOTAL PROJECT FEES/EXPENSES

EAPC Architects Engineers 112 North Roberts Street  
 Prepared by: Suite 300  
 Alan D. Dostert, AIA, President/CEO Fargo, North Dakota 58102  
[adostert@eapc.net](mailto:adostert@eapc.net)

Grand Forks ND Minneapolis MN Fargo ND Norfolk NE

Exhibit 'A' Part Two, Fee Curve



Init.

Exhibit 'B' Hourly Rate Structure - FY 2022



112 N. ... Suite 500, ... ND 58102

**Hourly Rate Structure – FY2022**

**Architectural/Engineering Services**

|                                     |       |                    |
|-------------------------------------|-------|--------------------|
| • Principal Consultant              | ----- | \$ 231.00 per hour |
| • Program Director                  | ----- | \$ 217.00 per hour |
| • Principal Architect/Engineer      | ----- | \$ 216.00 per hour |
| • Associate Consultant              | ----- | \$ 211.00 per hour |
| • Associate Architect/Engineer      | ----- | \$ 200.00 per hour |
| • Department Manager                | ----- | \$ 192.00 per hour |
| • Senior Architect/Engineer Level 2 | ----- | \$ 192.00 per hour |
| • Project Manager                   | ----- | \$ 184.00 per hour |
| • Senior Architect/Engineer Level 1 | ----- | \$ 184.00 per hour |
| • Senior Architect Designer Level 2 | ----- | \$ 175.00 per hour |
| • Senior Architect Designer Level 1 | ----- | \$ 165.00 per hour |
| • Engineer Level 4                  | ----- | \$ 165.00 per hour |
| • Architect Level 2                 | ----- | \$ 153.00 per hour |
| • Senior Designer Level 2           | ----- | \$ 153.00 per hour |
| • Engineer Level 3                  | ----- | \$ 153.00 per hour |
| • IT Director                       | ----- | \$ 148.00 per hour |
| • Architect Level 1                 | ----- | \$ 141.00 per hour |
| • Engineer Level 2                  | ----- | \$ 140.00 per hour |
| • Senior Designer Level 1           | ----- | \$ 139.00 per hour |
| • Architect Designer Level 2        | ----- | \$ 125.00 per hour |
| • Engineer Designer Level 2         | ----- | \$ 125.00 per hour |
| • BIM Modeler Level 4               | ----- | \$ 125.00 per hour |
| • Engineer Level 1                  | ----- | \$ 120.00 per hour |
| • Architect Designer Level 1        | ----- | \$ 110.00 per hour |
| • Engineer Designer Level 1         | ----- | \$ 110.00 per hour |
| • BIM Modeler Level 3               | ----- | \$ 110.00 per hour |
| • BIM Modeler Level 2               | ----- | \$ 97.00 per hour  |
| • BIM Modeler Level 1               | ----- | \$ 90.00 per hour  |
| • Student Designer Level 2          | ----- | \$ 64.00 per hour  |
| • Student Designer Level 1          | ----- | \$ 55.00 per hour  |

**Construction Services**

|                                     |       |                    |
|-------------------------------------|-------|--------------------|
| • Associate Construction Specialist | ----- | \$ 173.00 per hour |
| • Construction Specialist Level 3   | ----- | \$ 141.00 per hour |
| • Construction Specialist Level 2   | ----- | \$ 129.00 per hour |
| • Construction Specialist Level 1   | ----- | \$ 115.00 per hour |

**Office Support Services**

|                       |       |                   |
|-----------------------|-------|-------------------|
| • Secretarial Level 2 | ----- | \$ 86.00 per hour |
| • Office Assistance   | ----- | \$ 64.00 per hour |

Mileage (follows the current federal rate) ----- \$ 0.585 per mile

Direct project costs such as printing, postage and out of town travel expenses will be assessed a 10% markup for administration. Mileage will be charged at the current federal rate at the time of invoicing. All rates are effective through December 31, 2022.

Drummond, Fargo, Grand Forks, Minot, Williston ND Sioux SD SI MN Phoenix AZ CO



**Exhibit 'C'**

**SITE VISITATION SCHEDULE**

"Site Visits" – The Architect will visit the Project Site during Schematic Design, Design Development, Construction Documentation and the Bidding Phase as required to obtain information prior to the Construction Phase and for a Pre-Bid Conference with all (attending) Plan-holders prior to issuing the last Addendum.

Further, the Architect will visit the project site during the Construction Phase at the following times (all on an as needed basis as directed by the owner/owner's rep):

1. Pre-Construction meeting with Owner, Contractor.
2. Monthly Pay Application Meetings.
3. Before closing walls.
4. During painting.
5. Final inspection. (up to 2 trips)
6. Punch list follow-up. (up to 2 trips)
7. Visit site at other times, as Project demands.
8. As required, if deficiencies occur during the one year warranty period.
9. Prior to the release of the Contractor one-year warranty obligation.
10. Engineer will be onsite prior to ceilings being closed, once prior to pipe insulation after boiler installation, underground plumbing rough-in.

Note: Some visits will be combined with the "Monthly Pay-Out" visit.





(21)

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: JUNE 13, 2022**

**RE: NOTICE OF GRANT AWARD AMENDMENT FOR EMERGENCY  
PREPAREDNESS AND RESPONSE WITH THE NORTH  
DAKOTA DEPARTMENT OF HEALTH PHEP/EPR STATEWIDE  
RESPONSE TEAM NO. G21.031A CFDA NO. 93.069, \$220,105,  
EXTENSION OF END DATE**

The attached amendment Notice of Grant Award with the North Dakota Department of Health for Public Health Emergency Preparedness (PHEP) EPR Statewide Management Team is for an extension on the end date of the grant from June 30, 2022 to December 31, 2022.

No budget adjustment is required for this contract.

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

**Suggested Motion:** Move to approve the contract for the Public Health Emergency Preparedness Response/Statewide.

DF/lls  
Enclosure



**NOTICE OF GRANT AWARD**  
**NORTH DAKOTA DEPARTMENT OF HEALTH**  
 SFN 53771 (01-2020)


|  |  |   |  |
|--|--|---|--|
| Grant Number<br>G21.031A   | CFDA Name<br>Public Health Emergency Preparedness (PHEP)   |   | CFDA Number<br>93.069                                  |
| FAIN Number<br>NU90TP922054  | Grant Type (Check One)<br><input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D | Grant Start Date<br>7/1/2021  | Grant End Date<br>12/31/2022                           |
| Federal Award Date<br>5/20/2022  | Federal Awarding Agency<br>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<br>PHEP – Statewide Response Team   | North Dakota Department of Health (NDDoH) Project Code<br>6611HLH5272-11                           |   |  |
| Grantee Name<br>Fargo – Cass Public Health   | Project Director<br>Timothy Wiedrich, Section Chief  |   |  |
| Address<br>1240 – 25 <sup>th</sup> Street South  | Address<br>1720 Burlington Drive, Suite A  |   |  |
| City/State/ZIP Code<br>Fargo, ND 58103-2387  | City/State/ZIP Code<br>Bismarck, ND 58504  |   |  |
| Contact Name<br>Desi Fleming   | Contact Name<br>Juli Sickler, Division Director  |   |  |
| Telephone Number<br>701-241-1360   | Telephone Number<br>701-328-2293   |   |  |
| Email Address<br>dfleming@fargond.gov  | Email Address<br>jsickler@nd.gov   |   |  |
|  | NDDoH Cost Share   | Grantee Cost Share  | Total Costs  |
| Amount Awarded   | \$0  | \$0   | \$0  |
| Previous Funds Awarded   | \$220,105  | \$0   | \$220,105  |
| Total Funds Awarded  | \$0  | \$0   | \$0  |
| Indirect Rate<br>(Check One)   | <input checked="" type="checkbox"/> Subrecipient waived indirect costs                             | <input type="checkbox"/> De minimus rate of 10%   | <input type="checkbox"/> Negotiated/Approved rate of % |
| Scope of Service<br>This amendment extends the end date of the Notice of Grant Award from June 30, 2022, to December 31, 2022. The scope of service of the original agreement remains the same.  |  |   |  |
| Reporting Requirements<br>A year end progress report as prescribed by the NDDoH, must be submitted by January 31, 2023.  |  |   |  |
| Special Conditions<br>All special conditions of the original agreement remain the same.  |  |   |  |
| 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: <input type="checkbox"/> Requirements Received; <input type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations. |  |   |  |
| Evidence of Grantee's Acceptance   |  | Evidence of NDDoH Acceptance  |  |
| Date<br>6/14/22  | Signature<br><i>Desi Fleming</i>   | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Desi Fleming, Director of Public Health   |  | Typed Name/Title of Authorized Representative<br>Timothy Wiedrich, Section Chief<br>Health Response & Licensure |  |
| Date   | Signature  | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Timothy J. Mahoney, Mayor, City of Fargo  |  | Typed Name/Title of Authorized Representative<br>Dirk D. Wilke, J.D., M.B.A., Chief of Staff                    |  |
| If attachments are referenced, they must be returned with the signed award.<br>If you did not receive attachments as indicated, contact the Program Director identified above.   |  |   |  |



22

**M E M O R A N D U M**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: JUNE 20, 2022**

**RE: NOTICE OF GRANT AWARD AMENDMENT FROM NORTH  
DAKOTA DEPARTMENT OF HEALTH FOR TOBACCO  
PREVENTION AND CONTROL PROGRAM  
CONTRACT NO. G21.745, \$431,065**

The following Notice of Grant Award Amendment with North Dakota Department of Health is for the Tobacco Prevention and Control Program. No budget adjustment is required for this contract for \$431,065.

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

**Suggested Motion:** Move to approve the contract for the Tobacco Prevention and Control Program.

DF/lis  
Enclosure



**NOTICE OF GRANT AWARD**  
**NORTH DAKOTA DEPARTMENT OF HEALTH**  
 SFN 53771 (01-2020)


|   |  |   |  |
|---|--|---|--|
| Grant Number<br>G21.745   | CFDA Name<br>Not Applicable  |   | CFDA Number<br>Not Applicable                          |
| FAIN Number<br>Not Applicable   | Grant Type (Check One)<br><input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D | Grant Start Date<br>7/1/2022  | Grant End Date<br>6/30/2023                            |
| Federal Award Date<br>Not Applicable  | Federal Awarding Agency<br>Not Applicable  |   |  |
| 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<br>Local Public Health Unit Tobacco Prevention and Control Program   |  | North Dakota Department of Health (NDDoH) Project Code<br>4571 HL 1248 01   |  |
| Grantee Name<br>Fargo Cass Public Health  |  | Project Director<br>Neil Charvat  |  |
| Address<br>1240 25 <sup>th</sup> St S   |  | Address<br>600 E. Boulevard Ave., Dept. 301   |  |
| City/State/ZIP Code<br>Fargo, ND 58103-2367   |  | City/State/ZIP Code<br>Bismarck, ND 58505-0200  |  |
| Contact Name<br>Desi Fleming  |  | Contact Name<br>Abby Erickson   |  |
| Telephone Number<br>701-241-1380  |  | Telephone Number<br>701-328-3337  |  |
| Email Address<br>dfleming@fargond.gov   |  | Email Address<br>abbyerickson@nd.gov  |  |
|   | NDDoH Cost Share   | Grantee Cost Share  | Total Costs  |
| Amount Awarded  | \$431,065  | \$0   | \$431,065  |
| Previous Funds Awarded  | \$0  | \$0   | \$0  |
| Total Funds Awarded   | \$431,065  | \$0   | \$431,065  |
| Indirect Rate<br>(Check One)  | <input type="checkbox"/> Subrecipient waived indirect costs  | <input checked="" type="checkbox"/> De minimis rate of 10%  | <input type="checkbox"/> Negotiated/Approved rate of % |
| Scope of Service<br>Grantee will implement Tobacco Prevention and Control Program (TPCP) services in accordance with the Grantee's TPCP work plan and budget as approved by the North Dakota Department of Health (Department). Grantee will follow the <i>Centers for Disease Control and Prevention (CDC) Best Practices for Comprehensive Tobacco Control Programs 2014</i> as approved by the Department to conduct TPCP services within its service area.  |  |   |  |
| Reporting Requirements<br>Grantee must submit at least quarterly a request for reimbursement on the Program Reporting System (PRS) by the 15th of the following month.<br>Grantee must submit a quarterly progress report of activities completed as described in the Grantee's approved work plan and budget.<br>Final request for reimbursement for the period ending June 30, 2023 must be received by July 14, 2023.<br>Reimbursements will be processed upon Department approval of request for reimbursements and progress reports. |  |   |  |
| Special Conditions<br>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: <input checked="" type="checkbox"/> Requirements Received; <input type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations.  |  |   |  |
| Evidence of Grantee's Acceptance  |  | Evidence of NDDoH Acceptance  |  |
| Date<br>6/20/22   | Signature<br>Desi Fleming  | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Desi Fleming, Director of Public Health  |  | Typed Name/Title of Authorized Representative<br>Susan M. Mormann, Director, Division of Community and Health Systems |  |
| Date  | Signature  | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Timothy J. Mahoney, Mayor, City of Fargo   |  | Typed Name/Title of Authorized Representative<br>Dirk D. Wilke, J.D., M.B.A., Chief of Staff                          |  |
| If attachments are referenced, they must be returned with the signed award.<br>If you did not receive attachments as indicated, contact the Program Director identified above.  |  |   |  |



22

**MEMORANDUM**

**TO: BOARD OF CITY COMMISSIONERS**

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

**DATE: JUNE 23, 2022**

**RE: NOTICE OF GRANT AWARD FROM NORTH DAKOTA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR  
IMMUNIZATION COOPERATIVE AGREEMENT, G21.811 CFDA  
93.268 FOR \$72,396.00**

The following Notice of Grant Award from North Dakota Department of Health and Human Services is for increasing immunization rates for local public health units. No budget adjustment is required for this contract for \$72,396.

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

**Suggested Motion:** Move to approve the acceptance of the grant award.

DF/lls  
Enclosure







**NOTICE OF GRANT AWARD**  
**NORTH DAKOTA DEPARTMENT OF HEALTH**  
 SFN 53771 (01-2020)

|   |  |   |  |
|---|--|---|--|
| Grant Number<br>G21.811   | CFDA Name<br>Immunization Cooperative Agreement  |   | CFDA Number<br>93.268                                  |
| FAIN Number<br>NH23IP922623   | Grant Type (Check One)<br><input checked="" type="checkbox"/> Program <input type="checkbox"/> R&D | Grant Start Date<br>7/1/2022  | Grant End Date<br>6/30/2023                            |
| Federal Award Date  | Federal Awarding Agency<br>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<br>Increasing Immunization Rates - LPH   |  | North Dakota Department of Health (NDDoH) Project Code<br>2201 HLH 5313 08 (PPHF): \$65,156<br>2201 HLH 5313 06 (Pan Flu): \$7,240    |  |
| Grantee Name<br>Fargo Cass Public Health  |  | Project Director<br>Molly Howell, Immunization Director   |  |
| Address<br>1240 25 <sup>th</sup> Street   |  | Address<br>600 East Boulevard Ave.  |  |
| City/State/ZIP Code<br>Fargo, ND 58103  |  | City/State/ZIP Code<br>Bismarck, ND 58505-0200  |  |
| Contact Name<br>Desi Fleming  |  | Contact Name<br>Molly Howell, Immunization Director   |  |
| Telephone Number<br>701-241-1360  |  | Telephone Number<br>701-328-4556  |  |
| Email Address<br><a href="mailto:dfleming@fargond.gov">dfleming@fargond.gov</a>   |  | Email Address<br><a href="mailto:mahowell@nd.gov">mahowell@nd.gov</a>   |  |
|   | NDDoH Cost Share   | Grantee Cost Share  | Total Costs  |
| Amount Awarded  | \$72,396   | \$0   | \$72,396   |
| Previous Funds Awarded  | \$0  | \$0   | \$0  |
| Total Funds Awarded   | \$72,396   | \$0   | \$72,396   |
| Indirect Rate<br>(Check One)  | <input checked="" type="checkbox"/> Subrecipient waived indirect costs                             | <input type="checkbox"/> De minimis rate of 10%   | <input type="checkbox"/> Negotiated/Approved rate of % |
| Scope of Service<br>Grantee shall provide services as outlined in attachment A.   |  |   |  |
| Reporting Requirements<br>Reporting Requirement are outlined in Attachment A.   |  |   |  |
| Special Conditions<br>Non-allowable expenses include promotional materials (i.e., plaques, clothing, lanyards), purchase of food (unless part of travel per diem), advertising costs (exhibits, displays, souvenirs), lobbying, or honoraria. Additional non-allowable expenses can be found in 2 CFR Part 200, 45 CFR Part 75. HHS Grants Policy Statement.  |  |   |  |
| 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: <input checked="" type="checkbox"/> Requirements Received; <input checked="" type="checkbox"/> Questionnaire received] and (2) applicable State and Federal regulations. |  |   |  |
| Evidence of Grantee's Acceptance  |  | Evidence of NDDoH Acceptance  |  |
| Date<br>06/23/2022  | Signature<br><i>Desi Fleming</i>   | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Desi Fleming, Director of Public Health  |  | Typed Name/Title of Authorized Representative<br>Molly Howell, MPH<br>Immunization Director, Assistant Section Chief, Disease Control |  |
| Date  | Signature  | Date  | Signature  |
| Typed Name/Title of Authorized Representative<br>Timothy J. Mahoney, Mayor, City of Fargo   |  | Typed Name/Title of Authorized Representative<br>Dirk D. Wilke, J.D., M.B.A., Chief of Staff  |  |
| If attachments are referenced, they must be returned with the signed award.<br>If you did not receive attachments as indicated, contact the Program Director identified above.  |  |   |  |

**G21.811  
Fargo Cass Public Health  
Attachment A**

**2019 – 2024 North Dakota Local Public Health Unit Increasing Immunization Rates Grants**

---

**Scope of Service**

The objectives of this award are in line with the 2019 – 2024 Centers for Disease Control and Prevention National Center for Immunization and Respiratory Diseases Immunization Program Operations Manual (IPOM).

**Activities:** Required activities are shown in **bold**.

**Describe geographic areas or population subgroups known or suspected to have low coverage for some or all vaccines, indicating a disparity may exist (e.g., residents of a county with a high number of uninsured, low-income children; rural adolescents; school district with low adherence to school entry vaccination requirements; pregnant women; high risk adults).**

- **Utilize North Dakota Immunization Information System (NDIIS) and school immunization survey coverage rates for your jurisdiction and/or facility to determine baseline rates. Rates should include, but are not limited to:**
  - **Infants**
    - **4:3:1:3:3:1:4 series**
    - **Influenza**
  - **Children (kindergarten entry)**
  - **Adolescents**
    - **Tdap**
    - **MCV4**
    - **HPV**
    - **Influenza**
  - **Adults**
    - **PCV13**
    - **PPSV23**
    - **Zoster**
    - **Influenza**
- **Utilize baseline rates to establish immunization coverage goals for the one-year and five-year award period.**

**Prioritize one or more geographic regions or population subgroups identified in B1 for targeted programmatic activities to increase vaccination coverage.**

- **Implement evidence-based activities to increase immunization coverage rates.**
  - Evidence-based activities are described in [The Community Guide](#).
  - Examples include, but are not limited to:
    - **Reminder/recall for immunizations**
    - **Provider reminders (forecasting)**
    - **Vaccination programs in WIC settings**
    - **Implementation of school-located vaccination programs**
    - **Outreach through immunization coalitions**
    - **Worksite immunizations**

- **Report activities to increase immunization coverage rates on activity reports.**
- Summarize evidence of impact or evaluation results, if available.

Identify and collaborate with immunization coalitions, health care systems, public health programs (e.g., chronic disease, STD, WIC, HIV), community-based organizations, and other stakeholders to engage populations/communities (e.g., tribal, adult, adolescent, or other ethnic, racial, or cultural subpopulations).

- Participate or host regular meetings with immunization stakeholders in your area in an effort to increase immunization coverage rates.
- Report the number of meetings hosted and/or attended on activity reports.

Identify and collaborate with points-of-contact (POCs) from the jurisdiction's AI/AN communities, tribal governments, tribal organizations representing those governments, tribal epidemiology centers, or Alaska Native villages and corporations to improve vaccination coverage among AI/AN communities.

- Convene meetings with tribal health and/or Indian Health Services about immunizations.
- Engage tribes in immunization activities.
- Report the number of meetings and/or contacts with American Indian organizations on the activity report.

Implement educational programs for immunization providers and stakeholders.

- Participate on NDDoH immunization Lunch and Learn webinars or other immunization-related webinars.
- Attend the North Dakota Immunization Conference (if applicable).
- Provide immunization-related educational opportunities to healthcare providers and other stakeholders in your area.
- Report the number of webinars and/or other educational opportunities held or attended on the activity report.

Implement appropriate public health activities for the control and prevention of cases and/or outbreaks of VPDs that are nationally notifiable and reportable in the jurisdiction in accordance with the *CDC Manual for the Surveillance of Vaccine-Preventable Diseases*.

- If requested, assist the NDDoH with the investigation and/or response to vaccine preventable diseases.

Collaborate with schools, school districts, early childhood facilities, and other stakeholders to improve vaccination coverage in childcare and school settings.

- Assist schools with determining the up-to-date status of students.
- Conduct school-located vaccination clinics.
- Educate schools about school immunization requirements.

### **Pandemic Influenza Preparedness**

***(At least 10% of time must be devoted to this area)***

**Work with new and existing partners to increase demand for seasonal influenza vaccine to improve preparedness for an influenza pandemic, including school-located vaccination. (Choose at least one of the following)**

- 1) Conduct school-located vaccination clinics.
  - Activity reports on school-located clinics should quantify the number of clinics held, types of vaccines administered, total number of individuals targeted, dates of clinics with respect to jurisdiction's influenza season, and a description of target population by age and race/ethnicity.
- 2) Conduct mass or off-site clinics for vaccination.
  - Activity reports on mass clinics should quantify the number of clinics held, types of vaccines administered, total number of individuals targeted, dates of clinics with respect to jurisdiction's influenza season, and a description of target population by age and race/ethnicity.
- 3) Work with new and existing partners, such as local authorities, health care institutions, medical providers, pharmacies, visiting nurse associations, community vaccinators, community outreach groups, advocacy groups, and/or local businesses, especially those who serve groups at high risk for complications from influenza infection and/or in underserved population groups, to increase demand for seasonal influenza immunization.
  - Report the number and types of partners engaged to promote seasonal influenza vaccination. Include the specific race/ethnicity/target groups focused on.

### **Reporting Requirements**

Grantee must participate in monthly conference calls with NDDoH.

Grantee must submit activity reports and expenditure reports at least quarterly via the Program Reporting System (PRS). (If requesting reimbursement more frequently than quarterly, then activity reports must be submitted more frequently with requests for reimbursement in PRS. A required immunization activity report will be provided by the NDDoH.)

Activity report and expenditure report for the period ending September 30, 2022, must be received by October 19, 2022.

Activity report and expenditure report for the period ending December 31, 2022, must be received by January 19, 2023.

Activity report and expenditure report for the period ending March 31, 2023, must be received by April 19, 2023.

Activity report and expenditure report for the period ending June 30, 2023, must be received by July 14, 2023. Reimbursement will be processed upon Department approval of activity reports and expenditure reports.



24

**MEMORANDUM**

**TO:** BOARD OF CITY COMMISSIONERS

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

**DATE:** JUNE 13, 2022

**RE:** AGREEMENT FOR SERVICES WITH AE2S  
COMMUNICATIONS FOR FCPH CLINIC CAMPAIGN FOR  
TELEHEALTH SERVICES UNDER THE "Here for  
Everybody" CAMPAIGN NOT TO EXCEED \$24,990.  
SSP22105

The attached Contract Agreement with AE2S Communications is to continue the grant funded work on the "Here for Everybody" campaign which will now include Telehealth services for the FCPH clinic.

No budget adjustment is required for this contract.

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

DF/lls  
Enclosure





June 13, 2022

Larry Anenson, PhD, RN  
Fargo Cass Public Health  
1240 25<sup>th</sup> Street S  
Fargo, ND 58103-2367

**RE: FCPH Clinic Telehealth Campaign**

Dear Larry:

Thank you for the informative meeting about the Fargo Cass Public Health Clinic's new telehealth program. Advanced Engineering and Environmental Services, LLC., doing business as AE2S, is excited about the opportunity to continue our work with FCPH by developing a campaign to announce the Clinic's telehealth services. Our team looks forward to creating advertisements and other materials to educate the public about this service and further the Clinic's existing "Here for Everybody" campaign.

**Scope of Services**

AE2S proposes to work with Fargo Cass Public Health (CLIENT) to provide communication and marketing services as listed below in the scope. This Agreement sets forth the terms and conditions under which the CLIENT and AE2S shall be governed regarding the Assignment. As a reminder, our contract is hourly to a max, which means you will be charged only for the hours worked.

**Scope:**

- Campaign development for FCPH Clinic Telehealth advertisements targeting Cass County using existing Here for Everybody theme.
- On-site video and photography shoot, up to eight (8) hours.
- Video editing.
- Graphic design services.
- Content development.
- Advertising plan and deployment.
- Advertisement creation.
- All labor and deliverables to be completed by **May 31, 2023**.

**Deliverables:**

- Advertising plan.
- One (1) video tutorial showing how to utilize the FCPH Clinic's telehealth services.
- Video, digital, and static ad files.
- Content explaining FCPH Clinic telehealth services for website.

**Fees**

AE2S proposes to render professional services under this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B not to exceed \$24,990, without written authorization from CLIENT, including reimbursement for all project related expenses.

**RE: FCPH Clinic Telehealth Campaign**

June 13, 2022

Page 2 of 3

**Scope and Fee Table**

|  | Heather<br>Sverson<br>Media<br>Manager | Zack<br>Otteson<br>Graphic<br>Designer | Cody<br>Schuler<br>Digital<br>Storyteller | Budget<br>Hours | Budget<br>Labor Costs | General<br>Expenses<br>Budgeted | Total AE2S<br>Fee<br>Budgeted |
|--|--|--|---|-----------------|-----------------------|---------------------------------|-------------------------------|
| <b>Task 1: Project Management and Reporting</b>            |  |  |   |                 |                       |                                 |                               |
| 1.1 Client communications/team meetings/project management | 10                                     | 3                                      | 3   | 16              | \$ 1,943              | \$ -                            | \$ 1,943                      |
| 1.2 Advertising plan & placement                           | 16                                     | 0                                      | 0   | 16              | \$ 2,096              | \$ 15,000                       | \$ 17,096                     |
| <b>TOTAL FOR TASK 1</b>                                    | <b>26</b>                              | <b>3</b>                               | <b>3</b>                                  | <b>32</b>       | <b>\$ 4,039</b>       | <b>\$ 15,000</b>                | <b>\$ 19,039</b>              |
| <b>Task 2: Campaign Development</b>                        |  |  |   |                 |                       |                                 |                               |
| 2.1 Content development                                    | 8                                      | 3                                      | 2   | 14              | \$ 1,696              | \$ -                            | \$ 1,696                      |
| 2.2 Videography  | 1                                      | 0                                      | 16  | 17              | \$ 1,699              | \$ 225                          | \$ 1,924                      |
| 2.3 Graphic design   | 1                                      | 16                                     | 4   | 21              | \$ 2,331              | \$ -                            | \$ 2,331                      |
| <b>TOTAL FOR TASK 2</b>                                    | <b>10</b>                              | <b>19</b>                              | <b>22</b>                                 | <b>52</b>       | <b>\$ 5,726</b>       | <b>\$ 225</b>                   | <b>\$ 5,951</b>               |
| <b>TOTAL PROJECT HOURS/EXPENSES</b>                        | <b>36</b>                              | <b>22</b>                              | <b>25</b>                                 | <b>84</b>       | <b>\$ 9,765</b>       | <b>\$ 15,225</b>                | <b>\$ 24,990</b>              |

**Additional Services**

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

**CLIENT'S Responsibilities**

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

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

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

**Standard Terms and Conditions**

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



**RE: FCPH Clinic Telehealth Campaign**

June 13, 2022

Page 3 of 3

**Performance Schedule**

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

**Contract Documents**

The Contract Documents consist of the following:

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

There are no Contract Documents other than those listed above.

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

Sincerely,



Heather Syverson  
Project Manager



Ryan Grubb, PE  
Operations Manager

**CLIENT**

Accepted this 14th day of June, 2022

By: Desi Fleming  
Desi Fleming, Director of Public Health

Accepted this \_\_\_\_ day of \_\_\_\_\_, 2022

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



This is EXHIBIT A, consisting of 2 pages, referred to in and part of the Agreement between CLIENT and AE2S for Services dated June 13, 2022.

### Standard Terms and Conditions

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

1. **TERM.** This Agreement shall commence on the Effective Date.
2. **SCOPE OF SERVICES**
  - 2.1.1 CONSULTANT will devote the required amount of time necessary to perform the Services for CLIENT as stated herein. CONSULTANT will have discretion in selecting the dates and times it performs the Services giving due regard to the requirements of the project and schedule of CLIENT.
  - 2.1.2 CLIENT will provide CONSULTANT with materials and information necessary to perform the scope of services proposed.
  - 2.1.3 The relationship between CLIENT and CONSULTANT created by this Agreement is that of independent contractor, and CONSULTANT is not and shall not be deemed to ban employee of CLIENT for any purpose.
3. **INVOICES AND PAYMENTS.** CONSULTANT will invoice CLIENT for time and reimbursable expenses monthly. Payments to CONSULTANT will be made within 30 days of CLIENT's receipt of an invoice documenting the services performed by CONSULTANT. If CLIENT fails to make any payment due AE2S for services and expenses within 30 days, the amounts due AE2S will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, AE2S may, after giving seven days written notice to CLIENT, suspend services under this Agreement until AE2S has been paid in full all amounts due for services, expenses, and other related charges.
4. **TERMINATION**
  - 4.1 If, for any reason, either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, the first party shall thereupon have the right to terminate the Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. This Agreement may be terminated by either party ("the Terminating Party") upon a breach by the other party ("the Breaching Party") of any representation or obligation imposed hereby, provided that Terminating Party has given written notice of the breach to the Breaching Party and such breach has not been cured within ten (10) days of the date of such notice.
  - 4.2 Either party may terminate this Agreement at any time without cause by giving at least 30 days' notice in writing to the other party.
- 4.3 If the Agreement is terminated as provided herein, CONSULTANT will be paid for the time provided and expenses incurred up to the termination date.
5. **STANDARD OF CARE.** CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.
6. **EXCLUSION OR SPECIAL INCIDENTAL, INDIRECT, AND CONSEQUENTIAL DAMAGES.** To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, AE2S and AE2S's officers, directors, partners, employees, agents, and Consultants, or any of them, shall not be liable to CLIENT or anyone claiming by, through, or under CLIENT for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project, Task Order, or this Agreement, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract or warranties, express or implied, of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them.
7. **LIMIT OF LIABILITY.** To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of AE2S and AE2S's officers, directors, partners, employees, agents, and AE2S's Consultants, and any of them, to CLIENT and anyone claiming by, through, or under CLIENT for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of AE2S or AE2S's officers, directors, partners, employees, agents, or AE2S's Consultants, or any of them, shall not exceed total compensation received by AE2S as part of this agreement.
8. **CONFIDENTIALITY.** All of reports, information, and data, prepared or assembled by CONSULTANT under this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of CLIENT.
9. **COPYRIGHT.** No printed or digitally designed documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT.

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

Labor Rates\*

|                             |          |
|-----------------------------|----------|
| Administrative 1            | \$61.00  |
| Administrative 2            | \$74.00  |
| Administrative 3            | \$89.00  |
| Communications Specialist 1 | \$98.00  |
| Communications Specialist 2 | \$113.00 |
| Communications Specialist 3 | \$131.00 |
| Communications Specialist 4 | \$158.00 |
| Communications Specialist 5 | \$173.00 |
| Construction Services 1     | \$118.00 |
| Construction Services 2     | \$145.00 |
| Construction Services 3     | \$160.00 |
| Construction Services 4     | \$180.00 |
| Construction Services 5     | \$198.00 |
| Engineering Assistant 1     | \$77.00  |
| Engineering Assistant 2     | \$92.00  |
| Engineering Assistant 3     | \$116.00 |
| Engineer 1                  | \$125.00 |
| Engineer 2                  | \$148.00 |
| Engineer 3                  | \$177.00 |
| Engineer 4                  | \$203.00 |
| Engineer 5                  | \$215.00 |
| Engineering Technician 1    | \$75.00  |
| Engineering Technician 2    | \$96.00  |
| Engineering Technician 3    | \$117.00 |
| Engineering Technician 4    | \$131.00 |
| Engineering Technician 5    | \$149.00 |
| Financial Analyst 1         | \$104.00 |
| Financial Analyst 2         | \$118.00 |
| Financial Analyst 3         | \$142.00 |
| Financial Analyst 4         | \$155.00 |
| Financial Analyst 5         | \$172.00 |
| GIS Specialist 1            | \$98.00  |
| GIS Specialist 2            | \$118.00 |
| GIS Specialist 3            | \$139.00 |
| GIS Specialist 4            | \$155.00 |
| GIS Specialist 5            | \$173.00 |
| I&C Assistant               | \$98.00  |
| I&C Technician              | \$138.00 |
| I&C Sr. Technician          | \$160.00 |
| I&C Specialist              | \$183.00 |
| I&C Senior Specialist       | \$194.00 |
| I&C Manager                 | \$203.00 |
| IT 1                        | \$117.00 |
| IT 2                        | \$159.00 |
| IT 3                        | \$190.00 |
| Land Surveyor Assistant     | \$90.00  |
| Land Surveyor 1             | \$108.00 |
| Land Surveyor 2             | \$129.00 |

|                         |            |
|-------------------------|------------|
| Land Surveyor 3         | \$145.00   |
| Land Surveyor 4         | \$160.00   |
| Land Surveyor 5         | \$177.00   |
| Operations Specialist 1 | \$93.00    |
| Operations Specialist 2 | \$113.00   |
| Operations Specialist 3 | \$140.00   |
| Operations Specialist 4 | \$158.00   |
| Operations Specialist 5 | \$184.00   |
| Project Coordinator 1   | \$109.00   |
| Project Coordinator 2   | \$121.00   |
| Project Coordinator 3   | \$132.00   |
| Project Coordinator 4   | \$148.00   |
| Project Coordinator 5   | \$167.00   |
| Project Manager 1       | \$188.00   |
| Project Manager 2       | \$206.00   |
| Project Manager 3       | \$227.00   |
| Sr. Designer 1          | \$165.00   |
| Sr. Designer 2          | \$183.00   |
| Sr. Designer 3          | \$194.00   |
| Sr. Financial Analyst 1 | \$194.00   |
| Sr. Financial Analyst 2 | \$212.00   |
| Sr. Financial Analyst 3 | \$231.00   |
| Sr. Project Manager 1   | \$243.00   |
| Sr. Project Manager 2   | \$254.00   |
| Sr. Project Manager 3   | \$265.00   |
| Technical Expert 1      | \$320.00   |
| Technical Expert 2      | Negotiable |

**Reimbursable Expense Rates**

|                              |               |
|------------------------------|---------------|
| Transportation               | \$0.65/mile   |
| Survey Vehicle               | \$0.85/mile   |
| Laser Printouts/Photocopies  | \$0.30/copy   |
| Plotter Printouts            | \$1.00/s.f.   |
| UAS - Photo/Video Grade      | \$100.00/day  |
| UAS - Survey                 | \$50.00/day   |
| Total Station - Robotic      | \$35.00/hour  |
| Mapping GPS                  | \$25.00/hour  |
| Fast Static/RTK GPS          | \$50.00/hour  |
| All-Terrain Vehicle/Boat     | \$100.00/day  |
| Cellular Modem               | \$75.00/month |
| Web Hosting                  | \$26.00/month |
| Legal Services Reimbursement | \$250.00/hour |
| Outside Services             | cost *1.15    |
| Geotechnical Services        | cost *1.30    |
| Out of Pocket Expenses       | cost*1.15     |
| Rental Car                   | cost*1.20     |
| Project Specific Equipment   | Negotiable    |

\* Position titles are for labor rate grade purposes only.

These rates are subject to adjustment each year on January 1.

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| City of Fargo<br>Staff Report  |   |                       |                           |
|--------------------------------|---|-----------------------|---------------------------|
| <b>Title:</b>                  | GPK Addition  | <b>Date:</b>          | 3-30-22                   |
|                                |   | <b>Update:</b>        | 6-23-22                   |
| <b>Location:</b>               | 1601 and 1621 43 <sup>rd</sup> Street North                                     | <b>Staff Contact:</b> | Luke Morman, Planner      |
| <b>Legal Description:</b>      | Lots 4 and 5, Block 1, Tecton-GPK Addition                                      |                       |                           |
| <b>Owner(s)/Applicant:</b>     | John Henning (GPK Products, Inc.)/Brian Pattengale                              | <b>Engineer:</b>      | Houston Engineering, Inc. |
| <b>Entitlements Requested:</b> | Minor Subdivision (Replat of all of Lots 4 and 5, Block 1, Tecton-GPK Addition) |                       |                           |
| <b>Status:</b>                 | City Commission Public Hearing: June 27, 2022                                   |                       |                           |

| Existing   | Proposed                                       |
|--|--|
| <b>Land Use:</b> Undeveloped and Manufacturing and Production.   | <b>Land Use:</b> Unchanged                     |
| <b>Zoning:</b> GI, General Industrial.   | <b>Zoning:</b> Unchanged                       |
| <b>Uses Allowed:</b> Allows detention facilities, health care facilities, safety services, basic utilities, adult entertainment centers, off-premise advertising, commercial parking, industrial service, manufacturing and production, warehouse and freight movement, wholesale sales, aviation, surface transportation, and mining. | <b>Uses Allowed:</b> Unchanged                 |
| <b>Maximum Lot Coverage Allowed:</b> Maximum 85% building coverage.  | <b>Maximum Lot Coverage Allowed:</b> Unchanged |

| Proposal:  |
|--|
| <p>The applicant is seeking approval of a minor subdivision located at 1601 and 1621 43<sup>rd</sup> Street South. The request is to replat the existing lots into a one lot minor subdivision entitled GPK Addition.</p> <p>This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.</p> <p><b>Surrounding Land Uses and Zoning Districts:</b></p> <ul style="list-style-type: none"> <li>• North: Across the rail road, LI, Limited Industrial, with warehouse use; AG, Agricultural, with single-family dwelling.</li> <li>• East: GI, General Industrial, with warehouse and office uses.</li> <li>• South: Across 16<sup>th</sup> Ave N, GI, General Industrial, with vacant land, warehouse, and freight movement uses.</li> <li>• West: GI, General Industrial, with warehouse, office, and manufacturing and production uses.</li> </ul> |
| Area Plans:  |
| There are no recent growth plans which apply directly to this location.  |
| Context:   |
| <p><b>Schools:</b> The subject property is located within the West Fargo School District, specifically within the Westside Elementary, Cheney Middle, and West Fargo High schools.</p> <p><b>Neighborhood:</b> There is no neighborhood identified for the subject property.</p>   |

|  |
|--|
| <p><b>Parks:</b> There are no parks within a quarter mile of the subject property.</p> <p><b>Pedestrian / Bicycle:</b> There are ten foot wide trails along the west side of 45<sup>th</sup> Street North.</p> <p><b>Bus Route:</b> There are no bus routes within a quarter mile of the subject property.</p>   |
| <p><b>Staff Analysis:</b></p>  |
| <p><b>Minor Subdivision</b></p> <p>The LDC stipulates that the following criteria is met before a minor plat can be approved:</p> <ol style="list-style-type: none"> <li> <p><b>Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.</b></p> <p>This subdivision is intended to replat two existing lots into one new lot. The properties within this plat are currently zoned GI, General Industrial, and no change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has received no inquiries about the application. Staff has reviewed this request and finds that this application complies with standards of Article 20-06 and all applicable requirements of the Land Development Code.</p> <p><b>(Criteria Satisfied)</b></p> </li> <li> <p><b>Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.</b></p> <p>While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principals.</p> <p><b>(Criteria Satisfied)</b></p> </li> </ol> |
| <p><b>Staff Recommendation:</b></p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby move to approve the proposed subdivision plat, <b>GPK Addition</b>, as outlined within the staff report, as the proposal complies with the standards of Section 20-0907.B &amp; C, standards of Article 20-06, and all other applicable requirements of the Land Development Code."</p>   |
| <p><b>Planning Commission Recommendation: April 5, 2022</b></p> <p>At the April 5th, 2022 Planning Commission hearing, by a vote of 7-0 with one commissioner absent and three Commission seats vacant, the Planning Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission the proposed minor subdivision, GPK Addition as outlined within the staff report, as the proposal complies with the standards of Section 20-0907.B &amp; C, standards of Article 20-06, and all other applicable requirements of the Land Development Code."</p>   |
| <p><b>Attachments:</b></p> <ol style="list-style-type: none"> <li>Zoning map</li> <li>Location map</li> <li>Preliminary plat</li> </ol>  |

# Plat (Minor)

## GPK Addition

1601 and 1621 43rd Street N



### Legend



300  
Feet

Fargo Planning Commission  
April 5, 2022



# Plat (Minor)

## GPK Addition

1601 and 1621 43rd Street N





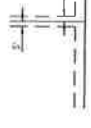
**GPK ADDITION**  
 A MINOR SUBDIVISION  
 BEING A REPLAT OF LOTS 4 & 5, BLOCK 1, TECTON - GPK ADDITION  
 TO THE CITY OF FARGO,  
 CASS COUNTY, NORTH DAKOTA



**LEGEND**

- IRON MONUMENT FOUND
- 1/2" TO PIPE SET
- MEASURED BEARING
- PLAT BEARING
- MEASURED DISTANCE
- PLAT DISTANCE
- LOT BOUNDARY
- LOT BOUNDARY (100.00')
- UTILITY EASEMENT
- EASTING LOT LINE
- EXISTING UTILITY EASEMENT

BEARING SURVEY WAS RECORDED IN THE CITY OF FARGO RECORDS COORDINATE SYSTEM, DECEMBER 1992



BEING 3 FEET IN WIDTH AND ADJOINING LOT BOUNDARY. UNLESS OTHERWISE INDICATED ON THE PLAT.

**UTILITY EASEMENTS ARE SHOWN THUS**

| Curve # | Length | Radius | Delta      | Chord Direction | Chord Length |
|---------|--------|--------|------------|-----------------|--------------|
| C1      | 150.70 | 80.00  | 201°59'53" | N87°19'41"E     | 133.72       |
| C2      | 135.88 | 150.00 | 51°59'08"  | N82°29'48"E     | 131.38       |
| C3      | 71.25  | 100.00 | 40°59'12"  | N87°54'51"E     | 69.75        |
| C4      | 183.44 | 80.00  | 102°29'58" | N127°21'10"     | 174.82       |

H:\18M\8009816\9616\_0002\CAD\8616-0002 Final\DWG SHEET 1-7/27/2022 4:23 PM (dwh\hwh)

# GPK ADDITION A MINOR SUBDIVISION BEING A REPLAT OF LOTS 4 & 5, BLOCK 1, TECTON - GPK ADDITION TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

**OWNER CERTIFICATE**  
KNOW ALL PERSONS BY THESE PRESENTS: That GPK Products, Inc., a North Dakota corporation, is the owner and proprietor of the following described tract of land:  
Lots 4 & 5, Block 1, Tecton - GPK Addition to the City of Fargo, Cass County, North Dakota.  
Said tract contains 14.59 acres, more or less.  
And that said party has caused the same to be surveyed and replatted as GPK ADDITION to the City of Fargo, Cass County, North Dakota.

**CITY ENGINEER'S APPROVAL:**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*Brenda E. Doring, PE, City Engineer*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, President of \_\_\_\_\_, a North Dakota corporation, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of said corporation.

Nearby Public: \_\_\_\_\_  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**FARGO PLANNING COMMISSION APPROVAL:**  
Approved by the Board of City Commissioners and endorsed filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*Timothy J. Mahoney, Mayor*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, Mayor of Fargo and Steven Springs, City Engineer of Fargo, both known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Nearby Public: \_\_\_\_\_  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_



**SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:**  
I, James A. Schlemmer, Professional Land Surveyor, under the laws of the State of North Dakota, do hereby certify that I am duly licensed and qualified to perform the duties of a Professional Land Surveyor, and that the instrument for the subdivision of the survey of said subdivision, that the instrument for the subdivision of said survey has been located as placed in the ground as shown.

Dated this 30<sup>th</sup> day of March, 20 22.

*James A. Schlemmer, Professional Land Surveyor No. 6065*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this 30<sup>th</sup> day of March, 20 22, before me personally appeared James A. Schlemmer, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Nearby Public: *Blk Schlemmer*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_



**FARGO PLANNING COMMISSION APPROVAL:**  
Approved by the Board of City Commissioners and endorsed filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*Robert Schlemmer, Chair*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Robert Schlemmer, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Nearby Public: *Blk Schlemmer*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

**CITY ENGINEER'S APPROVAL:**  
Approved by the Fargo City Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*Brenda E. Doring, PE, City Engineer*  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, City Engineer of Fargo, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the Fargo Planning Commission.

Nearby Public: \_\_\_\_\_  
State of North Dakota \_\_\_\_\_  
County of Cass \_\_\_\_\_



**HOUSTON ENGINEERS, INC.**  
Sheet 2 of 2  
Project No. 8615-0002



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| City of Fargo<br>Staff Report  |  |                                 |                                       |
|--------------------------------|--|---------------------------------|---------------------------------------|
| <b>Title:</b>                  | Asleson Commercial Third Addition  | <b>Date:</b><br><b>Updated:</b> | 6/2/2022<br>6/23/2022                 |
| <b>Location:</b>               | 4252 and 4266 32 <sup>nd</sup> Avenue south  | <b>Staff Contact:</b>           | Donald Kress,<br>planning coordinator |
| <b>Legal Description:</b>      | Lots 2, 3, and 4, Block 1, Asleson Commercial Second Addition to the City of Fargo, Cass County, North Dakota                                      |                                 |                                       |
| <b>Owner(s)/Applicant:</b>     | Contractors Leasing; City of Fargo/ Don Dabbert, Dabbert Custom Homes  | <b>Engineer:</b>                | Moore Engineering                     |
| <b>Entitlements Requested:</b> | <b>Minor Subdivision</b> (Replat of Lots 2, 3, and 4, Block 1, Asleson Commercial Second Addition to the City of Fargo, Cass County, North Dakota) |                                 |                                       |
| <b>Status:</b>                 | City Commission Public Hearing: June 27 <sup>th</sup> , 2022   |                                 |                                       |

| Existing   | Proposed                                 |
|--|--|
| <b>Land Use:</b> Undeveloped   | <b>Land Use:</b> Commercial; access      |
| <b>Zoning:</b> GC, General Commercial  | <b>Zoning:</b> No change proposed        |
| <b>Uses Allowed:</b> GC – General Commercial. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, adult entertainment centers, offices, off-premise advertising, commercial parking, outdoor recreation and entertainment, retail sales and service, self storage, vehicle repair, limited vehicle service, basic utilities, telecommunications structures | <b>Uses Allowed:</b> No change proposed  |
| <b>Maximum Lot Coverage Allowed:</b> 85%   | <b>Maximum Lot Coverage Allowed:</b> 85% |

**Proposal:**

The applicant requests three entitlements:

1. A minor subdivision, entitled **Asleson Commercial Third Addition**, which is a replat of Lots 2, 3, and 4, Block 1, Asleson Commercial Second Addition to the City of Fargo, Cass County, North Dakota

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

**Surrounding Land Uses and Zoning Districts:**

- North: GC; offices
- East: LC, Limited Commercial; restaurant
- South: GC; restaurant and City-owned water tower
- West: GC; convenience store

**Area Plans:**

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject property primarily as "Either Commercial or Office." The existing GC, Limited Commercial zoning is consistent with this land use designation. No change from the GC zoning is proposed  
(continued on next page)



**Context:**

**Schools:** The subject property is located within the Fargo School District and is served by Kennedy Elementary, Discovery Middle and Davies High schools.

**Neighborhood:** The subject property is located in the Pointe West neighborhood

**Parks:** Pointe West Park (3331 42nd South) is located approximately 0.25 miles southeast of the subject property and offers a playground for ages 5-12 and a soccer field.

**Pedestrian / Bicycle:** There are no trails adjacent to the subject property.

**Staff Analysis:**

The applicant proposes to replat of Lots 2, 3, and 4, Block 1, Asleson Commercial Second Addition to create a two-lot subdivision, Asleson Commercial Third Addition. Lot 1 of the proposed plat is intended for commercial development. Lot 2 is intended as a City-owned lot that provides access to the City water tower south of this property. This lot is not dedicated right of way.

The plat vacates public utility easements along the existing common lot lines of Lots 2 and 3 and Lots 3 and 4. It is the applicant's responsibility to contact all potential utility providers and document that there are no utilities in these easements. As part of the technical review, City staff reviews the applicant's documentation and verifies that all potential utility providers have been contacted and have confirmed that they have no utilities installed in these easements.

The current zoning is GC, General Commercial. No zone change is proposed.

**Subdivision**

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

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

The current zoning is GC, General Commercial. No zone change is proposed. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received no comments or inquiries. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

**2. Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

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

**NOTE ON CONTINGENT APPROVAL:** The suggested motion below states that approval is contingent on final technical review of the plat, including the City Engineer's signature. The contingent motion below allows the City Commission to approve the plat at this time. Once the final technical review is complete and the City Engineer has signed the plat, then the City can then proceed with recording the plat, if approval is received as referenced below. Please note that all future permits, such as building permits, are on hold until the plat can be recorded.

**Staff Recommendation:**

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and move to approve the proposed **Asleson Commercial Third Addition** subdivision plat as presented, contingent on final technical review of the plat, including the City Engineer's signature; as the proposal complies with the 2003 Southwest Future Land Use Plan, Standards of Article 20-06, and Section 20-0907.B. and C of the LDC and all other applicable requirements of the LDC."

**Planning Commission Recommendation: June 7<sup>th</sup>, 2022**

At the June 7<sup>th</sup>, 2022 Planning Commission hearing, by a vote of 7-0 with one Commissioner absent and three Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and recommended approval to the City Commission of the proposed **Asleson Commercial Third Addition** subdivision plat as presented; as the proposal complies with the 2003 Southwest Future Land Use Plan, Standards of Article 20-06, and Section 20-0907.B. and C of the LDC and all other applicable requirements of the LDC

**Attachments:**

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



# Plat (Minor)

## Asleson Commercial Third Addition

4252 & 4266 32nd Avenue S

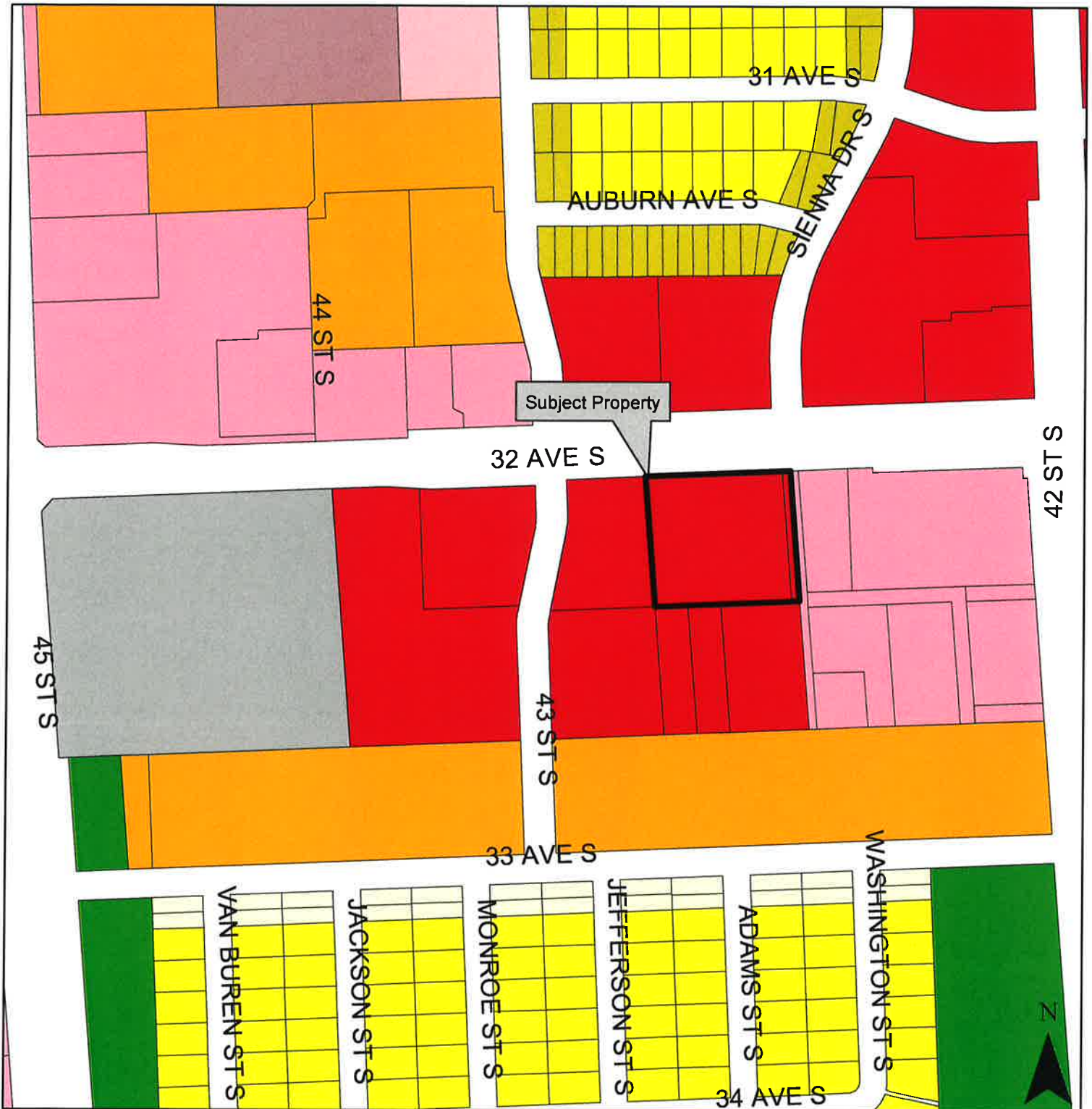




# Plat (Minor)

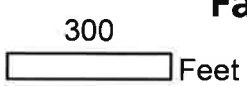
## Asleson Commercial Third Addition

4252 & 4266 32nd Avenue S



**Legend**

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|    |      |     | SR-100 |



Fargo Planning Commission  
June 7, 2022



A MINOR SUBDIVISION PLAT OF ASLESON COMMERCIAL THIRD ADDITION TO THE CITY OF FARGO, A REPLAT OF LOTS 2, 3 AND 4, BLOCK ONE, ASLESON COMMERCIAL SECOND ADDITION, CASS COUNTY, NORTH DAKOTA

CERTIFICATE

STEVEN W. MEDA, BEING DULY SWORN, DEPOSES AND SAYS THAT HE IS THE REGISTERED LAND SURVEYOR WHO PREPARED AND MADE THE RETURN TO THE CITY OF FARGO, NORTH DAKOTA, OF THE RECORDED PLAT OF "ASLESON COMMERCIAL THIRD ADDITION TO THE CITY OF FARGO, A REPLAT OF LOTS 2, 3 AND 4, BLOCK ONE, ASLESON COMMERCIAL SECOND ADDITION, CASS COUNTY, NORTH DAKOTA," THAT MONUMENTS HAVE BEEN PLACED IN THE CORNERS OF THE SAID ADDITION AS DESCRIBED AS FOLLOWS, TO WIT:

SAID TRACT CONTAINS 2.77 ACRES, MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD, IF ANY.

ON THIS 26th DAY OF JULY, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED STEVEN W. MEDA, REGISTERED LAND SURVEYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO DREW UP THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS OWN FREE ACT AND DEED.

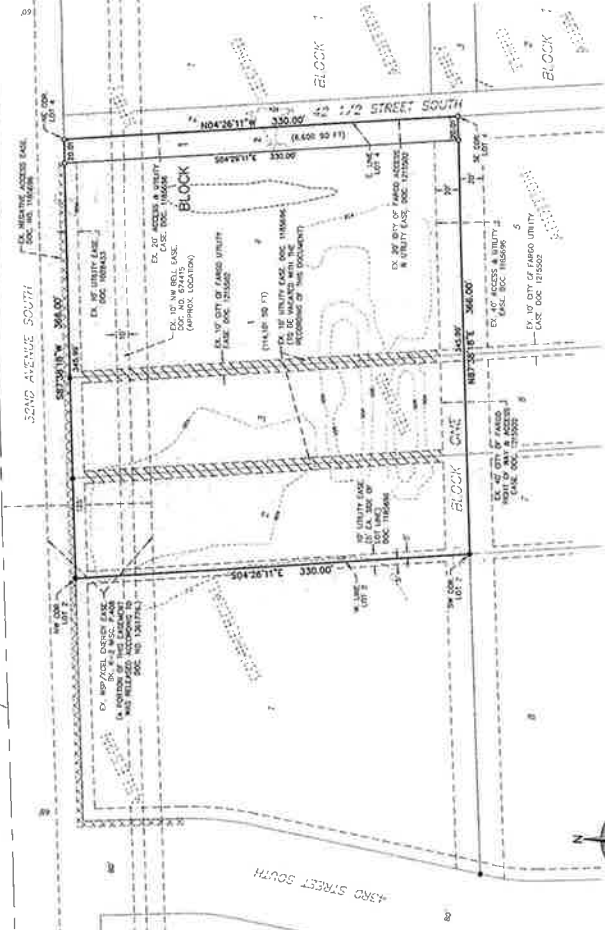
ON THIS 26th DAY OF JULY, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED NANCY KOST-HEADING, GENERAL PARTNER OF CONTRACTOR LEASING, INCORPORATED, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO DREW UP THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME IN THE NAME OF CONTRACTOR LEASING, INCORPORATED.

ON THIS 26th DAY OF JULY, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THEODORE J. WIMONEN, MAYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THE CITY OF FARGO.

ON THIS 26th DAY OF JULY, 2022, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THEODORE J. WIMONEN, MAYOR, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME IN THE NAME OF THE CITY OF FARGO.

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FARGO PLANNING COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_ DAY OF \_\_\_ 2022.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

CITY ENGINEER'S APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_ DAY OF \_\_\_ 2022.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

FARGO CITY COMMISSION APPROVAL

THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_ DAY OF \_\_\_ 2022.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA

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THIS PLAT IN THE CITY OF FARGO IS HEREBY APPROVED THIS \_\_\_ DAY OF \_\_\_ 2022.

NOTARY PUBLIC, CASS COUNTY, NORTH DAKOTA



- LEGEND
IRON MONUMENT FOUND
BASIS OF BEARINGS, THE NORTH
SECOND ADDITION, CASS COUNTY,
NORTH DAKOTA, ACCORDING TO
RECORD OF 587-791818W
TO THE RECORDED PLAT THEREOF.

- NOTES
1. MOST OF THIS PLAT IS LOCATED WITHIN SPECIAL UTILITY HAZARD AREA ZONE AC WITH A BASE FLOOR ELEVATION OF 906 FEET.
2. BENCHMARK, SOUTHEAST FLANGE BELT ON A HYDRANT LOCATED AT THE INTERSECTION OF 32ND AVENUE SOUTH AND ASLESON COMMERCIAL SECOND ADDITION, ELEVATION IS 906.97 AN AND IS DATUM.



moore engineering, inc. SHEET 1 OF 1 PROJ. NO. 22-278



**TO: BOARD OF CITY COMMISSIONERS**

**FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR; DAVID ZIBOLSKI, CHIEF OF POLICE; GRANT LARSON, ENVIRONMENTAL HEALTH DIRECTOR; BRENDA DERRIG, CITY ENGINEER**

**DATE: JUNE 22, 2022**

**RE: NOISE ORDINANCE (FMC CHAPTER 11), SIDEWALK PERFORMERS AND PUSH CARTS (FMC CHAPTER 18-03)**

This memo is collectively from Police, Planning, Health and Engineering as we advise the City Commission about issues and concerns that have been raised with respect to processing permits and addressing enforcement and code conflicts that appear to exist with the application of codes FMC Ch. 18-03 and FMC Ch. 11.

In Summer 2021, as downtown became busier and new projects came into fruition new conflicts arose. This Summer the public's concerns have all grown from the vendors', residents' and visitors' points of view. Staff seeks your guidance and permission to focus our attention to address the various issues and concerns as one of our priorities for the second half of this year. An opportunity also exists to work with our Downtown InFocus consultants as part of this endeavor as we already have them under contract.

Most recently in the last few weeks, the City has received an increase in complaints about congestion, safety, noise, and disruptions. This coupled with the lack of clarity in existing Ordinances in respect to permit processes, appeals and enforcement tools does not represent the City or downtown constituents as best as possible.

More specifically, these complaints include:

- 1) Sidewalk too crowded, ADA compliance concerns
- 2) Sound after 10 pm causing nuisance to residents and hotel guests
- 3) Congregating of customers and equipment blocking sidewalk creating visibility and safety concerns
- 4) Grease grime and trash from vendors leaving a mess on sidewalks
- 5) Consistent practices in issuing permits and staff interpretation complaints
- 6) Inefficient and lack of clear customer processes
- 7) Lack of clear complaint and appeal process
- 8) Lack of enforcement options as awarded by ordinance
- 9) First amendment rights concerns

The general consensus among various departments is that review of the Ordinances is necessary. Extensive intra-department coordination procedures are needed along with clear city commission and public guidance.

Staff seeks City Commission approval to direct Planning, Health, Engineering and the Police departments, to work collectively with the City Attorney's office to help us stream line processes and address other potential deficiencies, with the goal of presenting findings and recommendations to this Commission by January, 2023. As part of this project, staff will engage with the public and rely heavily on feedback from our partners with the Downtown Community Partnership, BID, and Downtown Neighborhood Association as well as members of the community at-large.

Recommended motion: Move to authorize staff and the City Attorney to examine Chapter 18-03 and Chapter 11-02, and make recommendations responding to issues stated above for further consideration by the City Commission.

27



# FARGO POLICE DEPARTMENT

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

*OFFICE OF THE CHIEF*

## MEMORANDUM

**To:** Kember Anderson  
**From:** Chief David B. Zibolski *DZ*  
**Date:** June 22, 2022  
**RE:** Item for consent agenda

Kember,

For the June 27, 2022 City Commission agenda I would like to request approval to sign off of the United States Postal Inspections Services (USPIS) Memorandum of Understanding. The MOU is attached for Commission review. The MOU has been reviewed and approved by City Attorney, Nancy Morris.

Please contact me if you need any additional information.

Thank you.

**COPY**

MEMORANDUM OF UNDERSTANDING

This document sets forth the general understanding between the United States Postal Inspection Service (USPIS), Fargo Police Department with respect to a joint cooperative law enforcement effort, hereinafter referred to as the TASKFORCE.

This document is not intended as a formal contract, but rather as an expression of understanding to facilitate cooperation. This document is an internal government agreement and is not intended to confer any rights or benefits to any private person or party. The goals of the TASKFORCE will be to protect the public by investigating and prosecuting criminal offenses related to the trafficking of controlled substances/other dangerous drugs and violations of money laundering statutes.

I. Purpose

The purpose of this Agreement is to develop a cooperative effort with Federal, State and local law enforcement agencies charged with the investigation and prosecution of criminal offenses involving the trafficking of controlled substances and money laundering violations, as well as to establish the terms and conditions under which Fargo Police Department may coordinate investigative efforts with and/or provide assistance to the USPIS in developing investigations and cases for criminal prosecution.

II. Mission

To investigate, arrest and prosecute individuals participating in illegal drug activity associated to the U.S. Mail in the jurisdictional areas in order to protect the general public from illegal drug activity and create a safer and more secure environment for businesses and the general public in the State of Hawaii.

III. Objective

- A. To facilitate and maintain communications with Fargo Police Department to maximize the effective use of the Task Force intelligence and resources.
- B. To share intelligence and other resources.
- C. To conduct coordinated responses to mailings containing controlled substances and/or proceeds from the sales of controlled substances.
- D. To identify illegal drug traffickers utilizing the mail and to cause their successful prosecution.
- E. To substantially reduce the illegal drug mailings committed in the State of Hawaii.

IV. Authorities

USPIS participation in this MOU is authorized under 18 U.S.C. § 3061, 39 U.S.C. § 401, 404 and 411.

V. Participants

The following Federal and local law enforcement agencies are participants in this initiative:

- A. United States Postal Inspection Service
- B. FARGO POLICE DEPARTMENT

Any State or local employees assigned to the TASKFORCE in accordance with this Agreement are not considered Federal employees, are not employed by the United States Postal Service (USPS) or the USPIS. They do not take on the status or benefits of Federal employment, USPS employment, or USPIS employment by virtue of this assignment.

#### VI. Personnel Commitment

The Fargo Police Department intends to provide experienced law enforcement personnel on a full-time basis to the TASKFORCE for participation on designated investigations. The Fargo Police Department will certify the personnel assigned to the TASKFORCE are not the subject of any current or pending disciplinary actions, or completed disciplinary actions which would in any way compromise the mission of the initiative. Additions or deletions of personnel will be at the discretion of the authorizing supervisors of the respective participants. The Fargo Police Department agree to furnish the following complement of personnel dedicated to the Task Force:

- A. USPIS – up to ONE AGENT Postal Inspectors/Task Force Officers
- B. FARGO POLICE DEPARTMENT – up to ONE AGENT Task Force Officers

The FARGO POLICE DEPARTMENT agrees to furnish vehicles for their assigned investigators and provide them immediate access to such vehicles to travel from their residences in order to be able to respond to joint initiative-related emergency call-outs, to begin and end tours of duty in order to maximize investigative time, and to otherwise conduct investigations of common interest.

Addendum A outlines vehicle reimbursement.

The following departments assigned to TASKFORCE may request overtime as outlined in this MOU:

- A. FARGO POLICE DEPARTMENT (ONE AGENT)

Members of the Task Force will be responsible for the investigation of the use of the mail to engage in the trafficking of controlled substances, firearms and money laundering violations. Continued assignment of specific personnel to the Task Force will be based on performance and will be at the discretion of their respective agency heads.

#### VII. Principles

The following principles will help guide relationships among all law enforcement participants in this initiative regarding policy, planning, training, supervision and public relations. All agencies participating in the initiative agree these principles will serve as a basis to mediate any disputes that arise during its operation.



### VIII. Recognition of Authority

The FARGO POLICE DEPARTMENT recognizes the U.S. Postal Inspection Service is the principle Federal Law Enforcement Agency responsible for the investigation and enforcement of Federal laws regarding the U.S. Mail, use of the mails, and property in the custody of the U.S. Postal Service, as well as other Postal offenses.

The FARGO POLICE DEPARTMENT understands U.S. Mail under the custody or control of USPS is sealed against inspection and cannot be opened except under the authority of a Federal Search Warrant issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure, or by consent from the sender and/or addressee of the mail piece. The FARGO POLICE DEPARTMENT may not, in any manner, detain or otherwise interfere with U.S. Mail, or record information from mail matter unless specifically authorized to do so by a U.S. Postal Inspector.

### IX. Administration

Because this Memorandum of Understanding outlines a cooperative endeavor on the part of all the participants, the policy, program involvement, and direction of this initiative should be joint responsibilities of the enforcement supervisors of the participants. Therefore, the cases will be jointly investigated and no particular department will prevail over another or will act unilaterally. The participants (or designated representatives) will meet regularly as agreed upon to discuss investigations related to the above mentioned offenses.

### X. Jurisdiction

The determination as to whether a case will be prosecuted federally or by the appropriate county or state authority will be based upon which level of prosecution will best serve the interest of justice consistent with the overall mission objectives of the initiative.

### XI. Supervision

In order to affect efficient field operations, operational supervision of the personnel assigned to the TASKFORCE, while working on initiatives or investigations directly related to the TASKFORCE, will be the responsibility of a designated field supervisory officer. For the TASKFORCE the field supervisory officer is the U.S. Postal Inspector/Team Leader (TFS) in charge of the USPIS FARGO DOMICILE. On matters not related to the TASKFORCE, assigned personnel will continue to be subject to the established lines of supervision of their respective agencies.

In the event of a conflict with respect to supervisory authority, no action will be taken by the involved personnel until the conflict is resolved at the agency head level. Each member of the TASKFORCE is subject to the personnel rules, regulations, laws and policies applicable to their respective agency. Each TASKFORCE member will continue to report to his or her respective agency supervisor for non-investigative matters not detailed in this MOU.

Dismissal from the Task Force will occur solely upon consultation and subsequent approval by agency management of the respective agency heads.

XII. Operation

The TFS, in consultation with a case specific Assistant United States Attorney (AUSA), or the state and/or local prosecutor, will be primarily responsible for directing and monitoring investigations related to the TASKFORCE. In cases which have been designated for federal prosecution, all investigative procedures shall conform to the current USPIS and Department of Justice regulations and guidelines on criminal investigations and undercover operations.

XIII. INFORMATION SHARING

- A. No information possessed by the USPIS, to include information derived from informal communications between TASKFORCE personnel and USPIS employees not assigned to the TASKFORCE, may be disseminated by TASKFORCE personnel to non-TASKFORCE personnel without prior USPIS authorization and in accordance with the applicable laws and internal regulations, procedures or agreements between the TASKFORCE and the Fargo Police Department that would permit the Fargo Police Department to receive that information directly. Likewise, TASKFORCE personnel will not provide any Fargo Police Department information to the USPIS that is not otherwise available to it unless authorized by appropriate Fargo Police Department officials. This prohibition shall not be interpreted to limit or prevent discussion between the TASKFORCE member and his/her FARGO POLICE DEPARTMENT supervisors.
- B. Each Party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.
- C. The USPIS is providing access to information from its records with the understanding that in the event the recipient becomes aware of any inaccuracies in the data, the recipient will promptly notify the USPIS so that corrective action can be taken. Similarly, if the USPIS becomes aware that information it has received pursuant to this MOU is inaccurate, it will notify the contributing Party so that corrective action can be taken.
- D. Each Party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing Party, and that information is only made available to the receiving Party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing Party.
- E. Each Party will immediately report to the other Party each instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).

XIV. Administrative Support

Routine administrative support will be provided by the USPIS.

TFOs will be provided access badges and necessary keys. USPIS will provide a cellphone and computer for the TFOs. USPIS will provide access to office space and equipment as required.

XV. Access to USPS/USPIS Facilities

At the direction of a Postal Inspector, TFOs may retrieve parcels from areas where mail is accepted or processed when the parcels are related to ongoing investigations.

TFOs must be accompanied by a Postal Inspector while conducting interdictions at USPS facilities.

XVI. Financial Responsibility

Each Fargo Police Department will be responsible for the pay and benefits of their employees participating on the Task Force.

XVII. Overtime Payments

The FARGO POLICE DEPARTMENT may request reimbursement of overtime salary expenses in connection with work performed on behalf of, and in furtherance of investigations performed by their investigators assigned to this initiative. FARGO POLICE DEPARTMENT officers are required to provide the Task Force Supervisor documentation of approved investigative activity for certification, including the applicable case numbers.

At the sole discretion of the USPIS and as funding allocations permit, the USPIS will reimburse the Fargo Police Department for overtime salary expenses directly related to work on the TASKFORCE performed by its officer(s) assigned to TASKFORCE. Fargo Police Department officers shall be required to provide the TL with their overtime hours, along with referencing case numbers and documentation of investigative activity for certification by the TL prior to submitting their overtime for invoice preparation. It is requested that the Fargo Police Department provide a separate breakdown, by officer, of the date(s) and the number of hours they worked overtime along with the referencing case numbers, in addition to the overtime invoice. Overtime invoices should be submitted at least monthly to the USPIS FARGO DOMICILE (DENVER DIVISION), to the attention of the TFS.

The maximum reimbursement allowable for overtime worked on behalf of the joint operation is AGENT ANNUAL OT MAXIMUM per year, per Task Force officer. **Per DOJ memo which is in effect through FY22, the maximum amount of reimbursement to local LEAs for OT payments is limited to \$19,180.25, which represents 25% of a GS 12/1.**

Procedures for submitting requests for reimbursement are outlined in Attachment A.

XVIII. Program Audit

- A. This Agreement and its provisions are subject to audit by the USPIS, USPS OIG, and other designated government auditors. The Fargo Police Department agrees to permit such audits and agree to maintain all records relating to these transactions for a period of not less than three years, and in the event of an ongoing audit, until the audit is completed.



- B. These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts of expenditures related to this agreement, as well as interviews of any and all personnel involved in these transactions.

XIX. Forfeitures

Forfeiture actions will be processed by the USPIS. All seizures will be equitably shared consistent with DOJ and USPIS equitable sharing guidelines. The parties agree that at the discretion of the U.S. Postal Inspector's appointed designee, assets seized during TASKFORCE investigations will be forfeited under State of North Dakota or Federal law, depending on the circumstances of the case and applicable laws. It is understood however that final decisions with respect to Equitable Sharing for assets forfeited administratively, are made at Inspection Service National Headquarters. Final decisions with respect to assets forfeited through Federal civil or criminal actions are made by the U.S. Department of Justice.

XX. Evidence

Evidence collected pursuant to TASKFORCE investigations will normally be held by the agency responsible for presenting the case for prosecution unless other arrangements are made. Evidence collected in TASKFORCE investigations which require forensic analysis will be submitted to USPIS Forensic Laboratory Services unless the situation dictates otherwise.

XXI Media Relations and Press Releases

Media relations and press releases will be coordinated between the participating TASKFORCE agencies and controlled by the designated TASKFORCE supervisory officer and the office of prosecution. TASKFORCE participants agree that information will only be disseminated to the media in accordance with the terms of this MOU.

XXII. Disclosure of Grand Jury Proceedings

All personnel assigned to the TASKFORCE shall strictly adhere to the requirements of Rule 6(e) of the Federal Rules of Criminal Procedure regarding grand jury secrecy.

XXIII. Compliance with Civil Rights Act of 1964

All personnel assigned to this initiative will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by and pursuant to the regulations of the Department of Justice (28 CFR Part 42, Subparts C and D) issued pursuant to Title VI, relating to discrimination on the grounds of race, color, creed, sex, age, or national origin, and equal employment opportunities.

XXIV. Liability

Fargo Police Department shall hold USPIS, its agents, employees, and representatives harmless from and against any and all claims, actions, or causes of actions and liabilities which may be

asserted by third parties arising out of or resulting from any act taken or committed or any omission by Agency personnel pursuant to this agreement.

This agreement and limitation on liability shall not discharge any claim for reimbursement made by USPIS to Fargo Police Department for damages or expenses under the terms of this agreement.

Any third party claims, cause of action and liabilities asserted will be handled in accordance with the Federal Tort Claims Act (FTCA), 28 U.S.C. 1346(b), 2671-2680.

XXV. Duration

This TASKFORCE will be initiated on or about June 28<sup>th</sup>, 2022. This memorandum is in effect upon signing by authorized representatives of Fargo Police Department and USPIS and shall continue in full force and effect until terminated or canceled by the parties.

This memorandum may be terminated or canceled by either party at any time on written notice provided thirty (30) days in advance of the effective date of termination. Any modification or amendment to this agreement shall become effective when reduced to writing and signed by the authorized officials of the respective agencies.

XXVI. Authorization

This Memorandum of Understanding is hereby accepted as setting forth the general intentions and understanding of the undersigned.

Signature

Ruth M. Mendonça

Inspector in Charge

U.S. Postal Inspection Service – Denver Division

Date:

Signature

David Zibolski

Chief of Police, City of Fargo

Fargo Police Department

Date:

Signature

Dr. Timothy Mahoney

Mayor, City of Fargo

City of Fargo

Date:

Signature

Steve Sprague

Auditor, City of Fargo

City of Fargo

Date:

**ATTACHMENT A**

**Cost Reimbursement Agreement**

It is hereby agreed between the United States Postal Inspection Service (“USPIS”) and the **FARGO POLICE DEPARTMENT, 105 25TH ST., FARGO, N.D. 58102**, Federal Taxpayer Identification Number **45-6002069** that:

Subject to the availability of funds, the Inspection Service will reimburse the **FARGO POLICE DEPARTMENT** for overtime payments for the law enforcement officer(s) assigned to a joint initiative with the Postal Inspection Service – **Denver** Division as set forth below for expenses necessary for detection, investigation, and prosecution of crimes against the United States.

Overtime reimbursements for the **FARGO POLICE DEPARTMENT** Officers assigned to the initiative will be authorized and issued on an as needed basis, and will be calculated at the usual rate for which the individual Officer’s time would be compensated. The overtime reimbursement allocation for **FARGO POLICE DEPARTMENT** officers assigned to the initiative will not exceed \$19,180.25 for each officer per Fiscal Year (October through September).

Overtime and vehicle reimbursement will be made directly to the **FARGO POLICE DEPARTMENT** by the Inspection Service. All overtime and vehicle reimbursement payments are made by electronic fund transfer (“EFT”). An ACH vendor/miscellaneous payment enrollment form must be on file with the Inspection Service’s **Denver** Division Headquarters to facilitate payments.

The **FARGO POLICE DEPARTMENT** agrees to the vehicle reimbursement as set forth in the Vehicle Use Addendum.

The **FARGO POLICE DEPARTMENT** agrees to provide monthly overtime invoices to include a breakdown per individual Officer of the date(s) and the number of overtime hours worked along with the associated case numbers. Overtime invoices requesting reimbursement for any given month should be submitted to the USPIS at the address below by the 10<sup>th</sup> calendar day of the following month for which reimbursement is requested:

U.S. Postal Inspection Service  
ATTN **Team Leader Rachel S. Williams**  
**7360 Bush Lake Road #100**  
**Minneapolis, MN 55439**

At the commencement of each USPIS fiscal year, prior to the submission of any overtime reimbursement requests, the **FARGO POLICE DEPARTMENT** will provide the salary and hourly overtime rate for each Officer assigned to the joint initiative. At the commencement of each USPIS fiscal year, the **FARGO POLICE DEPARTMENT** will re-execute the Vehicle Use Agreement.

Requests for reimbursement will include the name, rank, identification number, overtime compensation rate, number of reimbursable hours claimed and the dates of those hours for each Officer for whom reimbursement is sought. Each reimbursement request must be accompanied by a certification signed by an appropriate supervisor of the **FARGO POLICE DEPARTMENT** that the request has been personally reviewed, the information is accurate, and the personnel for whom reimbursement is claimed were assigned to the joint initiative.

Each request for reimbursement will include: an invoice number, invoice date, TIN, and correct banking information, to complete the electronic funds transfer. The necessary banking information is the depositor's account title, bank account number, routing number, and type of account (checking, savings, or lockbox). If the banking information changes, the **FARGO POLICE DEPARTMENT** must submit a new ACH vendor/miscellaneous payment enrollment form to the USPIS.

---

Ruth M. Mendonça  
Inspector in Charge, **Denver** Division  
United States Postal Inspection Service  
Date: \_\_\_\_\_

---

David Zibolski  
Chief of Police, City of Fargo  
Fargo Police Department  
Date:

---

Dr. Timothy Mahoney  
Mayor, City of Fargo  
City of Fargo  
Date:

---

Steve Sprague  
Auditor, City of Fargo  
City of Fargo  
Date:

ADDENDUM A

Vehicle Use Agreement

It is hereby agreed between the United States Postal Inspection Service (USPIS) and the Fargo Police Department, 105 25<sup>th</sup> Street North, Fargo, ND 58102 that:

The USPIS hereby agrees to provide to the Fargo Police Department a monthly stipend of \$850.00 for the sole use of providing an acceptable vehicle for the Task Force member to use in the furtherance of their obligations to the Task Force. The stipend incorporates all associated costs for the vehicle to include routine maintenance and minor repairs of the vehicle.

This is an internal government agreement between USPIS and Fargo Police Department and is not intended to confer any right or benefit to any private person or party.

Ruth M. Mendonça  
Inspector in Charge  
Denver Division  
U.S. Postal Inspection Service

Date

David Zibolski  
Chief of Police  
Fargo Police Department

Date

28

June 27, 2022

Board of City Commissioners  
Fargo City Hall  
225 N 4<sup>th</sup> Street  
Fargo, ND 58102

Dear Commissioners:

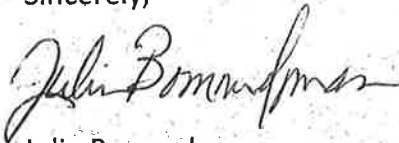
The State of North Dakota Department of Transportation (NDDOT) has granted an extension of time for contracts 38190973A and 38190959A. In addition, NDDOT has allocated additional funds to assist in accommodating increased pricing for the buses. The ability to purchase buses has been extremely challenging for the last 12-18 months, with no relief coming any time soon. Delivery of buses, even upon the City supplying a purchase order, will be a minimum of 12-18 months, possibly even 2024. Parts availability has been severely impacted by the embargo on parts and electronics for bus production. Manufacturing plants have closed completely, severely limiting production, however, we do have a vendor able to get us entered into the manufacturing schedule for 12-18 months.

The amendments are attached, however, these were provided in electronic signature format, which will be provided to the City Commission Executive Assistant for circulation.

The requested motion is to approve the attached contract amendments.

Thank you.

Sincerely,



Julie Bommelman  
Transit Director  
City of Fargo

\Attachment

**MEMO TO:** William T. Panos  
Director

**FROM:** Stacey Hanson  
Assistant Engineer for Local Government  
Becky Hanson  
Transit Program Manager

**DATE:** 6/21/2022

**SUBJECT:** Section 5339(b), Bus and Bus Facilities Formula Program  
Fargo, City of

This is a contract amendment to provide funding for transit capital funds under the regulations of Section 5339, Bus and Bus Facilities Formula Program.

This is a contract amendment to provide additional funding of \$40,000 to cover the increased cost of the vehicles and additional time for the vehicle delivery. The contract for the purchase of new vehicles is delayed due to supply chain issues and increased costs.

The original contract has \$420,000 remaining as of June 16, 2022. The contract will have a new amount of \$460,000 and a completion date of June 30, 2023.

38/bh 328-2542



NDDOT Contract No. 38190959B

**North Dakota Department of Transportation**  
**AMENDMENT TO CONTRACT NO. 38190959**  
**Project No.**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Fargo, City of, hereinafter known as the Contractor, whose address is 650 23<sup>rd</sup> Street North, Fargo, ND 58102.

WHEREAS, the parties entered into a contract on September 17, 2019; and

WHEREAS, additional funding of \$40,000 has been added to the contract; and

WHEREAS, additional time is required to complete the contract; and

NOW THEREFORE, the Contractor and NDDOT agree that the contract entered into on September 17, 2019, shall have a new completion date of June 30, 2023.



All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

To be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer. (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

CONTRACTOR:

COMPANY NAME

OFFICER'S NAME (TYPE OR PRINT)

SIGNATURE

TITLE

DATE

WITNESS:

NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

DIRECTOR (TYPE OR PRINT)

SIGNATURE

DATE

APPROVED as to substance by:

Paul Benning

DIVISION DIRECTOR (TYPE OR PRINT)

*Paul Benning*  
SIGNATURE  
A411F817506247A...

DS  
SH

6/21/2022

DATE

CLA 52494 (Div. 06)  
L.D. Approved 5-19-00; 5-03



**PERIOD OF PERFORMANCE / CONTRACT EXTENSION REQUEST**

North Dakota Department of Transportation, Local Government  
SFN 61785 (2-2022)

**Instructions:**

Requests for period of performance /contract end date extensions must be submitted at least 90-days prior to the current end date. Requests cannot be combined for multiple contracts. **Incomplete forms will not be processed.**

|   |   |
|---|---|
| Submittal Date<br>6.16.2022                             |   |
| Funding Program<br>5339                                 | Contract Number<br>38190959A                              |
| Current Contract End Date<br>6.30.2022                  | Proposed End Date<br>6/30/2023                            |
| Remaining Federal/State Contract Amount<br>\$420,000.00 | Proposed Increase in Federal/State Funding<br>\$40,000.00 |

|  |                                  |
|--|----------------------------------|
| Subrecipient (Agency Name)<br>City of Fargo  |                                  |
| Contact Person<br>Julie Bommelman  | Telephone Number<br>701-476-6737 |
| Email Address<br>jbommelman@fargond.gov  |                                  |
| Project Description<br>Purchase 1 35-foot replacement bus  |                                  |
| <p>1. Reason for Delay (Provide a detailed description.)<br/>Original procurement was started 2 years ago in a consortium with various cities and Duluth, MN leading the project. There were a variety of delays due to the COVID pandemic, supply chain issues and short staffing. The process has finally reached the contract phase, we will be taking it to the City Commission for approval soon and will be issuing a PO. The purchase will be through New Flyer - they are telling us the delivery of the vehicle should be February/March 2023, with vehicle inspections and post-delivery requirements, we would like to have the contract extended to June 30, 2023 if possible.</p> |                                  |
| <p>2. What is the status of the contract project(s)? (Summarize project milestones to date and percent of budget remaining.)<br/>A contract has been awarded to New Flyer by the MN and we need to execute our contract with New Flyer. Bus will be ordered upon final price determination (there is an increase in pricing between the original bid submittal and actual contract award) and that contract execution. The bus will be ordered upon that execution and delivered in approximately February/March 2023.<br/><br/>The full budget remains.</p>   |                                  |
| <p>3. Plan for Completion (List the steps to be taken if approval is granted that will ensure completion by the new end date.)<br/>Finalize the price and contract with New Flyer, issue the PO, place order, await delivery February/March 2023.</p>  |                                  |
| <p>4. Indicate the number of Period of Performance/Contract extensions previously granted for this project:</p> <p><input type="checkbox"/> 0    <input checked="" type="checkbox"/> 1    <input type="checkbox"/> 2 or more, provide explanation: _____</p>   |                                  |

|  |                               |
|--|-------------------------------|
| Authorized Official or Agency Designee<br>Julie Bommelman  | Completion Date<br>06/16/2022 |
| I certify the project scope of work will be completed on or before the newly requested end date and claim requests will be submitted for reimbursement of eligible expenses in accordance with the <u>allowable time-frame</u> of the newly approved Period of Performance/Contract end date. All provisions of the Contract Agreement remain in effect and the sub-recipient will continue to adhere to the contractual terms and conditions to execute the project in the manner identified in the Contract Agreement. I further certify neither the project scope of work nor the approved budget, are under consideration to be changed in this request. Only the project's end date is requested to change. |                               |
| Signature of Authorized Official or Agency Designee<br><i>Julie Bommelman</i>  | Date<br>6.16.22               |

|   |                   |
|---|-------------------|
| <i>This Section is for NDDOT/Local Government Division Staff use only</i>                         |                   |
| <b>Recommendation:</b>  |                   |
| <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not Approved                |                   |
| Signature<br><i>[Signature]</i>   | Date<br>6/17/2022 |
| Comments:      Approved for time and increase funds of \$40,000. This contract has an 80/20 split |                   |
|   |                   |
|   |                   |

Please send completed/signed extension request to [bhanson@nd.gov](mailto:bhanson@nd.gov) or  
 NDDOT/Local Government Division  
 608 E Boulevard Avenue, Bismarck, ND 58505-0700

**Certificate Of Completion**

Envelope Id: 485C9D89FF1B4AEF81D1AC19117F792D  
Subject: Contract #38190959B: Please DocuSign: Contract Amendment  
Contract Number: 38190959B  
PCN:  
Source Envelope:  
Document Pages: 5  
Certificate Pages: 3  
AutoNav: Enabled  
EnvelopeId Stamping: Enabled  
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:  
Connie Nelson  
608 E Boulevard Ave  
Bismarck, ND 58505  
conelson@nd.gov  
IP Address: 165.234.92.5


**Record Tracking**

Status: Original  
6/21/2022 11:13:57 AM  
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**

Stacey Hanson  
smhanson@nd.gov  
Carahsoft OBO North Dakota Department of Transportation CLOUD  
Security Level: Email, Account Authentication (None), Authentication

**Signature**

  
Signature Adoption: Pre-selected Style  
Signed by link sent to smhanson@nd.gov  
Using IP Address: 165.234.252.245

**Timestamp**

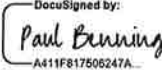
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Viewed: 6/21/2022 11:24:45 AM  
Signed: 6/21/2022 11:25:21 AM

**Authentication Details**

SMS Auth:  
Transaction: 26061C5100C0080491940853E75ABD60  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 6/21/2022 11:24:28 AM  
Phone: +1 701-527-8879

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Paul Benning  
pbenning@nd.gov  
Security Level: Email, Account Authentication (None), Authentication

DocuSigned by:  
  
A411F817506247A

Sent: 6/21/2022 11:25:24 AM  
Viewed: 6/21/2022 12:42:06 PM  
Signed: 6/21/2022 12:42:11 PM

Signature Adoption: Pre-selected Style  
Signed by link sent to pbenning@nd.gov  
Using IP Address: 165.234.252.245

**Authentication Details**

SMS Auth:  
Transaction: 26061D6C62A8060491938CB47FBAE1FB  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 6/21/2022 12:41:56 PM  
Phone: +1 701-214-2502

**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

Shannon Sauer  
ssauer@nd.gov

Security Level: Email, Account Authentication  
(None), Authentication

**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

Jen Turnbow  
jturnbow@nd.gov

Security Level: Email, Account Authentication  
(None), Authentication

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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

**VIEWED**

Sent: 6/21/2022 11:14:03 AM  
Viewed: 6/21/2022 11:14:33 AM  
Completed: 6/21/2022 11:19:23 AM

Transit Agency  
Carahsoft OBO North Dakota Department of  
Transportation CLOUD  
Security Level: Email, Account Authentication  
(None)

Using IP Address: 165.234.252.245

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Agent Delivery Events**

**Status**

**Timestamp**

Julie Bommelman  
jbommelman@cityoffargo.com

Sent: 6/21/2022 12:42:13 PM  
Viewed: 6/23/2022 8:34:59 AM

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

**Agent Delivery Events**

**Status**

**Timestamp**

Not Offered via DocuSign

**Intermediary Delivery Events**

**Status**

**Timestamp**

**Certified Delivery Events**

**Status**

**Timestamp**

Becky Hanson  
bhanson@nd.gov

**VIEWED**  
  
Using IP Address: 165.234.252.245

Sent: 6/21/2022 11:19:23 AM  
Viewed: 6/21/2022 11:21:37 AM

Carahsoft OBO North Dakota Department of  
Transportation CLOUD  
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

**Carbon Copy Events**

**Status**

**Timestamp**

DOT Legal Admin  
dotlegaladmin@nd.gov

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

DOT 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

6/21/2022 11:14:03 AM

**Payment Events**

**Status**

**Timestamps**

**MEMO TO:** William T. Panos  
Director

**FROM:** Stacey Hanson  
Assistant Engineer for Local Government  
Becky Hanson  
Transit Program Manager

**DATE:** 6/21/2022

**SUBJECT:** Section 5339(b), Bus and Bus Facilities Formula Program  
Fargo, City of

This is a contract amendment to provide funding for transit capital funds under the regulations of Section 5339, Bus and Bus Facilities Formula Program.

This is a contract amendment to provide additional time for the contractor to complete the contract for the purchase of the new vehicles as delays have prevented the delivery of the vehicles before the original contract termination date. No additional funds have been awarded.

The original contract has \$72,000 remaining as of June 16, 2022. The contract will have a new completion date of June 30, 2023.

38/bh 328-2542



NDDOT Contract No. 38190973C

**North Dakota Department of Transportation**  
**AMENDMENT TO CONTRACT NO. 38190973**  
**Project No.**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Fargo, City of, hereinafter known as the Contractor, whose address is 650 23<sup>rd</sup> Street North, Fargo, ND 58102.

WHEREAS, the parties entered into a contract on September 17, 2019; and

WHEREAS, no additional funding is awarded to this contract; and

WHEREAS, additional time is required to complete the contract; and

NOW THEREFORE, the Contractor and NDDOT agree that the contract entered into on September 17, 2019, shall have a new completion date of June 30, 2023.



All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

CONTRACTOR:

NAME (TYPE OR PRINT)

COMPANY NAME

SIGNATURE

OFFICER'S NAME (TYPE OR PRINT)

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

SIGNATURE

TITLE

DATE

WITNESS:

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

NAME (TYPE OR PRINT)

DIRECTOR (TYPE OR PRINT)

SIGNATURE

SIGNATURE

DATE

APPROVED as to substance by:

Paul Benning

DIVISION DIRECTOR (TYPE OR PRINT)  
DocuSigned by:  
*Paul Benning*  
SIGNATURE  
A411F817506247A...  
6/21/2022  
DATE

DS  
SK

CLA 52494 (Div. 06)  
L.D. Approved 5-19-00; 5-03



**PERIOD OF PERFORMANCE / CONTRACT EXTENSION REQUEST**

North Dakota Department of Transportation, Local Government  
SFN 61785 (2-2022)

**Instructions:**

Requests for period of performance /contract end date extensions must be submitted at least 90-days prior to the current end date. Requests cannot be combined for multiple contracts. **Incomplete forms will not be processed.**

|  |  |
|--|--|
| Submittal Date<br>6.16.2022                            |  |
| FundingProgram<br>5339                                 | Contract Number<br>38190973B                         |
| Current Contract End Date<br>6.30.2022                 | Proposed End Date<br>6/30/2023                       |
| Remaining Federal/State Contract Amount<br>\$72,000.00 | Proposed Increase in Federal/State Funding<br>\$0.00 |

|   |                                  |
|---|----------------------------------|
| Subrecipient (Agency Name)<br>City of Fargo   |                                  |
| Contact Person<br>Julie Bommelman   | Telephone Number<br>701-476-6737 |
| Email Address<br>jbommelman@fargond.gov   |                                  |
| Project Description<br>Purchase 1 <30-foot replacement bus  |                                  |
| <p>1. Reason for Delay (Provide a detailed description.)<br/>Original procurement was for 3 buses and we have received 2 of those 3 buses. However, the third vehicle was produced and set to be delivered with the other 2 buses. Unfortunately, the one bus caught fire at the dealership and could not be salvaged. We were anticipating receiving a replacement for the burnt bus by June 30, 2022, however, there were a variety of delays due to the COVID pandemic and supply chain issues, specifically, Ford chassis were to be used but production of those ceased and they do not anticipate ramping up production again until possibly November 2022. We were informed today there is the potential to purchase different vehicles, so we are pursuing that avenue as well. We would like to have the contract extended to June 30, 2023 if possible.</p> |                                  |
| <p>2. What is the status of the contract project(s)? (Summarize project milestones to date and percent of budget remaining.)<br/>The status is 2 of the 3 vehicles in the contract have been delivered and reimbursement was requested and received. We are awaiting the third vehicle, which we were told would be delivered by June 30, 2022 - that has not been the case, so we are either going into production November 2022 or we are going to pursue a different vehicle we were informed of today.</p> <p>The percent of the budget remaining is 1/3 or \$72,000.</p>   |                                  |
| <p>3. Plan for Completion (List the steps to be taken if approval is granted that will ensure completion by the new end date.)<br/>We will either wait for the replacement of the vehicle destroyed by fire or we will purchase a different vehicle, whichever is more expeditious and cost effective.</p>  |                                  |
| <p>4. Indicate the number of Period of Performance/Contract extensions previously granted for this project:</p> <p><input type="checkbox"/> 0    <input type="checkbox"/> 1    <input checked="" type="checkbox"/> 2 or more, provide explanation: <u>The supply chain issues caused unavailability of chassis for vehicle.</u></p>   |                                  |

SFN 61785 (2-2022)  
Page 2 of 2

|  |                               |
|--|-------------------------------|
| Authorized Official or Agency Designee<br>Julie Bommelman  | Completion Date<br>06/16/2022 |
| I certify the project scope of work will be completed on or before the newly requested end date and claim requests will be submitted for reimbursement of eligible expenses in accordance with the <u>allowable time-frame</u> of the newly approved Period of Performance/Contract end date. All provisions of the Contract Agreement remain in effect and the sub-recipient will continue to adhere to the contractual terms and conditions to execute the project in the manner identified in the Contract Agreement. I further certify neither the project scope of work nor the approved budget, are under consideration to be changed in this request. Only the project's end date is requested to change. |                               |
| Signature of Authorized Official or Agency Designee<br><i>Julia Bommelman</i>  | Date<br>06/16/2022            |

|  |                   |
|--|-------------------|
| <i>This Section is for NDDOT/Local Government Division Staff use only</i>          |                   |
| <b>Recommendation:</b>   |                   |
| <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not Approved |                   |
| Signature<br><i>W. K. Johnson</i>  | Date<br>6/17/2022 |
| Comments:<br>Approved to extend for time due to ordering & delivery delays.        |                   |
|  |                   |
|  |                   |

Please send completed/signed extension request to [bhanson@nd.gov](mailto:bhanson@nd.gov) or  
NDDOT/Local Government Division  
608 E Boulevard Avenue, Bismarck, ND 58505-0700

**Certificate Of Completion**

Envelope Id: 6A705DC4C5924A20BD9E140D21B09CE9  
Subject: Contract #38190973C: Please DocuSign: Contract Amendment  
Contract Number: 38190973C  
PCN:  
Source Envelope:  
Document Pages: 5  
Certificate Pages: 3  
AutoNav: Enabled  
Envelopeld Stamping: Enabled  
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:  
Connie Nelson  
608 E Boulevard Ave  
Bismarck, ND 58505  
conelson@nd.gov  
IP Address: 165.234.92.5

**Record Tracking**

Status: Original  
6/21/2022 9:10:13 AM  
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**

Stacey Hanson  
smhanson@nd.gov  
Carahsoft OBO North Dakota Department of Transportation CLOUD  
Security Level: Email, Account Authentication (None), Authentication

**Signature**



Signature Adoption: Pre-selected Style  
Signed by link sent to smhanson@nd.gov  
Using IP Address: 165.234.252.245

**Timestamp**

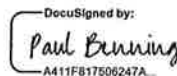
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Viewed: 6/21/2022 10:38:16 AM  
Signed: 6/21/2022 10:39:11 AM

**Authentication Details**

SMS Auth:  
Transaction: 26061BA7178C0A0491934A3F093AACB2  
Result: passed  
Vendor ID: TeleSign  
Type: SMSAuth  
Performed: 6/21/2022 10:38:04 AM  
Phone: +1 701-527-8879

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Paul Benning  
pbenning@nd.gov  
Security Level: Email, Account Authentication (None), Authentication



Signature Adoption: Pre-selected Style  
Signed by link sent to pbenning@nd.gov  
Using IP Address: 165.234.252.245

Sent: 6/21/2022 10:39:13 AM  
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**Authentication Details**

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Phone: +1 701-214-2502

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**Signer Events**

**Signature**

**Timestamp**

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

Shannon Sauer  
ssauer@nd.gov

Security Level: Email, Account Authentication  
(None), Authentication

**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

Jen Turnbow  
jturnbow@nd.gov

Security Level: Email, Account Authentication  
(None), Authentication

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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**

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

**Status**

**VIEWED**

Using IP Address: 165.234.252.245

**Timestamp**

Sent: 6/21/2022 9:10:21 AM  
Viewed: 6/21/2022 10:10:30 AM  
Completed: 6/21/2022 10:16:13 AM

**Agent Delivery Events**

Julie Bommelman  
jbommelman@cityoffargo.com

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

**Status**

**Timestamp**

Sent: 6/21/2022 12:45:18 PM  
Viewed: 6/23/2022 8:42:04 AM

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|------------------------------|---------------|------------------|
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Not Offered via DocuSign

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|----------------------------------|---------------|------------------|
| <b>Certified Delivery Events</b> | <b>Status</b> | <b>Timestamp</b> |
|----------------------------------|---------------|------------------|

Becky Hanson  
 bhanson@nd.gov  
 Carahsoft OBO North Dakota Department of  
 Transportation CLOUD  
 Security Level: Email, Account Authentication  
 (None)

**VIEWED**  
 Using IP Address: 165.234.252.245

Sent: 6/21/2022 10:16:14 AM  
 Viewed: 6/21/2022 10:24:48 AM

**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

|                           |               |                  |
|---------------------------|---------------|------------------|
| <b>Carbon Copy Events</b> | <b>Status</b> | <b>Timestamp</b> |
|---------------------------|---------------|------------------|

DOT Legal Admin  
 dotlegaladmin@nd.gov  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

DOT Legal Admin  
 dotlegaladmin@nd.gov  
 Security Level: Email, Account Authentication  
 (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

|                       |                  |                  |
|-----------------------|------------------|------------------|
| <b>Witness Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|-----------------------|------------------|------------------|

|                      |                  |                  |
|----------------------|------------------|------------------|
| <b>Notary Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|----------------------|------------------|------------------|

|                                |               |                   |
|--------------------------------|---------------|-------------------|
| <b>Envelope Summary Events</b> | <b>Status</b> | <b>Timestamps</b> |
|--------------------------------|---------------|-------------------|

Envelope Sent Hashed/Encrypted 6/21/2022 9:10:21 AM

|                       |               |                   |
|-----------------------|---------------|-------------------|
| <b>Payment Events</b> | <b>Status</b> | <b>Timestamps</b> |
|-----------------------|---------------|-------------------|

29

June 23, 2022

City Commission  
 225 N 4<sup>th</sup> Street  
 Fargo, ND 58102

**SUBJECT:** Resolution to Approve Award of Five-Year Contract for Snow Removal at Transit Shelters to Valley Green and Associates

**RECOMMENDATION:** The Mayor and City Commission are asked to consider award a five-year contract for snow removal at transit shelters and hubs to Valley Green and Associates and authorize the Mayor and City Administrator to enter into and execute a contract.

**BACKGROUND/KEY POINTS:** Fargo's contract for snow removal at shelters will be expiring soon. Fargo and Moorhead published a joint Request for Proposals (RFP) for snow removal. Notices were advertised in the paper and sent to 41 companies. One proposal was received from our current contractor, Valley Green and Associates.

Fargo's Transit Director participated in the RFP draft, evaluation of the proposal and award recommendation. Valley Green and Associates was recommended by the seven-person Evaluation Team. The proposal was within 10% of the independent cost estimate.

Each City will enter into a separate contract for services with the contractor.

Total annual costs were calculated with the assumption of 10 snow events per winter, with snow event being defined as 2" snowfall accumulation or more. Contractor will also be required to visit the Ground Transportation Center within 24 hours of a snow event to ensure that access is not compromised, and, if so, remove any snow ridges and apply de-icer/treatment chemicals.

| Contract Year - Estimate for 10 Snow Events | Yearly Cost | Cost per Shelter per Snow Event | Number of Shelters | Cost per Snow Event (GTC) (Plus \$100 per load hauled) | Cost per Snow Event (MTG)(Per load hauled) |
|---|-------------|---------------------------------|--------------------|--|--|
| 1   | \$21,470    | \$23                            | 74                 | \$345  | \$100                                      |
| 2   | \$21,470    | \$23                            | 74                 | \$345  | \$100                                      |
| 3   | \$21,470    | \$23                            | 74                 | \$345  | \$100                                      |
| 4   | \$22,950    | \$25                            | 74                 | \$345  | \$100                                      |
| 5   | \$22,950    | \$25                            | 74                 | \$345  | \$100                                      |
| Total                                       | \$110,310   |                                 |                    |  |  |

For Schedule Information: 701-232-7500





**FINANCIAL CONSIDERATIONS:** The actual cost will be based on the numbers of snow events. Prices in the contract are based on a cost per shelter. There may be additional costs incurred for additional snow hauling. The five-year contract cost is estimated to be \$110,310.

**Submitted By:**



**Cole Swingen, Assistant Transit Director – Operations**



**CONTRACT**  
Between the City of Fargo, North Dakota and  
Valley Green & Associates for  
**TRANSIT PASSENGER SHELTER & HUB SNOW CLEARING & HAULING  
SERVICES**  
October 1, 2022 through September 30, 2027

**THIS CONTRACT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Fargo, North Dakota, a North Dakota municipal corporation, hereinafter referred to as the “City”, and Abrahamson Services, LLC d/b/a Valley Green & Associates, a Minnesota Limited Liability Company, hereinafter referred to as the “Contractor”.

**WHEREAS**, the City is in need of transit passenger shelter and hub snow removal services and the Contractor agrees to provide such services according to the terms of this Contract; and

**WHEREAS**, The Federal Transit Administration may be providing federal operating assistance for this project in an estimated amount not to exceed 50 percent of the total contract cost; the Catalog of Federal Domestic Assistance (CFDA) number is 20.507; and

**WHEREAS**, the City and the Contractor wish to set forth the procedures, conditions and agreements between the parties; and

**NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION HEREBY ACKNOWLEDGED, BE IT AGREED** between the City and the Contractor as follows:

1.     **THE WORK**

The work under this Contract will include transit passenger shelter and hub snow removal services for the City’s MATBUS system. Tasks will include initial snow and ice removal within and around shelters and hubs within 24 hours of the conclusion of each snow event, follow-up snow removal, de-icing, and weekly reporting.

2.     **TERM**

The Contractor covenants and agrees that it will commence and continue the work during the period from October 1, 2022, through September 30, 2027, and will have completed the work in every aspect to the satisfaction and approval of the City.

3.     **MATERIALS**

The Contractor hereby agrees to furnish all materials and all necessary tools and equipment, and to do and perform all the work and labor, for the price and compensation set forth and specified in the proposal signed by the Contractor and hereto attached and hereby made a part of this Contract



(the "Proposal"), said work to be done and performed in accordance with the Specifications on file in the office of the City, which Specifications are hereby made a part of this Contract.

4. PRICE

The City agrees to pay, and the Contractor agrees to receive and accept payment, in accordance with the prices proposed for the unit items as set forth in the conformed copy of the Proposal hereto attached, which prices shall conform to those in the accepted Proposal. Payments will be made as provided in the Specifications.

5. ATTACHMENTS

This Contract consists of the following component parts, all of which are fully made a part of this Contract as if herein set out verbatim, or if not attached, as if hereto attached, to wit:

1. Advertisement for Proposals dated April 21, 2022
2. Request for Proposals Scope of Work for Transit Passenger Shelter and Hub Snow Removal Services dated April 28, 2022
3. All Addendums and Attachments identified in the Request for Proposal (not specified below)
4. Contractor Proposal and Appendix A, Cost Summary, dated May 26, 2022 (the Proposal)
5. This Contract
6. Federal Contract Clauses
7. Debarment and Suspension Certification (signed by Contractor)
8. Lobbying Certification (signed by Contractor)

6. STATE AND FEDERAL FUNDING

It is understood that this Contract between the City and the Contractor is contingent upon the receipt by the City of State and Federal funding for the operating deficit of the transit system during the time period specified herein. It is further understood that any reduction or loss of State or Federal funding for the operations of the transit system will be cause for the City, upon ninety (90) days written notification to the Contractor, to terminate this Contract.

7. MODIFICATIONS

Both parties will abide by all provisions set out, agreed upon and detailed within this Contract, the Proposal, Specifications and all Attachments. Any changes to the provisions of this Contract must be made with a written document signed by both parties.

8. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor, by submission of its Proposal, assures the City it will comply with, and be bound by, all applicable federal, state, and local laws, rules, and ordinances.

9. EQUAL OPPORTUNITY



The Contractor, as a recipient of City funds, must not discriminate against any worker, employee, applicant, or any member of the public because of race, color, sex, gender, sexual orientation, religion, age, marital status, national origin, veteran status, physical or mental disability or perceived disability, public assistance status, or other criteria protected by law.

10. INDEMNIFICATION

The Contractor will hold harmless, indemnify and defend the City, and the City's employees, representatives, agents, designees, and assigns, from any and all claims arising out of or in any way related to the work under this Contract. Said indemnification will include, inter alia, attorneys' fees, damages, whether punitive, economic or compensatory, and costs and disbursements. However, this paragraph will not apply to suits against the City arising out of the City's gross negligence or intentional acts, or those of its employees, agents or designees.

11. LICENSURE & INSURANCE

The Contractor must be properly licensed to do business in Fargo during the entire term of this Contract. The Contractor must maintain the appropriate Worker's Compensation and Employer's Liability Insurance and must annually provide the City with a Certificate of Liability Insurance describing the limits of coverage and naming the City of Fargo as an additional insured party. By signing this Contract, the Contractor certifies that it will maintain the specified coverage during the entire term of the Contract. Any Cancellation Policy statement must read: "Should any of the above described policies be canceled or modified before the expiration date thereof, the issuing company will mail forty-five (45) calendar days written notice to the certificate holder named as the additional insured, but shall impose no obligation or liability of any kind upon the company, its agents, or representatives."

12. GOVERNING LAW.

This Contract has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. The parties agree the venue for any litigation arising out of this Contract will be in state District Court within Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.

13. SUBCONTRACTORS

Subcontractors are not permitted under this Contract.

The date of commencement of the Contractor's performance shall be the date of signature by the City of Fargo, North Dakota authorized personnel or October 1, 2022, whichever event occurs later.

14. TERMINATION PROVISIONS

The City reserves the right to cancel any contract for cause upon written notice to the Contractor. Cause for cancellation will be documented failure(s) of the contractor to provide services in the





quantity and/or quality required. Notice of such cancellation will be given with sufficient time to allow for the orderly withdrawal of the Contractor without additional harm to the participants or the City.

The City may cancel or reduce the amount of service to be rendered if there is, in the opinion of the City Commission, a significant increase in local costs; or, in the opinion of the City Commission, insufficient state or federal funding available for the service, thereby terminating the contract or reducing the compensation to be paid under the contract. In such event, the City will notify Contractor in writing ninety (90) days in advance of the date such actions are to be implemented.

Contractor is hereby notified that the City of Fargo Transit system pursuant to this agreement is dependent upon the necessary receipt of local, state and federal funding.

CITY OF FARGO, A NORTH DAKOTA  
MUNICIPAL CORPORATION

Dated: \_\_\_\_\_, 2022

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

ATTEST:

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

ABRAHAMSON SERVICES, LLC,  
D/B/A  
VALLEY GREEN & ASSOCIATES

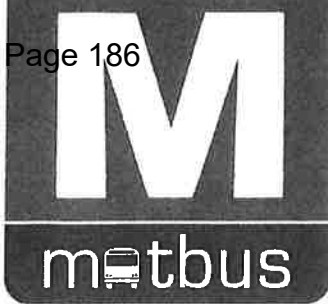
Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Joshua Abrahamson, Owner









**REQUEST FOR PROPOSALS**  
**SNOW CLEARING AND HAULING SERVICES FOR TRANSIT (MATBUS) PASSENGER**  
**SHELTERS & HUBS**  
**CITIES OF FARGO AND MOORHEAD – TRANSIT DIVISIONS**

**Date Issued: April 21, 2022**

The Cities of Fargo, North Dakota, and Moorhead, Minnesota, are requesting proposals for transit passenger shelter and hub snow clearing and hauling services for the coordinated MATBUS system. Tasks will include snow clearing from inside and around shelters, clearing a walkway to and from shelters, and ensuring shelter areas are clear of ice. Tasks will also include snow clearing and hauling from the parking lot and sidewalks at the Ground Transportation Center and hauling snow from and de-icing the parking lot at the Metro Transit Garage upon request. This contract will not include any shelter window cleaning services.

Specifications and requirements are available by request for this five-year contract, from October 1, 2022 through September 30, 2027, from Lori Van Beek, Moorhead Transit Manager, and Julie Bommelman, Fargo Transit Director, by email at [Lvanbeek@matbus.com](mailto:Lvanbeek@matbus.com) and [JBommelman@matbus.com](mailto:JBommelman@matbus.com) or by calling 701.241.8140.

Proposals will be received at the offices of the Metro Transit Garage, hereinafter called the "MTG", at 650 23<sup>rd</sup> Street North, Fargo, North Dakota 58102 until 2:00 p.m. (CDT) **Thursday, May 26, 2022** for Transit Passenger Shelter Snow Clearing Services. Proposals received after the specified date and time will be considered late proposals and will not be opened or considered for award.

The Cities of Fargo and Moorhead reserve the right to reject any and all bids and to waive any informalities, irregularities, or technicalities in the bidding process.

Up to 50% of the funding for the transit passenger shelter maintenance services contracts may be provided through a Federal Transit Administration operating grant, Catalog of Federal Domestic Assistance (CFDA) #20.507.

All bidders are notified that disadvantaged and women-owned business enterprises are encouraged to submit responses to this request. The Cities of Fargo and Moorhead will ensure that respondents to this request will not be discriminated against based on race, color national origin, sex, age, disability/handicap, or socioeconomic status.

If you have any questions regarding this request, please contact Lori Van Beek or Julie Bommelman at the E-mail addresses listed above or by calling 701.241.8140.

For the purposes of this procurement, the following proposal documents are applicable:

- Request for Proposals Cover Letter
- Instructions to Proposers
- Request for Proposals
- Scope of Work
- Submission of Proposal
- Federal Clauses & Standard Service Terms and Conditions
- Cost Summary (Appendix A-1)
- Cost Summary - Including Bus Stop Snow Removal (Appendix A-2)
- Certification Forms (Appendix B)
- Shelter Locations (Attachment 1)
- Evaluation Points (Attachment 2)
- Moorhead Marriott Diagram (Attachment 3)
- GTC Diagram (Attachment 4)
- MTG Diagram (Attachment 5)
- Bid Proposal Form (Attachment 6)
- Reference Release (Attachment 7)
- Vendor Registration Form for MATBUS (Attachment 8)
- Bus Stop Locations (Attachment 9)
- Applicable Federal Clauses (Attachment 10)

## INSTRUCTIONS TO PROPOSERS

### 1. GENERAL.

The following instructions by the Cities of Fargo and Moorhead are intended to afford proposers an equal opportunity to participate in the contracts.

### 2. SPECIFICATIONS.

2.1. Proposers are expected to examine the specifications, standard provisions, and all instructions. Failure to do so will be at the proposer's risk. Proposals that are submitted on other than authorized forms or with different terms or provisions may not be considered as responsive proposals.

2.2. The apparent silence of the specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of the specifications shall be made on the basis of this statement.

### 3. INFORMATION REQUIRED.

3.1. Each proposer shall furnish the information required by the Request for Proposals. The proposer shall sign the Cost Summary and the Bid Proposal Form, which collectively shall constitute the proposer's offer. Erasures or other changes must be initialed by the person signing the documents. Proposals signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to both Cities.

3.2. All prices shall be entered on the Cost Summary and are to be entered into the Excel spreadsheet. Totals shall be automatically calculated and entered in the "Total Price" column of the Cost Summary, and in case of discrepancy between the per shelter unit price and the extended total price, the unit price will be presumed to be correct.

3.3. Only signed, written proposals specifically accepting responsibility for meeting the objectives and requirements specified in the Request for Proposals will be considered. The cover letter must bear the signature of a person duly authorized to legally commit for the proposer. All costs of proposal preparation will be borne by the proposer.

3.4. Information submitted in response to this RFP will not be released by the Cities during the proposal evaluation process or prior to contract award. Proposers are advised that the Cities may be required to release proposal information, other than trade secrets, after contract award.



4. SUBMISSION OF PROPOSALS.

4.1. Sealed Proposals should be submitted in an envelope marked on the outside with the proposer's name and address and proposal description addressed to:

**ATTN: Lori Van Beek, Moorhead Transit Manager, and  
Julie Bommelman, Fargo Transit Director  
650 23<sup>rd</sup> Street North  
Fargo, North Dakota 58102  
Proposal For: Snow Clearing and Hauling Services for Transit (MATBUS)  
Passenger Shelters & Hubs  
Proposal Due Date: Thursday, May 26, by 2:00 PM**

4.2 **The Cost Summary should be submitted in a separately sealed envelope** along with the proposal. Proposals must be submitted in sufficient time to be received and time-stamped at the above location on or before the published proposal date and time shown on the Request for Proposals. Proposals received after the published time and date cannot be considered. Any proposals which are mislabeled or do not indicate the proposer's name or address as required above may be opened by the Cities solely for the purpose of identifying the proposer for return of the proposal.

4.3 Bidders will provide a bid for the full system, but each City will execute a separate contract.

5. PROJECTED SCHEDULE

The following is a schedule of dates/deadlines that pertain to all proposals received:  
**Note: Throughout this proposal, COB is "close of business" - this is 4:30 p.m. CDT (Central Daylight Time).**

|            |  |
|------------|--|
| April 21   | Cities release RFP document; publish advertisement, notify private sector.                         |
| May 5      | Deadline for proposer's submittal of written request for clarification or modification of the RFP. |
| May 12     | Cities' response to written request for clarification or modification of the RFP.                  |
| May 19 COB | Deadline for proposer's submittal of written bid protests regarding the solicitation (RFP).        |

|                   |  |
|-------------------|--|
| May 26            | Deadline for receipt of sealed proposals by 2:00 p.m. CDT in the Metro Transit Garage, 650 23 <sup>rd</sup> Street North, Fargo, North Dakota 58102. |
| May 26 – June 9   | Cities’ review and evaluate proposals, interview finalists.  |
| June 16           | Deadline for proposer’s submittal of written pre-award bid protests.   |
| June 27           | Moorhead City Council award of contract and notice to proceed issued, contingent upon Fargo City Commission approval.                                |
| June 27           | Fargo City Commission award of contract and notice to proceed issued, contingent upon Moorhead City Council approval.                                |
| July 5 COB        | Deadline for proposer’s submittal of written post-award protests.  |
| July 12           | Cities’ response to post-award protests.   |
| July 19           | Deadline for proposer’s submittal of written appeal of post-award decision to appropriate City governing board.                                      |
| July 19 – July 25 | Hold hearing of appeal of post-award decision with Fargo City Commission and Moorhead City Council.  |
| July 26           | Cities’ final written determination on appeal issued. All decisions regarding protests shall be considered final.                                    |
| October 1         | Successful proposer commences service.   |

6. MODIFICATION OR WITHDRAWAL OF PROPOSALS.

Proposals may be modified or withdrawn by written or email notice received by the Cities prior to the exact hour and date specified for receipt of proposals. A proposal may also be withdrawn in person by a proposer or an authorized representative prior to the proposal deadline; provided the proposer’s identity is made known and he or she signs a receipt for the proposal.

7. EVALUATION FACTORS.

The Cities will award contracts based upon the criteria set forth in the Request for Proposals, Attachment 2.

8. ELIGIBILITY FOR AWARD.

- 8.1. In order for a proposer to be eligible for award of the Contract, the proposal must be responsive to the Request for Proposals; and the Cities must be able to determine that the proposer is responsible to perform the Contract satisfactorily.
- 8.2. Responsive proposals are those complying with all material aspects of the Request for Proposals. Proposals which do not comply with all the terms and conditions of the Request for Proposals may be rejected as non-responsive.
- 8.3. Responsible proposers at a minimum must:
  - 8.3.1. Have adequate financial resources or the ability to obtain such resources as required during the performance of the Contract;
  - 8.3.2. Have a satisfactory record of past performance;
  - 8.3.3. Have necessary management and technical capability to perform;
  - 8.3.4. Be qualified as an established firm regularly engaged in the type of business to perform the Contract required by this Request for Proposals;
  - 8.3.5. Be otherwise qualified and eligible to receive an award under applicable federal, state, county, or municipal laws and regulations; and
  - 8.3.6. Sign the Certification Regarding Debarment; Certify that it is not on the U.S. Comptroller General's list of ineligible contractors – signing and submitting the proposal is so certifying.
  - 8.3.7. Sign the Certification of Restrictions on Lobbying
  - 8.3.8. Be registered with the State of North Dakota (Attachment 8)
- 8.4. A proposer may be requested to submit written evidence verifying that it meets the minimum criteria necessary to be determined a responsible proposer. Refusal to provide requested information shall result in the proposer being declared not responsible, and the proposal shall be rejected.

9. RESERVATION OF RIGHTS.

The Cities of Fargo and Moorhead expressly reserves the right to:

- 9.1. Reject or cancel any or all proposals;
- 9.2. Waive any defect, irregularity or informality in any proposal or proposal procedure;
- 9.3. Waive as an informality, minor deviations from specifications at a lower price than other proposals meeting all aspects of the specifications if it is determined that total cost is lower and the overall function is improved or not impaired;
- 9.4. Extend the proposal due date;
- 9.5. Reissue a Request for Proposals;
- 9.6. Procure any item or services by other means;
- 9.7. The Cities reserve the right to retain all proposals submitted. The selection or rejection of a proposal does not affect this right; and

9.8. The Cities reserve the right to negotiate a Contract with the proposer having the best evaluation as determined by the Cities. No award will be made automatically based upon the lowest price or based solely on the proposal submitted. The Cities additionally reserve the right to suspend negotiations with the first proposer should it not progress in a manner satisfactory to the Cities and commence negotiations with the next best-rated proposer.

10. ADDENDA, REQUESTS FOR MODIFICATION OR CLARIFICATION, PROTEST PROCEDURES

10.1. Addenda: In the event that it becomes necessary to revise any part of this RFP, or if additional information is necessary to enable the Proposer to make an adequate interpretation of the provisions of this RFP, a written addendum to the RFP will be provided to each prospective proposer by mail or e-mail. Receipt of all addenda must be acknowledged by each prospective proposer as requested on the Bid Proposal Form; acknowledgements for email receipt of addenda will be done by recipient sending an email acknowledgement. Oral instructions by the City of Fargo/City of Moorhead representatives are not binding.

10.2. Request for Modification or Clarification: Requests for clarification or modification of this RFP must be in writing. The Cities must receive any such request by **COB May 5, 2022**. Any request must be accompanied by all relevant information supporting the request for modification, interpretation, clarification or amendment of this solicitation.

Inquiries about Fargo-Moorhead Transit services and the Request for Proposal shall be directed to:

Julie Bommelman  
Transit Director  
City of Fargo  
650 23rd Street North  
Fargo, ND 58102  
TEL: (701) 476-6737  
FAX: (701) 241-8558  
jbommelman@matbus.com

or

Lori Van Beek  
Transit Manager  
City of Moorhead  
650 23rd Street North  
Fargo, ND 58102  
TEL: (701) 476-6686  
FAX: (701) 241-8558  
lvanbeek@matbus.com

10.3. Bid Protest Procedures

10.3.1. General: Protests will be accepted from prospective bidders or offerors whose direct economic interest would be affected by the award of a contract or by failure to award a contract. The Fargo Transit Director and the Moorhead Transit Manager will consider all protests or objections filed in a timely manner regarding the award of a contract, whether submitted before or after award. All protests shall be in writing and shall be supported by sufficient information to enable the protest to be considered. A protest will

not be considered if it is insufficiently supported, or it is not received within the time limits specified herein. Protest submissions should be concise, logically arranged, and clearly state the ground for the protest. Protests must include at least the following information:

- Name, address, and telephone number of protestor.
- Identification of the solicitation or bid.
- A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents.
- A statement as to what relief is requested.

Protests should be sent via certified mail through the U.S. Postal Service to:

**City of Fargo  
Transit Director  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102**

**City of Moorhead  
Transit Manager  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102**

Protests must be filed with the Cities in accordance with our procedures and time requirements. The protest to the Cities must be complete and contain all the issues that the protestor believes relevant. The Cities will respond to each substantive issue raised in the protest. Failure to include an issue in the protest to the Cities will preclude raising the issue to FTA, if the protest is appealed to that agency. Following an adverse decision by the Cities, protestor may file a protest with FTA under certain limited circumstances listed in paragraph 10.3.6.

On occasion, when considered appropriate by the Fargo City Administrator and/or the Moorhead City Manager, an informal conference on the merits of the protest with all interested parties may be held.

#### 10.3.2. Protests Before Award

- 10.3.2.1. Solicitation Phase: Protests concerning the solicitation must be submitted in writing by **COB May 19, 2022**. If the written protest is not received by the time specified, award may be made in the normal manner unless the Fargo Transit Director and the Moorhead Transit Manager, upon investigation, find that remedial action is required. Oral protests not followed up by a written protest will be disregarded.

Notice of a protest and the basis therefore will be given to all potential bidders or offerors.

- 10.3.2.2. Pre-Award Phase: When a protest against the making of an award is received after receipt of bids or proposals but prior to award, **COB**

**June 27, 2022**, the Fargo Transit Director and the Moorhead Transit Manager may determine to withhold the award pending disposition of the protest. The Cities will provide a written response to each material issue raised in the written protest. Notice of a protest as well as the Cities' response will be provided to bidders/proposers who responded to the solicitation and are in line for the award of a contract.

Where a written protest against the making of an award is received by the time **(COB June 16, 2022)**, an award will not be made unless the Cities determines that:

- The items to be procured are urgently required;
- Delivery or performance will be unduly delayed by failure to make award promptly; or,
- Failure to make award will otherwise cause undue harm to the Cities or the Federal Government.

If award is made, the Fargo Transit Director and the Moorhead Transit Manager will document the file to explain the need for an award and will give written notice of the decision to proceed with the award to the protestor and, as appropriate, to others concerned.

10.3.3. **Protests After Award:** A protest received by **COB July 5, 2022**, shall be reviewed by the Fargo Transit Director, the Moorhead Transit Manager, and the Legal Departments. The selected contractor will, in any event, be furnished with the notice of protest and the basis therefore. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Cities' interest, the Fargo Transit Director and the Moorhead Transit Manager may consider a mutual agreement with the contractor to suspend performance on a no-cost basis. A written response by the Fargo Transit Director and the Moorhead Transit Manager will be issued by **COB July 12, 2022**.

10.3.4. **Post-Award Appeals:** Appeals must be sent in writing to the Fargo City Commission and/or the Moorhead City Council by **COB July 19, 2022**. The Fargo City Commission and/or the Moorhead City Council will schedule a hearing between **July 19, 2022 and July 25, 2022**, where the appellant may be heard. The Fargo City Commission and/or the Moorhead City Council will issue the Cities a final written determination **by July 26, 2022**.

The decision of the Commission and/or Council is **final** and **no further appeals** may be made.

10.3.5. Determination of Interested Party: An interested party is an actual prospective bidder or offeror whose direct economic interest would be affected by award of a contract or failure to award a contract. This definition specifically excludes subcontractors and suppliers.

10.3.5.1. The ability to qualify as an actual or prospective bidder/proposer ends when the bid/proposal period ends.

10.3.5.2. The offer received from the protestor must be technically responsive.

10.3.5.3. The protestor must be the next in line to receive the award if the protested issues prevail.

10.3.5.4. If not next in line, the protestor must successfully challenge all intervening offers to establish next in line status.

10.3.6. Protests to FTA: Under certain limited circumstances, an interested party may protest to FTA the award of a contract pursuant to an FTA grant. FTA's review of any protest will be limited to alleged failure of the Cities to have or follow its written protest procedures or alleged failure to review a complaint or protest.

10.3.6.1. Time for Filing

An appeal to FTA must be received by FTA Region VIII within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA.

Protests should be addressed to:

**U.S. Department of Transportation  
Federal Transit Administration, Region VIII  
Byron Rogers Federal Building  
1961 Stout Street  
Suite 13-301  
Denver, CO 80294-3007**

Violations of Federal law or regulation will be handled by the complaint process stated within the law or regulation.

10.3.6.2. Submission of Protest to FTA

10.3.6.2.1. A protestor must exhaust all administrative remedies with the Cities before pursuing a protest to FTA.

10.3.6.2.2. Protests to FTA should be sent to the FTA Regional or Headquarters Office. A concurrent copy of the protest must be sent to the Cities.

10.3.6.2.3. The protest filed with FTA shall:

- Include the name and address of the protestor.

- Identify the Cities and the number/title of the contract solicitation.
- Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure of the Cities to have or follow its protest procedures or the alleged failure to review a complaint or protest.
- Include a copy of the local protest filed with the Cities and a copy of the Cities' decision, if any.

10.3.7. Other Remedies: Contractors may seek remedy in the North Dakota/Minnesota state courts, as applicable, if they desire to do so.



## REQUEST FOR PROPOSALS

### **INTRODUCTION**

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The Contractor will be required, after every snowfall greater than 2 inches, to clear snow from inside and around the bus shelters within 24 hours of the completion of the snow event. This includes the clearing of all snowfall from the concrete pad on which the shelter resides. Piling the snow around the edges of the pad will not be acceptable. The area inside of the bus shelter must be entirely clear of snow and ice.

Additionally, the Contractor will be required to ensure a pathway (with a width of 48 inches) clear of snow and ice is provided from the bus shelter entrance to the roadway.

Contractor will also be required to visit all shelters at least three times per week to ensure that access to the shelters is not compromised because of snow or ice accumulation. The three trip days per week cannot be consecutive, unless requests are made for additional de-icing.

Monthly reports.... Monthly reports must be provided to the Transit staff (to accompany required monthly billing invoices) listing the dates and approximate times that each of the passenger waiting shelters were serviced. Payment will not be made by the Cities without such documentation. Shelter locations are listed at the end of this document (Attachment 1).

### **MARRIOTT HUB**

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The Contractor will be required to service the Moorhead Marriott transfer Hub before the first bus arrives at 6:00 AM on days when snowfall meets the two-inch (2") accumulation requirement outlined above. The entire length of sidewalk (between the curb and shelter/seating area) from the cross walk on 28th Avenue S. to the driveway to the north of the utility fence must be cleared, including the accessible curb cut. Due to the large nature of this Hub, the Contractor will need to allocate more time for snow clearing/deicing than a standard shelter. See Attachment 4 for a diagram of the requirements.

### **GROUND TRANSPORTATION CENTER (GTC) HUB**

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The Contractor will be required to service the GTC (502 Northern Pacific Ave, Fargo, ND 58102) before 5:30 AM on days when snowfall meets the 2 inch accumulation requirement outlined above. The entire length of the sidewalk running along NP must be cleared from 5th St. N to the bus entrance for the GTC on the East side including the accessible curb cut. The pedestrian walkways that run between the GTC building and parking lot area must also be cleared of snow. Additionally, the entire parking lot of the GTC, including the inlet and outlet roads must be cleared of snow. Any snow that has been cleared from these areas must be hauled away twice a month, unless additional hauling is requested by the City. No de-icing

is required for the GTC unless requested by the City. See Attachment 5 for a diagram of the requirements.

### **METRO TRANSIT GARAGE (MTG)**

The Contractor will be required to haul away snow at the MTG (650 23rd St N, Fargo, ND 58102) when requested to by the City. De-icing may also be requested by the City.

### **ICE MELT**

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During the winter season, the Contractor will be required to circulate to all of the shelters (Attachment 1) at least three times per week regardless of snow accumulation in order to clear snow or ice buildup from sidewalks to ensure safety and ADA accessibility. The three trip days per week cannot be consecutive, unless requests are made for additional de-icing. Contractor will be required to have their choice of ice melt verified by the Cities to avoid concrete damage. The Cities may request additional trips as needed. The start of the winter season is defined as the first snowfall until the last snow melt, with consistent temperatures below 32 degrees Fahrenheit.

### **BUS STOP SNOW REMOVAL (OPTION)**

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During the period of this contract, the City may install concrete pads near midblock bus stops. In the event that these pads are installed, the Contractor will be required, after every snowfall greater than 2 inches, to clear snow from the concrete pads. Piling the snow around the edges of the pad will not be acceptable. In addition, the Contractor will be required to circulate to all of the concrete pads (Attachment 9) at least three times per week regardless of snow accumulation in order to clear snow or ice buildup from sidewalks to ensure safety and ADA accessibility. The three trip days per week cannot be consecutive, unless requests are made for additional de-icing.

### **BASIS FOR CONTRACT AWARD**

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The Cities of Fargo and Moorhead shall select a contractor to provide snow clearing services for transit (MATBUS) passenger shelters on the basis of qualifications, costs, previous experience, references, responsiveness and other relevant information as listed in the evaluation form, Attachment 2.

- The Contractor shall be required to submit a minimum of two contacts (with telephone and email contact information) for references, along with his or her proposal and assigned Reference Release Form (Attachment 7).
- It is recommended that the Contractor supply the Cities with its qualifications, in addition to describing how said qualifications or prior experiences apply to this project.
- The Contractor is advised to submit his or her plan for snow clearing and hauling, in addition to a brief description of equipment available to the Contractor, to

demonstrate his or her ability to effectively respond to large snow events in a timely fashion.

- The Contractor will be required to enter into two separate contracts – one with the City of Fargo and the other with the City of Moorhead; separate invoicing will also be required.
- The Contractor must register as a vendor with MATBUS by completing the Vendor Registration Form (Attachment 8).
- Prior to award of a contract, the vendor must prove that they are registered with SAM.gov.

#### **ADDITIONAL SHELTERS** \_\_\_\_\_

As the metropolitan transit system continues its growth and expansion, additional shelters will likely be added during the duration of this contract. Accordingly, the Cities reserve the right to revise the listing of shelters under the contract to include the snow clearing of any new shelters at the current costs (per cleaning) at the time of induction.

#### **INDIVIDUAL CLEANING REQUESTS** \_\_\_\_\_

In the event that the Transit Administration office receives complaints regarding the lack of snow clearing at a shelter (or the re-accumulation of snow caused by various weather conditions), the Contractor will be contacted. The Contractor must clean the shelter within 24 hours of notification. The Cities will pay the Contractor the same per-shelter rate for individual cleaning requests as it pays for a snow event per-shelter rate.

The Cities can also contact the Contractor about ice accumulation at shelters or hubs for any number of individual shelters/hubs or the entire system. The contractor will provide a Cost Summary for ice removal for an individual shelter/hub, and for the entire system. In the event that several shelters/hubs must be de-iced, but not the whole system, the Contractor will be paid the single shelter/hub cost times the number of shelters/hubs. Shelters must be de-iced within 24 hours of notification, hubs (Marriott and GTC) must be de-iced within 3 hours of notification.

#### **ONGOING SNOW EVENT DURING BUSINESS HOURS** \_\_\_\_\_

In the event of an ongoing snow event during business hours, the Contractor should be prepared to clear snow from the Hubs up to two times throughout the day. The Contractor must respond to notification by the Cities within 3 hours during an ongoing event. The Contractor will be notified if the Cities cannot continue services for the day, and ongoing snow clearing will not be needed. MATBUS business hours are defined as 6:00 a.m. to 11:30 p.m., Monday through Saturday.

#### **COMMUNICATIONS BETWEEN CONTRACTOR AND CITY EMPLOYEES** \_\_\_\_\_

In addition to a telephone number, the Contractor shall be required to provide the Cities of Fargo and Moorhead with an email address which will be checked (and responded to) by the

Contractor at least once per 24-hour period. The Cities will utilize this email address as the primary means of communication to alert the Contractor of specific cleaning tasks, problems, etc. **This is a firm and non-negotiable requirement of this contract.** Correspondence via email and telephone are the most preferred contact methods; any face-to-face meeting with City staff members must be scheduled in advance with the City employee(s).

**DAMAGE TO THE CITIES' PROPERTY** \_\_\_\_\_

The Contractor will ensure that all equipment utilized during the duration of the agreement (including ice melting solutions) will not damage the sidewalk or the transit passenger shelters' interior and exterior materials, such as (but not limited to) glass panels, benches, shelter walls, solar display units, display cases and the concrete base pads. In the event that such damage occurs, the Contractor shall promptly reimburse the Cities for the cost to repair or replace such materials.

**INSURANCE** \_\_\_\_\_

The Contractor shall furnish evidence of insurance providing coverage for all services provided for the duration of the contract. Insurance shall include \$1,000,000 Comprehensive General Liability coverage and Workers' Compensation coverage as detailed below. The Contractor shall be required to maintain this insurance in force until the contract/project is completed and accepted. In addition, the Contractor shall name the Cities of Fargo and Moorhead as additional named insureds to said policies with regard to the services and products being provided.

Each policy of insurance shall contain the following clauses: "It is agreed that these policies shall not be canceled nor the coverage reduced until thirty (30) days after the City of Fargo/City of Moorhead shall have received written notice of such cancellation or reduction by certified mail."

Contractor will provide the Cities of Fargo and Moorhead documentation proving required insurance coverage, in the form of a Certificate of Insurance, within fifteen (15) days of notice of contract award or ten (10) days before commencing snow clearing services, whichever occurs first.

**WORKERS' COMPENSATION** \_\_\_\_\_

The Contractor shall be required to obtain and keep in force during the terms of operation covered by this proposal North Dakota and/or Minnesota Worker's Compensation and Employer Liability Insurance and applicable Unemployment Insurance, all as provided more fully below. Certificates evidencing the required insurance will be furnished to the Cities prior to commencing any work under this contract. If the Contractor does not currently meet the requirements listed below, the Contractor shall submit a letter from a reputable insurance agent stating intent to provide insurance for the prescribed coverage.

North Dakota and/or Minnesota Worker's Compensation and Employer Liability Insurance at the limits established by the States of North Dakota and Minnesota. Deductible and Self Insured retainers, if any, shall be identified in the Bidder's proposal. All deductible payments are the responsibility of Contractor.

**SUBMISSION OF PROPOSAL  
REQUIRED COMPETITIVE PROCUREMENT PROPOSAL FORM**

The Cities of Fargo and Moorhead will employ the competitive procurement purchase process in the award of this offer. Offers shall be submitted in two (2) separate packages.

Proposers, which have relevant experience, are invited to complete and submit proposals. To enhance comparability, proposal elements must be addressed in the informational sequence noted below:

- Cover Letter,
- Bid Proposal Form, including Approach and Work Plan,
- Qualifications and References,
- Experience,
- Insurance Certificate or Letter
- Certification Forms
- Vendor Registration Form, and
- Cost Summary Spreadsheet Including Two Pricing Options: One Including Bus Stop Snow Removal and Omitting Bus Stop Snow Removal (submitted in a separately sealed envelope).

**The following documents must be signed and returned with your proposal in order for it to be considered responsive:**

- Response to RFP: one (1) original, five (5) hard copies, and one (1) electronic version in PDF format supplied on a USB Flash Drive,
- Proposal security payments to City of Fargo and to City of Moorhead
- Cost Summary (Appendix A-1 and Appendix A-2): one (1) original in a separately sealed envelope and a copy in Excel supplied on a USB Flash Drive,
- Signed Certifications (Appendix B)
  - Certification Regarding Debarment, Suspension & Other Responsibility Matters
  - Certification of Restrictions on Lobbying
- Vendor Registration Form

All proposals must be submitted before the deadline in the solicitation and addressed with the information as noted in the "Instructions to Proposers" section 5 above. The proposal contents shall include the following:

**Proposal Contents and Format**

The contents of the proposal shall include the following:

**Cover Letter**

Include appropriate introductory and contact information, including the name of the firm's principal liaison.

**Bid Proposal Form, Including Approach and Work Plan**

Proposer must complete the Bid Proposal Form and include a detailed work plan outlining all of the specific tasks that will need to be undertaken and the procedures that will be used to accomplish the Scope of Work. Please indicate the equipment and manpower that will be used in providing this service, as well as the cleaning methods.

**Qualifications and References**

Proposer must detail qualifications of firm in performing this type of work and provide references.

**Experience**

**Firm** - Proposer must submit any information appropriate to the RFP necessary to establish qualifications and experience (i.e.; references with contact name and telephone number).

**Personnel** - Proposer must include detailed work experience and number of specific personnel who will be directly involved ("hands-on" personnel) with this project and identify the proposed project manager.

**Insurance Certification or Letter**

**Certification Forms**

**Vendor Registration Form**

**Proposal Security**

**Cost Summary (Sealed Separately)**

Proposer must submit the Cost Summary with its proposal. All costs to be incurred and billed to the Cities of Fargo and Moorhead will be firm and included in this Summary. (Failure to complete and return this section will be cause for rejection of this proposal as non-responsive.) Cost Summary must be submitted in a separately sealed envelope.

All information must be legible. Any and all corrections and/or erasures must be initialed. Authorized respondent must sign each proposal and required information must be provided. A neatly typed document of reasonable length, following the RFP outline, is preferred. Expenses incurred in developing and submitting a proposal are borne entirely by bidder. Bidders will not include any such expenses as part of the price proposed in response to this RFP.

Before completing the Bid Proposal Form, Proposers should read the entire Request for Proposals (RFP) carefully to insure that any proposals submitted are responsive to this request. Particular attention should be made of the completion of all forms enclosed and submission of proposals in required format. Failure to provide all information requested herein may cause the proposal to be rejected as nonresponsive.

Proposals shall provide a concise delineation of the proposer's capability to satisfy the requirements of the RFP. A duly authorized officer of the company will sign each proposal.

### **PROPOSAL SECURITY**

#### **FARGO**

No proposal will be considered by the Cities to be responsive to this request unless accompanied by a cashier's check payable to the City of Fargo by a responsible, solvent bank in the United States in an amount equal to five percent (5%) of the first year of the contract amount; or, a bond executed by a surety company authorized to transact business in the State of North Dakota in an amount equal to five percent (5%) of the first year contract amount. The first year contract amount on which this shall be computed is the Fargo Only total from the Cost Summary. Such surety will be retained by the City of Fargo if the successful proposer fails, neglects or refuses to execute the contract, or fails to commence service as required under the contract. The check or bond of the highest ranked proposer will be returned after the execution of the contract. The check or bond of the second highest ranked proposer will be returned after the execution of the contract with the successful proposer. The checks or bonds of all other proposers will be returned promptly after the award of the contract by the City of Fargo.

#### **MOORHEAD**

No proposal will be considered by the Cities to be responsive to this request unless accompanied by a cashier's check payable to the City of Moorhead by a responsible, solvent bank in the United States in an amount equal to ten percent (10%) of the first year of the contract amount; or, a bond executed by a surety company authorized to transact business in the State of Minnesota in an amount equal to ten percent (10%) of the first year contract amount. The first year contract amount on which this shall be computed is the Moorhead Only total from the Cost Summary. Such surety will be retained by the City of Moorhead if the successful proposer fails, neglects or refuses to execute the contract, or fails to commence service as required under the contract. The check or bond of the highest ranked proposer will be returned after the execution of the contract. The check or bond of the second highest ranked proposer will be returned after the execution of the contract with the successful proposer. The checks or bonds of all other proposers will be returned promptly after the award of the contract by the City of Moorhead.

### **FEDERAL CLAUSES**



See Federal Clauses Attachment.

**CONFIDENTIALITY OF PROPOSAL INFORMATION**

Each proposal and supporting documents must be submitted in or under cover of a sealed envelope to provide confidentiality of the proposal information prior to the proposal opening.

Financial information required to be submitted with proposals to establish financial responsibility; cost/price proposals; and other financial data, such as overhead rates, etc. shall be handled as confidential data to the extent allowed under applicable law, including Minnesota Government Data Practices Act, M. S. Chapter 13, and utilized on a "need-to-know" basis for proposal evaluation. Such information shall be treated as confidential to the extent allowed under North Dakota's open records law, Chapter 44-04, N.D.C.C. (specifically, N.D.C.C. § 44-04-18.4).

**ACCURACY OF PROPOSAL** \_\_\_\_\_

Each proposal is publicly opened and the name of bidder is made part of the public record. Therefore, it is necessary that any and all information presented is accurate and/or will be that by which the respondent will complete the contract.

**PROPOSALS BINDING**

All proposals submitted in accordance with the terms and conditions of the RFP shall be binding upon the bidder for ninety (90) calendar days after the proposal opening.

**DISCLAIMER OF LIABILITY**

The Cities of Fargo and Moorhead will not hold harmless or indemnify any contractor for any liability whatsoever.

**HOLD HARMLESS**

The Cities of Fargo and Moorhead will be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

**LAWS GOVERNING**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of North Dakota and Minnesota, as applicable.

**CONDITIONAL PROPOSALS**

Conditional proposals are subject to rejection in whole or in part.

**SUBLETTING OF CONTRACT**

The contract that will be derived from this RFP shall not be sublet except with the written consent of the Cities of Fargo and Moorhead. No such consent shall be construed as making the Cities of Fargo and Moorhead a party to such subcontract, or subjecting the Cities of Fargo and Moorhead to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve the Contractor of his or her liability and obligation under his or her contract, and all transactions with the Cities of Fargo and Moorhead must be through the General Contractor.

**ASSIGNABILITY/TRANSFER OF INTERESTS** \_\_\_\_\_

There shall be no assignment/transfer of interests or delegation of Contractor's rights, duties or responsibilities of Contractor under the contract derived from this RFP without the prior written approval of the Cities of Fargo and Moorhead

**SEVERABILITY**

In the event any provision of the contract is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the contract and each provision of the contract will be and is deemed to be separate and severable from each other provision.

**REGULATORY REQUIREMENTS**

The Contractor shall comply with all Federal, State, and local licensing, training, testing and/or regulatory requirements (including permits) for the provision of transit passenger shelter maintenance services. The successful Contractor shall be appropriately licensed for the work required as a result of the contract. The cost for any required licenses or permits shall be the responsibility of the Contractor. Contractor is liable for any and all taxes due as a result of the contract.

**RESPONSIBLE FIRMS**

Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals.

**RESERVED RIGHTS**

The Cities of Fargo and Moorhead reserve the right to accept or reject any or all of the proposals submitted, waive informalities and technicalities and negotiate any or all elements of the proposals.

**WAIVER**

By submission of its proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of work or the furnishing of the labor services, supplies, materials, or equipment and facilities called for in the solicitation; that it

has checked its proposal for errors and omissions; that the prices stated in its proposal are correct and as intended by it; and, are a complete and correct statement of its prices for performing the labor, services, supplies, materials or equipment and facilities required by the Contract Documents. The Proposer waives any claim for the return of its proposal security (if any) if, on account of errors or omissions claimed to have been made by it in its proposal or for any other reason it should refuse or fail to execute the contract.

**INDEPENDENT PRICE DETERMINATION**

The Proposer certifies that he/she has not colluded, conspired, connived, or agreed, directly or indirectly, with any Proposer or person to put in a sham proposal or to refrain from proposing, and further, that he has not in any manner, directly or indirectly sought by agreement, collusion, communication, or conference, with any person, to fix the proposal amount herein or any other Proposer, or to fix any overhead, profit, or cost element of said proposal amount, or that of any other Proposer, or to secure any advantage against the Cities of Fargo and Moorhead or any person interested in the proposed contract.

**PROHIBITED INTEREST**

No administrator or employee of the Cities of and no member of its governing body shall participate in selection or in the award or administration of a contract if a conflict of interest real or apparent would be involved.

No member or delegate to the North Dakota Legislature, Minnesota State Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

**APPENDIX A-1**

**REFER TO PRICE SCHEDULE SPREADSHEET**

**REFER TO PRICE SCHEDULE SPREADSHEET  
(INCLUDING BUS STOP SNOW REMOVAL)**

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION & OTHER RESPONSIBILITY MATTERS**

Contractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where Contractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.

CONTRACTOR CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_

**Date**

\_\_\_\_\_

**Signature**

\_\_\_\_\_

**Company Name**

**CERTIFICATION OF  
RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_ that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contact, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_.

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

## Shelter Locations

| <b>MOORHEAD SHELTERS</b> |                                  |  |
|--------------------------|----------------------------------|--|
| 101                      | Center Mall Downtown             | Center Ave & 5th St                            |
| 102                      | US Bank Downtown                 | Center Ave & 5th St                            |
| 103                      | River View                       | 2nd Ave & 8th St N                             |
| 106                      | Regal Estates                    | 4th Ave & 24th St N                            |
| 138                      | Axis Clinicals                   | 34th St near 4th Ave N                         |
| 108                      | Walmart                          | 8th Ave & 34th St. N.                          |
| 109                      | Target                           | Hwy 10 Frontage Road near 34th St              |
| 110                      | Romkey Addn.                     | 20th St & 18th Ave S                           |
| 111                      | M State (Tech College)           | 28th Ave S                                     |
| 113                      | Belsly Blvd. - Lakeland          | 11th St & 32nd Ave S                           |
| 114                      | Concordia Campus                 | 8th St & 11th Ave S                            |
| 115                      | Days Inn                         | 30th Ave & 5th St S                            |
| 116                      | A Place for Hope                 | 12 <sup>th</sup> Ave S and 25 <sup>th</sup> St |
| 117                      | Brookdale Mall                   | 24th Ave & Rivershore Drive S                  |
| 118                      | Marriott Hub                     | 11 <sup>th</sup> St & 26th Ave S               |
| 121                      | Churches United for the Homeless | 1st Ave N & 19th St                            |
| 122                      | Public Library                   | 5th St & 2nd Ave S                             |
| 124                      | Apartment Buildings              | 20th Street South (midblock 12th & 14 Ave)     |
| 125                      | Moorhead High                    | 4th Ave Oak Way S                              |
| 127                      | MSUM Campus                      | 11th St at Center for Business                 |
| 128                      | MSUM Campus                      | 14th St S                                      |
| 129                      | Concordia Campus                 | 5th St S & 9 <sup>th</sup> Ave                 |
| 130                      | 34th Street                      | 12th Ave & 34th Street South Circle            |
| 131                      | Azool Hornbacher's               | 40 <sup>th</sup> Ave & 9 <sup>th</sup> St S    |
| 132                      | Horizon Middle School            | 40th St South between 12 Ave & Ridgewood       |
| 133                      | Bright Sky Apartments            | 34 <sup>th</sup> St & 3 <sup>rd</sup> Ave N    |
| 134                      | EasTen Mall                      | 34 <sup>th</sup> St N near Highway 10          |
| 135                      | Queen's Shelter                  | Belsly Blvd & 18 <sup>th</sup> St S            |
| 136                      | St. Joes Church                  | 2 <sup>nd</sup> Ave S & 11 <sup>th</sup> St    |
| 137                      | Clay County Courthouse           | 11 <sup>th</sup> St N & 8 <sup>th</sup> Ave    |
|                          | Bench to Street                  | 1 <sup>st</sup> Ave N & 8 <sup>th</sup> St     |
| <b>FARGO SHELTERS</b>    |                                  |  |
| 201                      | ND Job Service/Wendy's           | Westrac & 13th Avenue South                    |
| 202                      | ND Job Service / Scheel's        | 32nd Street & 13th Avenue South                |
| 203                      | CVS Pharmacy                     | 25th Street & 13th Avenue South                |



|     |   |  |
|-----|---|--|
| 204 | Market Square (Ameriprise Financial)          | Demores Drive & 13th Avenue South            |
| 205 | Benson Bunker Fieldhouse (NDSU)               | University Drive & Centennial Blvd.          |
| 206 | Essentia Clinic / Sanford                     | 12th Street & 17th Avenue South (north side) |
| 207 | Essentia Clinic / Sanford                     | 12th Street & 17th Avenue South (south side) |
| 208 | Community Homes                               | 23rd Street & 6th Avenue South               |
| 209 | VA Hospital                                   | Elm Street & 21st Avenue North               |
| 210 | Kmart Transfer Hub                            | 14th Street & 25th Avenue South              |
| 210 | Kmart Transfer Hub #2                         | 14th Street & 25th Avenue South              |
| 211 | Fraser Halls                                  | University Drive & 8th Avenue South          |
| 212 | Island Park                                   | 4th Street & 6th Avenue South                |
| 213 | Evaluation & Training Ctr.                    | 4th Street & 9th Avenue South                |
| 214 | University Drive Manor                        | 12th Street & 1st Avenue North               |
| 291 | North of Roosevelt Elementary                 | 10th Street & 12th Avenue North              |
| 216 | Coliseum                                      | 10th Street & 17th Avenue North              |
| 217 | Sanford Health Athletic Complex - SHAC (NDSU) | University Drive & 17th Avenue North         |
| 218 | Trollwood Village                             | Broadway & 31st Avenue North                 |
| 219 | Fargo North High                              | Broadway & 19th Avenue North                 |
| 221 | Washington Elementary                         | Broadway & 17th Avenue North                 |
| 222 | Casey's General Store                         | Broadway & 15th Avenue North                 |
| 223 | Sanford Health (east-side)                    | Broadway & 8th Avenue North                  |
| 224 | Saint Mary's Cathedral                        | Broadway & 6th Avenue North                  |
| 225 | Bison Court (NDSU)                            | University Drive & 15th Avenue North         |
| 226 | FamilyFare                                    | University Drive & 7th Avenue North          |
| 227 | Essentia Health                               | 30th Street & 32nd Avenue South              |
| 228 | Residential Area                              | 17th Avenue South & East Gateway Circle      |
| 229 | New Horizons                                  | Broadway & 25th Avenue North                 |
| 231 | Southeast Human Services                      | Midblock & 9th Avenue South                  |
| 232 | Lewis & Clark Elementary                      | 16th Street & 17th Avenue South              |
| 233 | YWCA / Friendship                             | University Drive & 31st Avenue South         |
| 235 | NDSCS   | University Drive & 19th Avenue North         |
| 236 | Sanford SouthPointe                           | 23rd Street & 32nd Avenue South              |
| 237 | Bethany Homes                                 | University Drive & 3rd Avenue South          |

|     |   |   |
|-----|---|---|
| 238 | Essentia Clinic / Sanford               | University Drive & 18th Avenue South      |
| 239 | Apartment loop (west-side)              | 33rd Street & 31st Avenue South           |
| 241 | Cass County Government                  | 10th Street & 2nd Avenue South            |
| 242 | Sanford Health (west-side)              | Broadway & 8th Avenue North               |
| 243 | Prairie Psychiatric                     | 4th Street & 6th Avenue South             |
| 244 | Candlewood Suites (NDSU)                | 18th Street North & Research Park Drive   |
| 245 | Holiday Station / Pioneer Manor         | 11th Street & 2nd Avenue North            |
| 246 | Islamic Society of FM                   | 28th Street & 6th Avenue South            |
| 247 | Engineering & Tech (NDSU)               | Albrecht Boulevard & Centennial Boulevard |
| 248 | Wallman Wellness Center                 | Centennial Boulevard & 18th Street North  |
| 249 | High Rises--Residence Halls (NDSU)      | Albrecht Boulevard & 15th Avenue North    |
| 251 | Visitor Pay Lot (NDSU)                  | Albrecht Boulevard (mid-block)            |
| 252 | University Village (NDSU)               | 12th Street & 17th Avenue North           |
| 253 | Criminal Justice & Public Policy (NDSU) | 17th Street & 12th Avenue North           |
| 255 | Library / Credit Union (NDSU)           | 14th Street & 12th Avenue North           |
| 256 | Niskanen Housing Complex (NDSU)         | University Drive & 18th Avenue North      |
| 257 | Fargodome (northeast corner)            | University Drive & 19th Avenue North      |
| 258 | Apartments (NDSU)                       | Dakota Drive & 16th Street North          |
| 259 | Target                                  | 43rd Street & 13 1/2 Avenue South         |
| 260 | New Life Center                         | 20th Street & 3rd Avenue North            |
| 261 | Residential Area                        | 27th Avenue & 15th Street South           |
| 262 | Apartment Loop (east-side)              | 31st Avenue & 32nd Street South           |
| 263 | Saint Anthony's Catholic Church         | 8th Avenue & 10th Street South            |
| 264 | Whale-of-a-Wash                         | 32nd Street & 12th Avenue North           |
| 265 | Walmart at the District                 | 37th Street & 55th Avenue South           |
| 266 | Apartments (east of Interstate 29)      | 17th Avenue South & 35th Street           |
| 267 | Rosewood on Broadway                    | 13th Avenue North & Broadway              |
| 268 | Stevens Hall (NDSU)                     | Centennial Boulevard & Bolley Dr          |
| 269 | Apartments (NDSU)                       | 11th Avenue & 18th Street North           |
| 270 | Walmart (13th Avenue)                   | 47th Street & 11th Avenue South           |
| 271 | Gate City Bank                          | 25th Avenue North & Broadway              |
| 274 | Osgood Hornbacher's                     | 40th Avenue South (midblock)              |
| 275 | Sheyenne High School                    | 40th Avenue South & Veteran's Boulevard   |

|     |  |  |
|-----|--|--|
| 276 | NDSU Research Park (Phoenix Intl.)                 | NDSU Research Park Drive & Phoenix driveway          |
| 278 | Fargo High Rise                                    | 2 <sup>nd</sup> Street S & 4 <sup>th</sup> Street S  |
| 279 | Metro Transit Garage                               | 650 23 <sup>rd</sup> Street N                        |
| 280 | 710 Lofts  | 10 <sup>th</sup> Street N & 7 <sup>th</sup> Avenue N |
| 281 | Residential Area                                   | 10 <sup>th</sup> Street N & 9 <sup>th</sup> Avenue N |
| -   | Cashwise on 13 <sup>th</sup> - Not yet constructed | 33 <sup>rd</sup> Street S Midblock                   |
|     | <b>GTC Transfer Hub</b>                            | <b>NP Avenue &amp; 4<sup>th</sup> Street N</b>       |

**Notes:**

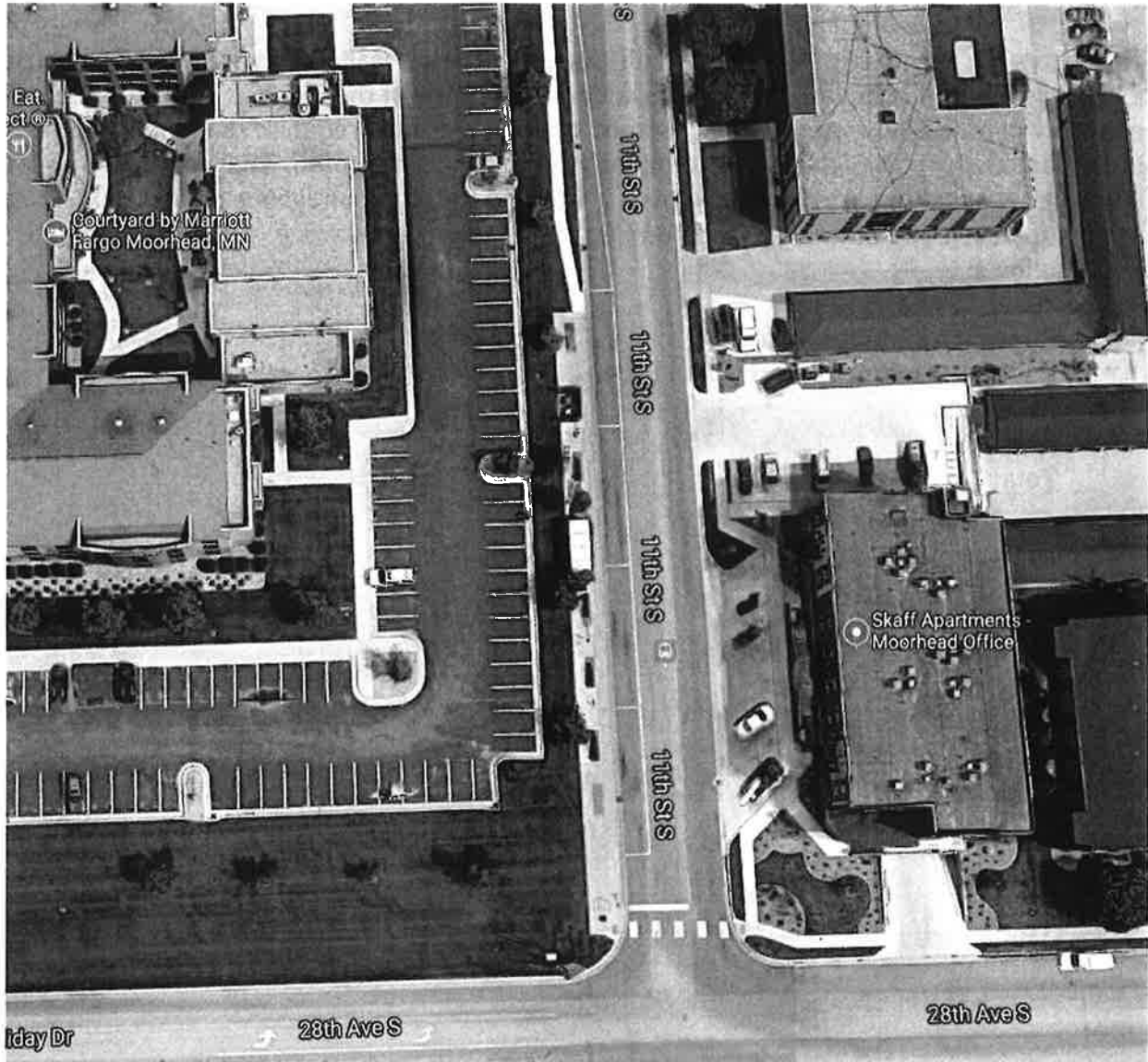
1. Green entries are Hubs (Moorhead Marriott and Fargo GTC); all other entries are shelters.
2. NDSU owns and maintains four shelter locations (which are not included on this list because these are not included in the RFP): one at A. Glenn Hill (STEM Center) - Shelter, two at Minard on Albrecht, and one at 17<sup>th</sup> Avenue and Albrecht.
3. The transfer hub at West Acres is maintained by West Acres and will not need to be serviced.

**EVALUATION CRITERIA**

The Cities of Fargo and Moorhead will review all proposals for completeness. Those proposals found incomplete or failing to address the needs of the Cities as stated herein will not be evaluated. Those proposals furnished complete with all required documentation will be evaluated. Proposers are urged to initially submit their best offer. An award (if any) will be made to that proposer whose proposal is deemed most advantageous to, and in the best interest of, each city and the general public. The evaluation factors in order of importance are as follows:

|                               |               |
|-------------------------------|---------------|
| Approach and Work Plan        | 25 pts        |
| Qualifications and References | 25 pts        |
| Experience                    | 20 pts        |
| Price                         | <u>30 pts</u> |
| Total                         | 100 pts       |

Marriott Diagram



Highlighted area must be cleared of snow and ice before 6:00 AM  
Areas behind the benches do not have to be cleared. The full sidewalk from the south-most bench to the curb-cut, and north of the trash cans must be cleared.

GTC Diagram

Yellow highlighted area must be cleared of snow before 5:30 AM.

\*NOTE: Buses will not be present prior to 5:30 AM.

Areas in red indicate walkways that are covered by the roof and are not visible from above, but must be serviced.

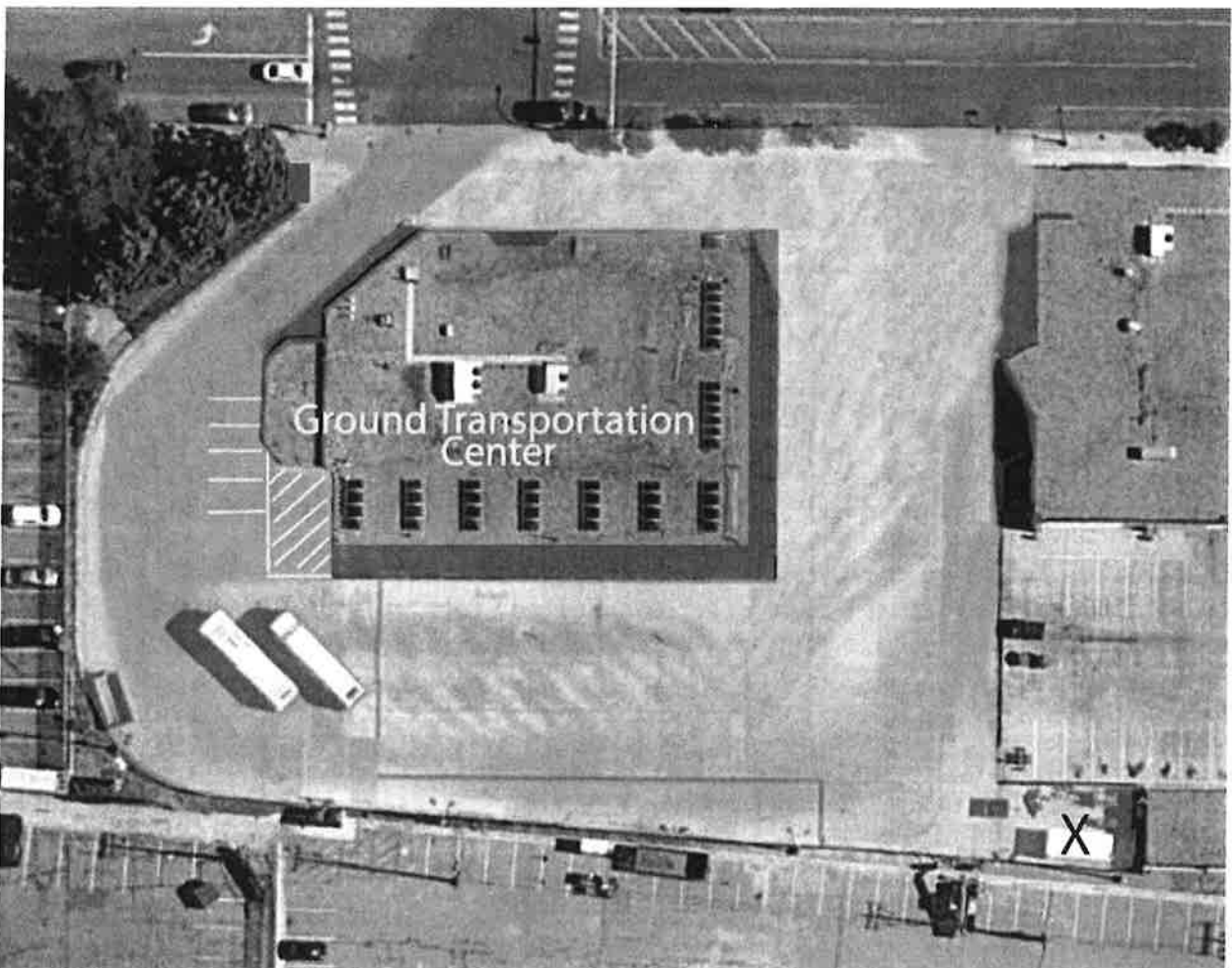
Estimated area:

Sidewalk = 4,150sf

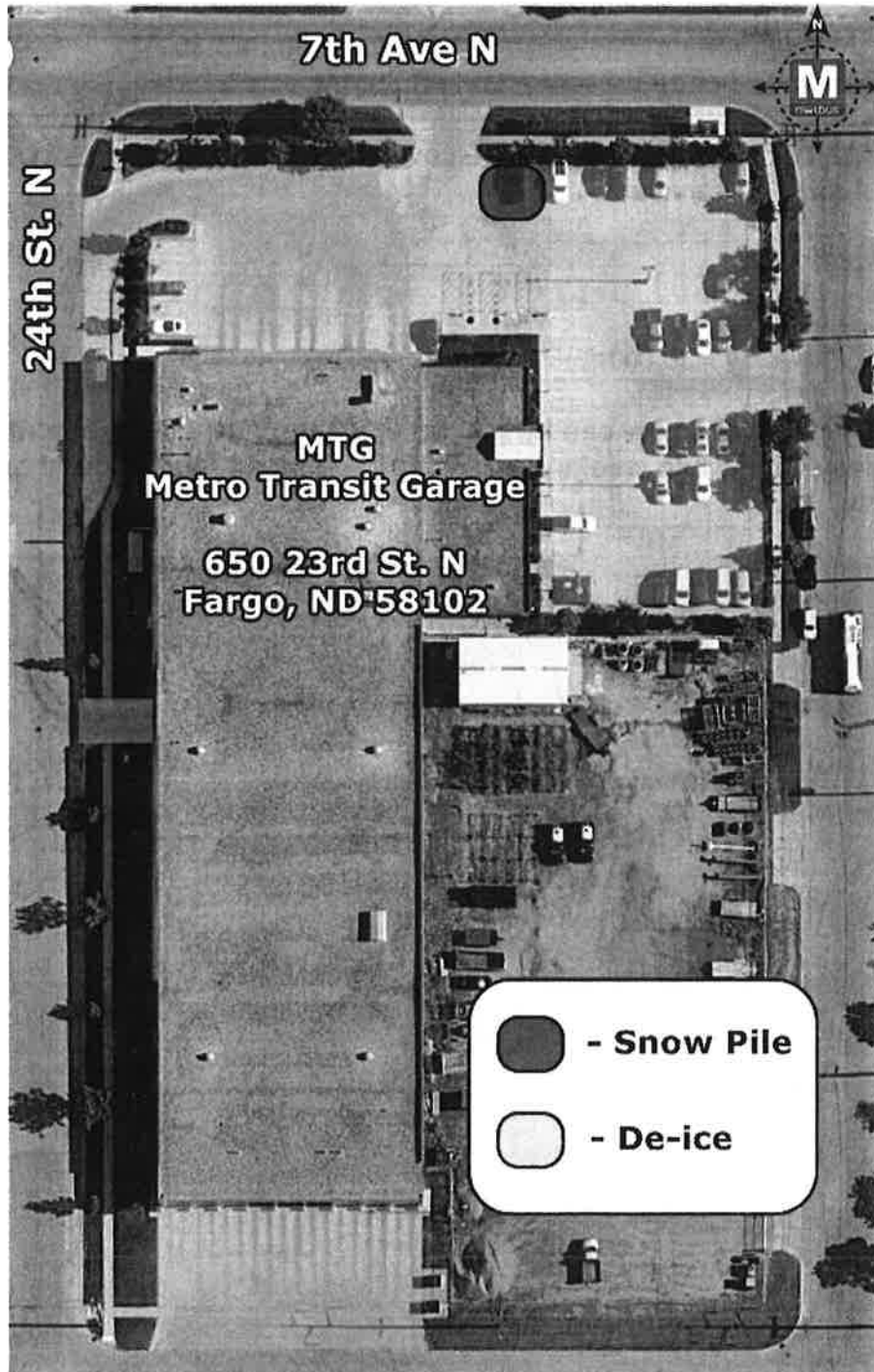
Walkway = 9,950sf

Parking Lot/Driveway = 30,000sf

**Temporary piling of snow can be placed at X (mark on the map) and should be hauled away within two weeks time. Additional snow hauling may be requested by the City.**



MTG Diagram



**BID PROPOSAL FORM**

**TRANSIT PASSENGER SHELTER SNOW CLEARING SERVICES  
CITIES OF FARGO AND MOORHEAD – MATBUS**

Sealed proposals must be received by the Cities of Fargo, ND, and Moorhead, MN, by 2:00 p.m. Central Daylight Time on, May 26, 2022 in the Metro Transit Garage, 650 23<sup>rd</sup> Street North, Fargo, ND 58102.

If additional space is needed, additional sheets may be attached to this form, which must be clearly referenced back to the specific section addressed, for example "1.8-List of Owners and/or Officers of the Organization."

**SECTION 1. FIRM DATA/QUALIFICATIONS**

1.1 Firm's Name: \_\_\_\_\_

1.2 Firm's Address: \_\_\_\_\_

1.3 Firm's Phone Number: \_\_\_\_\_

1.4 Contact Person (Name & Title): \_\_\_\_\_

1.5 Contact Email and Phone Number: \_\_\_\_\_

1.6 Legal Status of Organization: \_\_\_\_\_  
(i.e. corporation, non-profit, partnership, sole proprietorship, other)

1.7 Date Firm Started Business: \_\_\_\_\_

1.8 List Owners and/or Officers of the Organization:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.9 Description of Organization: Provide a brief description of the major business functions, history and organization structure of the responding organization.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.10 Service References: Provide references from clients for which the respondent organization has provided similar service during the past five (5) years using the forms attached labeled "1.10 - Service References."



1.11 Subcontractors: Provide names, addresses, telephone numbers and role of proposed subcontractors; specify if the firm is a Disadvantaged Business Enterprise (DBE) or Small Business Enterprise (SBE) or not. If more space is needed, attach and label as "1.11 – Subcontractors Information."

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1.12 Has respondent, or any officer or partner of respondent, failed to complete a contract? If yes, explain.

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1.13 Pending Litigation: Is any litigation current or pending against respondent or any officer or partner of respondent? If yes, give details. If more space is needed, attach and label as "1.13 – Pending Litigation."

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1.14 Describe your firm's strategy, route and timeline for completing the shelter snow clearing services, including personnel resources, equipment and supplies. Identify the project manager and their work experience. If more space is needed, attach and label as "1.14 –Service Work Plan."

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1.15 Briefly indicate why you consider your firm to be the best to perform this contract. Explain your snow and ice clearing approach and methods. If more space is needed, attach and label as "1.15 – Respondent Organization's Ability to Perform Contract."

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**SECTION 2: INSURANCE**

- 2.1 Insurance: Attach and label 2.1 – Insurance either: 1) Certificates of insurance for the prescribed coverage; or 2) A letter from a reputable insurance agent stating intent to provide insurance for the prescribed coverage.

**SECTION 3: BID PROPOSAL & SUPPORTING DATA**

- 3.1 Cost Summary: Based upon the service requirements as detailed in this RFP, attach a bid price using the spreadsheet provided and labeled "3.1-Cost Summary/Bid Price." Utilize the Excel spreadsheet included in the RFP package and provide both electronic copy (USB or email) and paper copy of the completed forms. DO NOT LOCK OR PROVIDE PASSWORDS TO UNLOCK ELECTRONIC FILES.
- 3.2 Optional Services/Bid Price: Describe any optional and/or innovative services which you offer for consideration, as well as any minimum requirements you wish to exceed. Provide a detailed budget for these optional services on the attached form labeled "3.2-Optional Services/Bid Price."

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**SECTION 4: COVENANT AGAINST CONTINGENT FEES**

The Proposer has ( ) has not ( ) employed any company or person (other than a full-time, bona fide employee working solely for the Proposer) to solicit or secure this Contract and has ( ) has not ( ) paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the Proposer) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this Contract; and agrees to furnish information relating to the above, as requested by the Contract Administrator.

**SECTION 5: ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda to the RFP solicitation:

|                    |             |
|--------------------|-------------|
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |
| Addendum No. _____ | Dated _____ |

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive, which will require rejection of proposal.

**SECTION 6: PROPOSER CERTIFICATION STATEMENT**

The undersigned certifies that he/she is legally authorized by the Proposer to make the statements and representations contained in this document and represents and warrants that the foregoing information is true and accurate to the best of his knowledge and intends that the Cities of Fargo, North Dakota and Moorhead, Minnesota, rely thereon in evaluating the Proposer.

PROPOSER'S NAME: \_\_\_\_\_

DATE OF SIGNING: \_\_\_\_\_

SIGNATURE BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

NOTARY: \_\_\_\_\_

NOTARY SEAL:

**1.10 - SERVICE REFERENCES**

Firm Name: \_\_\_\_\_  
Street: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Contract Person: \_\_\_\_\_  
Telephone Number: (\_\_\_\_) \_\_\_\_\_  
Length of Service: from \_\_\_\_\_ to \_\_\_\_\_

Please describe the services respondent provided to this organization by checking as many of the following as apply:

**NOTE: Include completed/signed Reference Release (Attachment 6)**

## REFERENCE(S) RELEASE

For valuable consideration, I hereby confer on the Cities of Fargo and Moorhead the absolute and irrevocable right and permission to check and verify the references and financial institution information received.

I hereby release and discharge the Cities of Fargo and Moorhead from all and any claims and demands ensuing from or in connection with the use of the information, including all claims for libel and invasion of privacy.

This authorization and release shall inure to the benefit or the legal representatives, licensees and assigns of the Cities of Fargo and Moorhead as well as the person(s) from whom they received the information. I hereby affirm that I am the correct representative of the company listed below and have the right to provide the information. I have read the foregoing and fully understand the contents hereof. This release shall be binding upon my heirs, legal representatives and assigns.

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

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

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

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_



**REFER TO BUS STOP LOCATION SPREADSHEET**

**REFER TO APPLICABLE FEDERAL CLAUSES DOCUMENT**



Snow Removal Event and Follow-up Visit

|                       | Number of Shelters/Hubs | Snow Events* | Year 1                          |            | Year 2                          |            | Year 3                          |            | Year 4                          |            | Year 5                          |            | Snow Removal Cost for 5 years |
|-----------------------|-------------------------|--------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|-------------------------------|
|                       |                         |              | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost |                               |
| Standard Shelters     | 29                      | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| Marriott Transfer Hub | 1                       | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| <b>Total</b>          | <b>30</b>               |              |                                 |            |                                 |            |                                 |            |                                 |            |                                 |            |                               |

Marriott Hub Weekly Inspections

|        | Estimated Number of Trips*** | Cost** per Trip | Annual Inspection Cost |
|--------|------------------------------|-----------------|------------------------|
| Year 1 | 44                           |                 | \$ -                   |
| Year 2 | 44                           |                 | \$ -                   |
| Year 3 | 44                           |                 | \$ -                   |
| Year 4 | 44                           |                 | \$ -                   |
| Year 5 | 44                           |                 | \$ -                   |
|        |                              |                 | \$ -                   |

|        | GRAND TOTAL COST ESTIMATE FOR 5 YEAR CONTRACT ^ |
|--------|---|
| Year 1 | \$ -  |
| Year 2 | \$ -  |
| Year 3 | \$ -  |
| Year 4 | \$ -  |
| Year 5 | \$ -  |
|        | \$ -  |

Individual Costs

|        | Cost** per Single Shelter per Snow Clearing and Hauling Request | Cost** per Single Shelter per De-icing Request | Cost** per Single Hub per Snow Clearing and Hauling Request | Cost** per Single Hub per De-icing Request |
|--------|---|--|---|--|
| Year 1 |   |  |   |  |
| Year 2 |   |  |   |  |
| Year 3 |   |  |   |  |
| Year 4 |   |  |   |  |
| Year 5 |   |  |   |  |

Number of hours estimated to clear all Moorhead shelters and hub for one 2" snow event:

\* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.

\*\* Cost should be inclusive of all labor, equipment, and supplies.

\*\*\* Estimated weekly inspections are based on two trips per week during the winter season, defined as the first snow fall to the last snow melt; number of actual trips will vary annually depending upon weather.

^ The City may negotiate with the selected Contractor for a monthly fee year-round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Instructions: Only the colored areas can be completed. Computations will auto-fill for totals.

Snow Removal Event and Follow-up Visit

|                   | Number of Shelters/Hubs | Snow Events* | Year 1                          |            | Year 2                          |            | Year 3                          |            | Year 4                          |            | Year 5                          |            | Snow Removal Cost for 5 years |
|-------------------|-------------------------|--------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|-------------------------------|
|                   |                         |              | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost |                               |
| Standard Shelters | 74                      | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| MTG               | 1                       | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| GTC Hub           | 1                       | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| <b>Total</b>      | <b>76</b>               |              | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |

| GRAND TOTAL COST ESTIMATE FOR 5 YEAR CONTRACT <sup>4</sup> |             |
|--|-------------|
| Year 1   | \$ -        |
| Year 2   | \$ -        |
| Year 3   | \$ -        |
| Year 4   | \$ -        |
| Year 5   | \$ -        |
| <b>Total</b>   | <b>\$ -</b> |

| Individual Costs |  |  |  |  |                                     |                                 |
|------------------|--|--|--|--|-------------------------------------|---------------------------------|
|                  | Cost** per Single Shelter per Snow Removal Request | Cost** per Single Shelter per De-Icing Request | Cost** per Single Hub per Snow Removal Request | Cost** per Single Hub per De-Icing Request | Cost** per MTG Snow Milling Request | Cost** per MTG De-Icing Request |
| Year 1           |  |  |  |  |                                     |                                 |
| Year 2           |  |  |  |  |                                     |                                 |
| Year 3           |  |  |  |  |                                     |                                 |
| Year 4           |  |  |  |  |                                     |                                 |
| Year 5           |  |  |  |  |                                     |                                 |

Number of hours estimated to clear all Fargo shelters and hub for one 2" snow event:

\* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.  
 \*\* Cost should be inclusive of all labor, equipment, and supplies.  
<sup>4</sup> The City may negotiate with the selected Contractor for a monthly fee year-round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Date: \_\_\_\_\_

Snow Removal Event and Follow-up Visit

|                   | Number of Shelters/Hubs/Stops | Snow Events* | Year 1                          |            | Year 2                          |            | Year 3                          |            | Year 4                          |            | Year 5                          |            | Snow Removal Cost for 5 years |
|-------------------|-------------------------------|--------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|-------------------------------|
|                   |                               |              | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost |                               |
| Standard Shelters | 29                            | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| Bus Stops         | 30                            | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| Marriott          |                               |              | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| Transfer Hub      | 1                             | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| <b>Total</b>      | <b>40</b>                     |              | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |

Marriott Hub Weekly Inspections

|        | Estimated Number of Trips*** | Cost** per Trip | Annual Inspection Cost |
|--------|------------------------------|-----------------|------------------------|
| Year 1 | 44                           | \$ -            | \$ -                   |
| Year 2 | 44                           | \$ -            | \$ -                   |
| Year 3 | 44                           | \$ -            | \$ -                   |
| Year 4 | 44                           | \$ -            | \$ -                   |
| Year 5 | 44                           | \$ -            | \$ -                   |

GRAND TOTAL COST ESTIMATE FOR 5 YEAR CONTRACT\*

|        |      |
|--------|------|
| Year 1 | \$ - |
| Year 2 | \$ - |
| Year 3 | \$ - |
| Year 4 | \$ - |
| Year 5 | \$ - |

Individual Costs

|        | Cost** per Single Shelter per Snow Clearing and Hauling Request | Cost** per Single Shelter per De-icing Request | Cost** per Single Hub per Snow Clearing and Hauling Request | Cost** per Single Hub per De-icing Request | Cost** per Single Bus Stop per Snow Clearing and Hauling Request | Cost** per Single Bus Stop De-icing Request |
|--------|---|--|---|--|--|---|
| Year 1 |   |  |   |  |  |   |
| Year 2 |   |  |   |  |  |   |
| Year 3 |   |  |   |  |  |   |
| Year 4 |   |  |   |  |  |   |
| Year 5 |   |  |   |  |  |   |

Number of hours estimated to clear all Moorhead shelters and hub for one 2" snow event:

\* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.

\*\* Cost should be inclusive of all labor, equipment, and supplies.

\*\*\* Estimated weekly inspections are based on two trips per week during the winter season, defined as the first snow fall to the last snow melt; number of actual trips will vary annually depending upon weather.

^ The City may negotiate with the selected Contractor for a monthly fee year round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Cost Summary for City of Fargo

Snow Removal Event and Follow-up Visit

|                   | Number of Shelters/Hubs/Stops | Snow Events* | Year 1                          |            | Year 2                          |            | Year 3                          |            | Year 4                          |            | Year 5                          |            | Snow Removal Cost for 5 years |
|-------------------|-------------------------------|--------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|---------------------------------|------------|-------------------------------|
|                   |                               |              | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost | Cost per Shelter per Snow Event | Total Cost |                               |
| Standard Shelters | 74                            | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| Bus Stop          | 69                            | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| MTG               | 1                             | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| GTC Hub           | 1                             | 10           | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                            | \$ -       | \$ -                          |
| <b>Total</b>      | <b>145</b>                    |              |                                 |            |                                 |            |                                 |            |                                 |            |                                 |            |                               |

Individual Costs

|        | Cost** per Single Shelter per Snow Clearing and Hauling Request | Cost** per Single Shelter per De-icing Request | Cost** per Single Hub per Snow Clearing and Hauling Request | Cost** per Single Hub per De-icing Request | Cost** per Single Bus Stop per Snow Clearing and Hauling Request | Cost** per Single Bus Stop De-icing Request | Cost** per MTG Snow Hauling Request | Cost** per MTG De-icing Request |
|--------|---|--|---|--|--|---|-------------------------------------|---------------------------------|
| Year 1 |   |  |   |  |  |   |                                     |                                 |
| Year 2 |   |  |   |  |  |   |                                     |                                 |
| Year 3 |   |  |   |  |  |   |                                     |                                 |
| Year 4 |   |  |   |  |  |   |                                     |                                 |
| Year 5 |   |  |   |  |  |   |                                     |                                 |

|              | GRAND TOTAL COST ESTIMATE FOR 5 YEAR CONTRACT |
|--------------|---|
| Year 1       | \$ -  |
| Year 2       | \$ -  |
| Year 3       | \$ -  |
| Year 4       | \$ -  |
| Year 5       | \$ -  |
| <b>Total</b> | <b>\$ -</b>                                   |

Number of hours estimated to clear all Fargo shelters and hub for one 2" snow event:

\* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.  
 \*\* Cost should be inclusive of all labor, equipment, and supplies.  
 \*\*\* The City may negotiate with the selected Contractor for a monthly fee year round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Date: \_\_\_\_\_



## Midblock Bus Stop Information (Attachment 9)

## Moorhead &amp; Dilworth Bus Stop Locations

| Main Street          | Cross Street  |
|----------------------|---|
| 1120 17th St N       | (Midblock East Side)                                      |
| 12th Ave S           | 23rd St S (Corner SW Midblock in front of Youth Services) |
| 1st Ave NW           | Dilworth Community Center (Midblock South)                |
| 20th St S            | 14/16th Ave S (Midblock West)                             |
| 20th St S            | 30th Ave S (Midblock East Side)                           |
| 2nd Ave S            | 14/13th Ave S (Midblock North)                            |
| 34th St N            | EasTen Mall (Midblock West)                               |
| 34th St N            | EasTen Mall (Midblock West)                               |
| 34th St S            | 11th Ave S (Midblock East)                                |
| 34th St S            | Vista Center (Midblock North of Right-turn lane)          |
| 36th St S            | 24th Ave S (Midblock S of 24th Ave)                       |
| 4th Ave S            | (Midblock between 34th St & Cleaview Ct N)                |
| 5th Ave N            | West of Hwy 75 (Midblock by driveway)                     |
| 7th Ave N            | 20/19th St N (Midblock North)                             |
| 8th St S             | 13th Ave S (Midblock Sanford north of driveway)           |
| Hwy 10 Frontage Road | 30th/32nd St N (Midblock by Travelodge Driveway)          |
| Hwy 10 Frontage Road | Villa Di Sole (Midblock North)                            |
| Hwy 10 Frontage Road | Dakota Boys Ranch (Midblock North)                        |
| Hwy 10 Frontage Road | CVS Pharmacy (Midblock North)                             |

## FARGO &amp; WEST FARGO Bus Stop Locations

| Main Street | Cross Street                              |
|-------------|---|
| Broadway N  | 23rd Ave N (Midblock West)                |
| 10th St N   | 17/19th Ave N (Midblock East)             |
| 11th Ave N  | Madison Park (Midblock North)             |
| 11th St N   | 3rd Ave N (Midblock East)                 |
| 12th Ave N  | Reineke Fine Arts Center (Midblock North) |
| 12th Ave N  | YWCA (Midblock South)                     |
| 13th Ave S  | 34/33 St S (Midblock South)               |
| 17th Ave N  | FargoDome Crosswalk (Midblock South)      |
| 17th Ave N  | FargoDome Crosswalk (Midblock North)      |
| 17th Ave S  | South High School (Midblock North)        |
| 17th Ave S  | 43rd/44th St S (Midblock South)           |
| 17th Ave S  | South High School (Midblock South)        |
| 18th Ave SW | 40th St SW (Midblock North)               |
| 18th St S   | 26th Ave S (Midblock East)                |
| 19th Ave S  | Fastlane Car Wash (Midblock South)        |
| 23rd Ave S  | 55/54th St S (Midblock South)             |
| 23rd St S   | Somali Business Center (Midblock East)    |
| 25th St S   | 12th Ave S (Midblock West)                |
| 25th St S   | 25th St Market (Midblock East)            |
| 25th St S   | 12th Ave S (Midblock East)                |
| 28th St S   | 32nd Ave S (Midblock East)                |
| 30th Ave S  | Urban Plains Apartments (Midblock North)  |
| 32nd Ave E  | 6/4th St E (Midblock North)               |
| 32nd Ave E  | 4th/2nd St E (Midblock North)             |
| 32nd Ave E  | 2/4th St E (Midblock South)               |
| 32nd Ave S  | 33rd St SW (Midblock North)               |
| 32nd Ave W  | West Fargo Sports Arena (Midblock North)  |
| 32nd Ave W  | West Lake Apartments (Midblock North)     |
| 38th St S   | Holiday Inn (Midblock West)               |
| 40th Ave S  | 43rd/44th St S (Midblock North)           |
| 40th Ave S  | 47th St S (Midblock North)                |
| 40th Ave S  | 56th St S (Midblock North)                |
| 40th Ave S  | 50th St S (Midblock South)                |
| 42nd St S   | 32nd/31st Ave S (Midblock East)           |
| 42nd St S   | 23rd Ave S (Midblock East)                |
| 42nd St S   | 17th Ave S (Midblock West)                |
| 42nd St S   | 19th Ave S (Midblock West)                |
| 42nd St S   | 23rd Ave S (Midblock West)                |
| 42nd St S   | 24th Ave S (Midblock West)                |
| 42nd St S   | Swanson Health Products (Midblock East)   |
| 42nd St S   | 33rd Ave S (Midblock East)                |

|                    |  |
|--------------------|--|
| 42nd St S          | Hornbacher's (Midblock East)           |
| 42nd St S          | 19th Ave S (Midblock West)             |
| 44th Ave S         | 46/45 St S (Midblock South)            |
| 44th Ave S         | Osgood Strip (Midblock North)          |
| 44th Ave S         | Bluestem Ct S (Midblock North)         |
| 4th St S           | Community Theater (Midblock)           |
| 7th Ave E          | 23rd St E/45th St S (Midblock North)   |
| 8th St W           | 9th St W (Midblock North)              |
| Agassiz Xing       | Ronald McDonald House (Midblock North) |
| Albrecht Blvd      | 14/15th Ave N (Midblock East)          |
| Albrecht Blvd      | 17th Ave N (Midblock West)             |
| Albrecht Blvd      | 14/15th Ave N (Midblock East)          |
| Bison Center       | 33rd St S (Midblock)                   |
| Bluestem Dr        | Apartments (Midblock East)             |
| Cash Wise Driveway | 33rd St S (Midblock)                   |
| Dakota Dr          | West Port Apartments (Midblock South)  |
| Dakota Dr          | Dakota Creek Lofts (Midblock South)    |
| Dkaota Dr          | 15th St N (Midblock North)             |
| NP Ave N           | 12th St N (Midblock South)             |
| NP Ave N           | 11/10th St N (Midblock South)          |
| Scheels Arena      | (Midblock South)                       |
| SEHS Far Side Stop | 9th Ave S (Midblock North)             |
| University Dr S    | 17/18th Ave S (Midblock West)          |
| University Dr S    | 15th Ave S (Midblock East)             |

This contract may be funded up to 50% through an operating grant from the Federal Transit Administration, catalog of Federal Domestic Assistance (CFDA) #20.507. As such, all applicable federal clauses and regulations apply.



1. **No Government Obligation to Third Parties:** *Applies to all third-party contracts that are federally funded.*

- a. 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.
- b. 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.



2. **Access to Records and Reports:** *Applies to all contracts funded in whole or in part with FTA funds.*

- 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-agreements, leases, subcontracts, arrangements, other third-party agreements 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.



3. **Federal Changes:** *Applies to all contracts.*

The 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 the Agency and FTA, and they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.



4. **Civil Rights and Equal Opportunity:** *Applies to all contracts.*

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 Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- a. 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.
- b. 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.

- c. 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.
- d. 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. **Incorporation of FTA Terms:** *Applies to all contracts.*

The preceding provision includes, 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 FTA Circular 4220.1 as amended, 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 Agency requests which would cause the Agency to be in violation of the FTA terms and conditions.



6. **Energy Conservation:** *Applies to all contracts. The Recipient agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6201 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, 'Requirements/or Energy Assessments,' 49 C.F.R. part 622, subpart C.*

The Contractor shall recognize 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 (42 USC Section 6321 et seq).



7. **Veterans Employment:** *Applies to capital projects, to the extent practicable*

As provided by 49 U.S.C. § 5325(k): a. To the extent practicable, the Contractor agrees that it:

- a. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third-party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and
- b. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee, and

The Contractor also assures that its sub-recipients will:

- a. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third-party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and
- b. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.



8. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:** *Applies to all contracts.*

The Contractor is prohibited from obligating or expending federal funds to:

- a. Procure or obtain
- b. Extend or renew a contract to procure or obtain; or
- c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment or services" is:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)
  - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
- d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

The Contractor shall not provide covered telecommunications equipment or services in the performance of this contract.



9. **Termination Provisions:** *Applies to all contracts over \$10,000.*

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 closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to the 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 only be paid 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.5

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 the Agency's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within ten [10] days after receipt by Contractor or written notice from the Agency setting forth the nature of said breach or default, the 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 the 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 the Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by the Agency shall not limit the Agency's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

This termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.



10. **Debarment, Suspension, Ineligibility and Voluntary Exclusion:** *Applies to contracts in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.*

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. 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 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a. Debarred from participation in any federally assisted Award;

- b. Suspended from participation in any federally assisted Award;
- c. Proposed for debarment from participation in any federally assisted Award;
- d. Declared ineligible to participate in any federally assisted Award;
- e. Voluntarily excluded from participation in any federally assisted Award; or
- f. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the Bidder or Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the Agency. If it is later determined by the Agency that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the Agency, 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. part I 80, subpart C, as supplemented by 2 C.F.R. part I 200, 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.



11. **Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, Abuse, or Other Legal Matters** : *Applies to all contracts exceeding \$25,000.*

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify City Utilities, which will promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which City Utilities is located. The Contractor must 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.

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.

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 between the FTA and City Utilities, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

**Additional Notice to U.S. DOT Inspector General.** The Contractor must promptly notify the Agency, which will promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Agency is located, if the Contractor 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 with the Agency involving a principal, officer, employee, agent, or Third-Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a 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 Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.



12. **Lobbying Restrictions:** *Applies to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the payor must complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.*

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

The undersigned certifies (Note: A separate certification will be required to be signed if the contract meets this criteria), to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

- 13. **Buy America:** *Applies to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project.*

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

- 14. **Clean Air Act and the Federal Water Pollution Control Act:** *Applies to all contracts exceeding \$150,000.*

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq and the Federal Water Pollution Control Act as amended, 33 U.S.C. § 1251-1388. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.



15. **Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate:** *Applies to all contracts in excess of the Simplified Acquisition Threshold (currently set at \$250,000) and those contracts shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.*

- a. Disputes will be presented in writing to the appropriate Agency personnel - in Fargo, the Fargo Transit Director, in Moorhead, the Moorhead Transit Manager. Agency personnel and the Contractor will attempt to resolve any dispute arising in the performance of the contract.

*Fargo:* If the Transit Director and Contractor cannot resolve the dispute, the issue will be presented in writing to the Fargo City Administrator within ten [10] working days of dispute. If the dispute cannot be resolved by the City Administrator, it will be submitted in writing within ten [10] working days of the Fargo City Administrator's decision to the Fargo City Commission - it is the sole responsibility of the Contractor to schedule a hearing with the Fargo City Commission. 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 at the hearing.

*Moorhead:* If the Transit Manager and Contractor cannot resolve the dispute, the issue will be presented in writing to the Moorhead City Manager within ten [10] working days of the dispute. If the dispute cannot be resolved by the City Manager, it will be submitted in writing within ten [10] working days of the Moorhead City Manager's decision to the Moorhead City Council - it is the sole responsibility of the Contractor to schedule a hearing with the Moorhead City Council. 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 at the hearing.

The decision of the Fargo City Commission or Moorhead City Council shall be binding upon the Contractor and the Contractor shall abide by the decision.

- b. Unless otherwise directed by the Cities of Fargo/Moorhead, the Contractor shall continue performance under this contract while matters in dispute are being resolved.



- c. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
- d. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Cities of Fargo and/or Moorhead and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the applicable state.



16. **Cargo Preference:** *Applies to all contracts involving equipment, materials, or commodities that may be transported by ocean vessels.*

The Contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.



17. **Fly America:** *Applies to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.*

*Definitions. As used in this clause—*

"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.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- a. 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, recipients, 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.
- b. 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.
- c. 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]:

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(End of statement)

The 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.



18. **Davis-Bacon Act and Copeland Act – Prevailing Wage and Anti-Kickback:**

*Applies to all FTA funded contracts for all prime construction, alteration or repair contracts in excess of \$2,000. The recipient will ensure that each third-party contractor complies with all federal laws, regulations, and requirements, including:*

a. **Prevailing Wage Requirements**

- i. *Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA 's 'Davis-Bacon Related Act');*
- ii. *The Davis-Bacon Act, 40 USC. §§ 3141-3144, 3146, and 3147; and*
- iii. *U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.*

b. **"Anti-Kickback" Prohibitions**

- i. *Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874;*
- ii. *Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 USC. § 3145; and*
- iii. *US. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 C.F.R. part 3.*

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.



19. **Contract Work Hours & Safety Standards Act:** *Applies to all FTA funded contracts in excess of \$100,000 that involve the employment of mechanics or laborers. Certain employee protections apply to all FTA funded contracts with particular emphasis on construction related projects. The recipient will ensure that each third-party contractor complies with all federal laws, regulations, and requirements, including:*
- a. **Contract Work Hours and Safety Standards**
    - i. *Contract Work Hours and Safety Standards Act, as amended, 40 USC §§ 3701- 3708; and supplemented by Department of Labor (DOL) regulations, 29 C.F.R. part 5; and A-38*
    - ii. *U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. part 1926.*
  - b. **For Construction Contracts:**
    - i. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, 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. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.
    - ii. In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the 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 this clause 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 this clause.
    - iii. The FTA 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 this section.

- iv. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

**c. For Awards Not Involving Construction:**

- i. The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
- ii. The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- iii. Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.



20. **Bonding:** *The Common Grant Rules require bonds for all construction contracts exceeding the simplified acquisition threshold (exceeding \$150,000. Minnesota State Statute 574.26 limit is \$100,000) unless FTA determines that other arrangements adequately protect the Federal interest. FTA's bonding policies are as follows:*

- a. A bid guarantee from each bidder equivalent to five [5] percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond,

certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
  - i. 50% of the contract price if the contract price is not more than \$1 million;
  - ii. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - iii. \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond. Bid Bond Requirements (Construction)

Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by the Agency to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of ninety [90] days subsequent to the opening of bids, without the written consent of the Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within ninety [90] days after the bid opening without the written consent of the Agency, shall refuse or be unable to enter into this contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of the Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting Bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by the Agency as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense the Agency for the damages occasioned by default, then the

undersigned bidder agrees to indemnify the Agency and pay over to the Agency the difference between the bid security and the Agency's total damages, so as to make the Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive. Performance and Payment Bonding Requirements (Construction)

**The Contractor shall be required to obtain performance and payment bonds as follows:**

Performance bonds

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the Agency determines that a lesser amount would be adequate for the protection of the Agency.
- b. The Agency may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

Payment bonds

- a. The penal amount of the payment bonds shall equal:
  - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
  - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million;
  - iii. Two and one half million if the contract price is more than \$5 million.
- b. If the original contract price is \$5 million or less, the Agency may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the Agency's interest.

The following situations may warrant a performance bond:

- a. The Agency's property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
- b. A contractor sells assets to or merges with another concern, and the Agency, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

- c. Substantial progress payments are made before delivery of end items starts.
- d. Contracts are for dismantling, demolition, or removal of improvements.

When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the Agency determines that a lesser amount would be adequate for the protection of the Agency.
- b. The Agency may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.  
The Agency may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- c. A payment bond is required only when a performance bond is required, and if the use of payment bond is in the Agency's interest.
- d. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

The penal amount of payment bonds shall equal:

- I. Fifty percent of the contract price if the contract price is not more than \$1 million;
- II. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- III. Two and one half million if the contract price is increased.

#### Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The Agency shall determine the amount of the advance payment bond necessary to protect the Agency.

#### Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished, and the financial responsibility of the Contractor is unknown or doubtful. The Agency shall determine the amount of the patent indemnity to protect the Agency.

#### Warranty of the Work and Maintenance Bonds

The Contractor warrants to the Agency, the architect and/or engineer that all materials and equipment furnished under this contract will be of highest quality and new unless otherwise specified by the Agency, free from faults and defects and in conformance with the contract documents. All work not so conforming to these standards shall be



considered defective. If required by the project manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

The work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the work against defective materials or faulty workmanship for a minimum period of one [1] year after final payment by the Agency and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the Agency. As additional security for these guarantees, the Contractor shall, prior to the release of final payment, furnish separate maintenance (or guarantee) bonds in form acceptable to the Agency written by the same corporate surety that provides the performance bond and labor and material payment bond for this contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one [1] year after final payment and shall be written in an amount equal to ONE HUNDRED PERCENT [100%] of the CONTRACT SUM, as adjusted (if at all).

21. **EEO:** *Applies to all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3*

All Firms will be required to follow Federal Equal Employment Opportunity (EEO) policies. The Agency will affirmatively assure that on any project constructed pursuant to this advertisement, equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, and marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.

22. **Seismic Safety:** *Applies only to contracts for the construction of new buildings or additions to existing buildings.*

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

23. **Transit Employee Protective Arrangements:** *Applies to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.*

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- a. 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.
- b. 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.
- c. 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.



**24. Charter Service Operations:** *Applies to contracts for operating public transportation 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:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(d);
- b. FTA regulations, "Charter Service," 49 C.F.R. part 604;
- c. Any other federal Charter Service regulations; or
- d. 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:

- a. Barring it or any subcontractor operating public transportation under its award that has provided prohibited charter service from receiving federal assistance from FTA;

- b. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA 's Charter Service regulations; or
- c. 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.



**25. School Bus Service Operations:** *Applies to contracts for operating public transportation service.*

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:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(f);
- b. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
- c. Any other Federal School Bus regulations; or
- d. Federal guidance, except as FTA determines otherwise in writing.

If the Contractor violates this school bus agreement, FTA may:

- a. Bar the Contractor from receiving Federal assistance for public transportation; or
- b. 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.



**26. Substance Abuse Requirements: Drug & Alcohol Testing:** *Applies to third party contractors who perform safety-sensitive functions. Contractors must comply with FTA 's substance abuse management program under 49 C.F.R. part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:*

- a. *Operating a revenue service vehicle, including when not in revenue service;*

- b. *Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;*
- c. *Controlling dispatch or movement of a revenue service vehicle;*
- d. *Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts or such services; or an employer who receives funding under 49 USC § 5311 and contracts out such services.*
- e. *Carrying a firearm for security purposes.*

*Additionally, third-party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."*

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 of North Dakota and/or Minnesota, or the Cities of Fargo/Moorhead, 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 before February 1 and to submit the Management Information System (MIS) reports before February 1 to the City of Moorhead Transit Manager and City of Fargo Transit Director. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.



**27. Rights to Inventions Made Under a Contract or Agreement:** *Applies when entering into a contract (or subcontract) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work under the FTA award. The recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, "and any implementing regulations issued by the awarding agency. Except in the case of an "other agreement" in which the Federal Government has agreed to take more limited rights, the Federal Government is entitled to a non-exclusive, royalty free license to use the resulting invention, or patent the invention for Federal Government purposes. The FTA has the right to:*

- a. *Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and*
- b. *Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.*

Intellectual Property Rights: This project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the contract.

- a. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
  - i. Any subject data developed under the contract, whether or not a copyright has been obtained; and
  - ii. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
- b. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this contract agrees to permit FTA to make available to the public, either FTA 's license in the copyright to any subject data developed in the course of the contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this contract, is not completed for any reason whatsoever, all data

developed under the contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

- c. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- d. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- e. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the contract work.
- f. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.



**28. Disadvantaged and Small Business Enterprise (DBEs):** *Applies to FTA recipients receiving planning, capital and/or operating assistance that will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year.*

*For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:*

The Contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:

- a. Withholding monthly progress payments;
- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the Contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

In connection with the performance of this service, the Contractor will cooperate with the Agency in the utilization of disadvantaged business enterprises including women-owned business enterprises for the duration of the contract and will use its best efforts to ensure that disadvantaged business enterprises have the maximum practicable opportunity to compete for subcontract work. In order to ensure that a fair proportion of the purchases of supplies and services is placed with disadvantaged business enterprises, the Contractor agrees to take affirmative action to identify disadvantaged business firms, solicit bids or quotations from them for supplies and services related to this proposal.

The Contractor agrees to meet any goals established by Agency for purchases pertaining to this contract to the best of the Contractor's ability and will provide the Agency with the necessary certification and records for reporting purposes. When the majority of the contract is labor, which is not a contracting opportunity, DBE goals will not be set but Contractors are encouraged to use DBE businesses.

The Contractor will be required to report its DBE participation obtained through race neutral means throughout the period of performance.

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.

#### Fostering Small Business Participation

The Agency has established a small business element to its DBE program, pursuant to 49 CFR 26.39. This program aims to provide opportunities and foster small business enterprises (SBE)/participation in contracting with the Agency. This program is race and gender-neutral, however SBEs can also count towards DBE goals.



**29. Prompt Payment and Return of Retainage:** *Applies to all contracts.*

Recipients must establish a contract clause to require prime Contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days (payment required within 10 days or paying interest at 1 ½ percent per Minnesota State Statute 4 71.425 subd. 4a) from receipt of each payment the recipient 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 recipient's written consent; and that, unless the recipient'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).



**30. 6002 of the Solid Waste Disposal Act:** *Applies to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.*

The Contractor agrees to comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6962) by the Resource Conservation and Recovery Act (RCRA), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.



**31. Americans with Disabilities Act Access (ADA):** *Applies to all contracts.*

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this agreement.

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112 and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor agrees that it will comply with the requirements of U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and U.S. Department of Transportation regulations, "Americans with Disabilities Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38, pertaining to facilities and equipment to be used in



public transportation. In addition, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. The Contractor also agrees to comply with any implementing requirements FTA may issue.

The Contractor understands that it is required to include this Article in all subcontracts. 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.



**32. Assignability Clause:** *Applies to all contracts.*

Procurements through assignments: Neither the Agency nor the Contractor shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other.



**33. Program Fraud & False or Fraudulent Statements & Related Acts:** *Applies to all third-party contracts that are federally funded.*

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1) on the Contractor, to the extent the Federal Government deems appropriate.

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



**34. Bus Testing:** *Applies only to the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by FTA. Recipients are responsible for determining whether a vehicle to be acquired requires full or partial testing or has already satisfied the bus testing requirements by achieving a passing test score in accordance with 49 C.F.R. part 665. Recipients must certify compliance with FTA 's bus testing requirements in all grant applications for FTA funding for bus procurements.*

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FT A's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.



**35. Pre-Award and Post-Delivery Audits of Rolling Stock Purchases:** *Applies to the purchase of revenue service rolling stock with FTA funds and must comply with the pre-award and post-delivery audit requirements set forth in 49 U.S.C. 5323(111) and supplemented by 49 C.F.R. part 663.*

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance



**36. Safe Operation of Motor Vehicles:** *Applies to all federally funded third party contracts.*

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 Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

**ADDENDUM #1**  
**REQUEST FOR PROPOSALS**  
**MATBUS SHELTER MAINTENANCE**

Issued May 19, 2022

The following clarifications are provided to assist all proposers in making an adequate interpretation of the provisions of the RFP:

- The Pre-Bid Conference minutes are attached to this addendum.
  
- ***RFP Page 10, Protests to FTA:***  
Sections 10.3.6.2 – 10.3.6.2.3 have been removed from the RFP to clarify that the FTA's involvement in bid protests is limited. The Uniform Guidance, as adopted by DOT, no longer includes the language in 49 C.F.R. §18.36(b)(12) that provided for a direct appeal to FTA of a recipient's final decision on a bid protest.

# MINUTES

**PRE-BID CONFERENCE  
REQUEST FOR PROPOSALS  
SNOW CLEARING AND HAULING SERVICES FOR  
TRANSIT (MATBUS) PASSENGER SHELTERS & HUBS  
CITIES OF FARGO AND MOORHEAD**

**THURSDAY, MAY 12, 2022 - 2:00 PM  
METRO TRANSIT GARAGE  
650 23<sup>RD</sup> ST N, FARGO, ND 58102**

**1. Introductions**

Introductions were made of all persons present at the meeting.

- Nicole Seaberg, Valley Green and Associates (employed by current contractor)
- Linda Schatz (employed by current contractor)
- Jordan Smith, Fargo Assistant Transit Director – Fleet & Facilities, MATBUS
- Cole Swingen, Fargo Assistant Transit Director – Operations, MATBUS
- Luke Grittner, Fargo Transit Planner, MATBUS

Swingen opened the online meeting in Teams. No attendees were present online and the connection was closed.

**2. Review of RFP Documents (Page 2)**

Smith went over the list of applicable documents and noted that all of the documents should be read prior to submitting a proposal.

**3. Projected Schedule (Pages 4-5)**

- Proposals are due May 26, 2022 at 650 23<sup>rd</sup> St N, Fargo, 2:00 pm CDT
- Contract begins/work commences October 1, 2022

**4. Review of Basis for Contract Award (Page 31 of RFP)**

Smith stated that the contractor will be chosen on the basis of qualifications, costs, previous experience and references. Smith also explained the values of each evaluation criteria.

**5. Review Scope of Work (Page 14-17)**

Smith went through the scope of work and explained the expectations for each snow clearing/hauling location (Ground Transportation Center, Metro Transit Garage & MATBUS bus shelters). Smith clarified the service hours for each location.

**6. Forms to be Submitted with Proposal (Page 18)**

- Federal Clauses and Certifications
- Price Proposal Spreadsheet

Smith described some of the applicable federal clauses for the Snow Removal RFP.

Smith spoke about the submission of proposals and what is expected of the contractor. He explained that the written proposal should be in a separate sealed envelope from the price proposal.

The two certifications in Appendix B-1 and B-2 must be signed and submitted with the proposal.

Smith told the attendees that their business must be registered with SAM.gov prior to entering into a contract. Sam.gov is the registration site for businesses working with the federal government or federal grantees.

Swingen told the attendees that the fillable cost summaries were available on the matbus.com website.

**7. There have been no written requests for clarifications and modifications (were due May 5, 2022)**

**Questions and Answers**

- Seaberg stated that MATBUS is charged one amount for snow clearing/hauling at the Ground Transportation Center. Nicole asked if the pricing could be separated into sidewalk and parking lot pricing.
  - Smith asked if the “sidewalk” would include the fenced off loading/unloading area or if that would be included in the “parking lot”. Smith stated that those area would need to be defined in the contract. It was decided to keep the pricing as is.
- Smith asked if the debarment certification and lobbying certification were included in the RFP.
  - It was determined that they are included in Appendix B-1 and Appendix B-2, so an addendum would not need to be sent out to include them.



Cost Summary for City of Fargo

Snow Removal Event and Follow-up Visit

Appendix A-1  
 Instructions: Only the colored areas can be completed. Computations will auto-fill for totals

|                   | Year 1                  |              | Year 2                          |                     | Year 3                          |                     | Year 4                          |                     | Year 5                          |                     |
|-------------------|-------------------------|--------------|---------------------------------|---------------------|---------------------------------|---------------------|---------------------------------|---------------------|---------------------------------|---------------------|
|                   | Number of Shelters/Hubs | Snow Events* | Cost per Shelter per Snow Event | Total Cost          | Cost per Shelter per Snow Event | Total Cost          | Cost per Shelter per Snow Event | Total Cost          | Cost per Shelter per Snow Event | Total Cost          |
| Standard Shelters | 74                      | 10           | \$ 23.00                        | \$ 17,020.00        | \$ 23.00                        | \$ 17,020.00        | \$ 25.00                        | \$ 18,500.00        | \$ 25.00                        | \$ 18,500.00        |
| MTG               | 1                       | 10           | \$ 100.00                       | \$ 1,000.00         | \$ 100.00                       | \$ 1,000.00         | \$ 100.00                       | \$ 1,000.00         | \$ 100.00                       | \$ 1,000.00         |
| GTC Hub           | 1                       | 10           | \$ 345.00                       | \$ 3,450.00         | \$ 345.00                       | \$ 3,450.00         | \$ 350.00                       | \$ 3,500.00         | \$ 350.00                       | \$ 3,500.00         |
| <b>Total</b>      | <b>76</b>               |              | <b>\$ 21,470.00</b>             | <b>\$ 21,470.00</b> | <b>\$ 21,470.00</b>             | <b>\$ 21,470.00</b> | <b>\$ 23,000.00</b>             | <b>\$ 23,000.00</b> | <b>\$ 23,000.00</b>             | <b>\$ 23,000.00</b> |

Individual Costs

|  | Year 1               | Year 2               | Year 3               | Year 4               | Year 5               |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|
| Cost** per Single Shelter per Snow Removal Request | \$ 23.00             | \$ 23.00             | \$ 23.00             | \$ 25.00             | \$ 25.00             |
| Cost** per Single Shelter per De-icing Request     | \$ 15.00             | \$ 15.00             | \$ 15.00             | \$ 18.00             | \$ 18.00             |
| Cost** per Single Hub per Snow Removal Request     | \$ 345.00            | \$ 345.00            | \$ 345.00            | \$ 350.00            | \$ 350.00            |
| Cost** per Single Hub per De-icing Request         | \$ 255.00            | \$ 255.00            | \$ 255.00            | \$ 270.00            | \$ 270.00            |
| Cost** per MTG Snow Hauling Request                | \$ 100.00            | \$ 100.00            | \$ 100.00            | \$ 100.00            | \$ 100.00            |
| Cost** per MTG De-icing Request                    | \$ 250.00            | \$ 250.00            | \$ 250.00            | \$ 250.00            | \$ 250.00            |
| <b>Total</b>                                       | <b>\$ 110,410.00</b> | <b>\$ 110,410.00</b> | <b>\$ 110,410.00</b> | <b>\$ 110,410.00</b> | <b>\$ 110,410.00</b> |

Number of hours estimated to clear all Fargo shelters and hub for one 2" snow event: 12

\* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.

\*\* Cost should be inclusive of all labor, equipment, and supplies.

^ The City may negotiate with the selected Contractor for a monthly fee year-round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name:

Signature:

Printed Name:

Date:

*Valley Group*  
*Andrew Seuberg*  
 Andrew Seuberg  
 5/26





Cost Summary for City of Fargo

Snow Removal Event and Follow-up Visit

|                   | Number of Shelters/Hubs/Stops | Year 1                          |                     | Year 2                          |                     | Year 3                          |                      | Year 4                          |                      | Year 5                          |                      |
|-------------------|-------------------------------|---------------------------------|---------------------|---------------------------------|---------------------|---------------------------------|----------------------|---------------------------------|----------------------|---------------------------------|----------------------|
|                   |                               | Cost per Shelter per Snow Event | Total Cost          | Cost per Shelter per Snow Event | Total Cost          | Cost per Shelter per Snow Event | Total Cost           | Cost per Shelter per Snow Event | Total Cost           | Cost per Shelter per Snow Event | Total Cost           |
| Standard Shelters | 74                            | 10 \$                           | 17,020.00 \$        | 23.00 \$                        | 17,020.00 \$        | 25.00 \$                        | 18,500.00 \$         | 25.00 \$                        | 18,500.00 \$         | 25.00 \$                        | 18,500.00 \$         |
| Bus Stops         | 65                            | 10 \$                           | 11,050.00 \$        | 17.00 \$                        | 11,050.00 \$        | 20.00 \$                        | 13,000.00 \$         | 20.00 \$                        | 13,000.00 \$         | 20.00 \$                        | 13,000.00 \$         |
| MTG               | 1                             | 10 \$                           | 65,000.00 \$        | 100.00 \$                       | 65,000.00 \$        | 100.00 \$                       | 65,000.00 \$         | 100.00 \$                       | 65,000.00 \$         | 100.00 \$                       | 65,000.00 \$         |
| GTC Hub           | 1                             | 10 \$                           | 3,450.00 \$         | 345.00 \$                       | 3,450.00 \$         | 350.00 \$                       | 3,500.00 \$          | 350.00 \$                       | 3,500.00 \$          | 350.00 \$                       | 3,500.00 \$          |
| <b>Total</b>      | <b>141</b>                    |                                 | <b>96,520.00 \$</b> |                                 | <b>96,520.00 \$</b> |                                 | <b>100,000.00 \$</b> |                                 | <b>100,000.00 \$</b> |                                 | <b>100,000.00 \$</b> |

Individual Costs

| Year   | Cost** per Single Shelter per Snow Cleaning and Hauling Request | Cost** per Single Hub per Snow Cleaning and Hauling Request | Cost** per Single Hub per Snow Cleaning and Hauling Request | Cost** per Single Bus Stop per Snow Cleaning and Hauling Request | Cost** per Single Bus Stop per Snow Cleaning and Hauling Request | Cost** per Single Snow Hauling Request | Cost** per MTG Deicing Request |
|--------|---|---|---|--|--|--|--------------------------------|
| Year 1 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 2 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 3 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 4 | \$ 25.00  | \$ 18.00  | \$ 350.00   | \$ 20.00   | \$ 270.00  | \$ 18.00                               | \$ 260.00                      |
| Year 5 | \$ 25.00  | \$ 18.00  | \$ 350.00   | \$ 20.00   | \$ 270.00  | \$ 18.00                               | \$ 260.00                      |

| Year   | Cost** per Single Shelter per Snow Cleaning and Hauling Request | Cost** per Single Hub per Snow Cleaning and Hauling Request | Cost** per Single Hub per Snow Cleaning and Hauling Request | Cost** per Single Bus Stop per Snow Cleaning and Hauling Request | Cost** per Single Bus Stop per Snow Cleaning and Hauling Request | Cost** per Single Snow Hauling Request | Cost** per MTG Deicing Request |
|--------|---|---|---|--|--|--|--------------------------------|
| Year 1 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 2 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 3 | \$ 25.00  | \$ 15.00  | \$ 345.00   | \$ 17.00   | \$ 255.00  | \$ 15.00                               | \$ 250.00                      |
| Year 4 | \$ 25.00  | \$ 18.00  | \$ 350.00   | \$ 20.00   | \$ 270.00  | \$ 18.00                               | \$ 260.00                      |
| Year 5 | \$ 25.00  | \$ 18.00  | \$ 350.00   | \$ 20.00   | \$ 270.00  | \$ 18.00                               | \$ 260.00                      |

GRAND TOTAL COST ESTIMATE FOR YEAR 5 CONTRACT

|              |                      |
|--------------|----------------------|
| Year 1       | \$ 96,520.00         |
| Year 2       | \$ 96,520.00         |
| Year 3       | \$ 96,520.00         |
| Year 4       | \$ 100,000.00        |
| Year 5       | \$ 100,000.00        |
| <b>Total</b> | <b>\$ 489,560.00</b> |

Number of hours estimated to clear all Fargo shelters and hub for one 2" snow event: 33

- \* An estimated 10 snow events are used in this example for price comparisons. Actual snow events will vary annually.
- \*\* Cost should be inclusive of all labor, equipment, and supplies.
- ^ The City may negotiate with the selected Contractor for a monthly fee year-round in lieu of a per event billing if determined by both parties to be easier to budget and monitor.

Firm Name: Yellow Green  
 Signature: [Signature]  
 Printed Name: Shirley Sorensen  
 Date: 5/26/22



**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION & OTHER RESPONSIBILITY MATTERS**

Contractor certifies to the best of its knowledge and belief, that it and its principals:


- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where Contractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.

CONTRACTOR CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

5/29/22

Date

  
Signature  
Office Manager

Valley Green & ASSOCIATES  
Company Name

**CERTIFICATION OF  
RESTRICTIONS ON LOBBYING**

I, Nicole Seaburg hereby certify on behalf of Valley Green that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contact, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Executed this 25<sup>th</sup> day of May 2022

By: [Signature] Office Manager  
Valley Green & Associates

30

June 23, 2022

City Commission  
225 N 4<sup>th</sup> Street  
Fargo, ND 58102

**SUBJECT:** Resolution to Award a Five-Year Contract for Transit Shelter Maintenance to Valley Green and Associates

**RECOMMENDATION:** It is respectfully requested that the Mayor and Commission award a five-year contract for transit passenger shelter maintenance to Valley Green and Associates and authorize the Mayor and City Administrator to enter into and execute a contract.

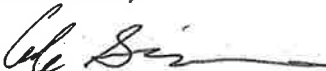
**BACKGROUND/KEY POINTS:** Fargo's contract for transit passenger shelter maintenance has expired. Fargo and Moorhead published a joint Request for Proposals (RFP) for shelter maintenance services. Two proposals were received and reviewed.

Fargo's Transit Director participated in the RFP draft, evaluation of proposals and award recommendation. Valley Green and Associates was recommended as having the best proposal following the averaging of evaluation points from the seven-person Evaluation Team. Criteria evaluated included approach, work plan, qualifications, references, experience and price. Valley Green & Associates' proposal received higher points for approach and work plan as well as qualifications and references, offsetting the difference in price. The selected proposal was 21% higher than the independent cost estimate; however, recent prices for fuel and labor shortages support an increase.

Each City will enter into a separate contract for services with the single awarded contractor. Fargo's five-year price proposal is shown below.

| Vendor                    | Five-year Price Proposal | Evaluation Points Ranking |
|---------------------------|--------------------------|---------------------------|
| Valley Green & Associates | \$244,992                | 1 (91 Points)             |
| Ole's Fert-L-Lawn         | \$212,216                | 2 (88 Points)             |

Submitted By:



Cole Swingen, Assistant Transit Director – Operations

For Schedule Information: 701-232-7500



**CONTRACT**  
Between the City of Fargo, North Dakota and  
Valley Green & Associates for  
**TRANSIT PASSENGER SHELTER MAINTENANCE SERVICES**  
August 8, 2022 through August 7, 2027

**THIS CONTRACT**, is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Fargo, North Dakota, hereinafter referred to as the "City", and Valley Green & Associates, hereinafter referred to as the "Contractor".

WHEREAS, the City is in need of transit passenger shelter maintenance services and the Contractor agrees to provide such services according to the terms of this Contract; and

WHEREAS, The Federal Transit Administration may be providing federal operating assistance for this project in an estimated expected amount not to exceed 50 percent; the Catalog of Federal Domestic Assistance (CFDA) number is 20.507; and

WHEREAS, the City and the Contractor wish to set forth the procedures, conditions and agreements between the parties; and

NOW THEREFORE, BE IT AGREED between the City and the Contractor:

1. THE WORK

The work under this contract will include transit passenger shelter maintenances services for the City's MATBUS system. Tasks will include washing windows, sweeping, removing trash and yard waste, graffiti clean-up, broken glass clean-up and bio-hazard clean-up, etc. This contract will not include snow removal services.

2. TERM

The Contractor covenants and agrees that it will commence and continue the work during the period from August 8, 2022, through August 7, 2027, and will have completed the work in every aspect to the satisfaction and approval of the City.

3. MATERIALS

The Contractor hereby agrees to furnish all materials (except such as are to be furnished by the City), all necessary tools and equipment, and to do and perform all the work and labor, for the price and compensation set forth and specified in the proposal signed by the Contractor and hereto attached and hereby made a part of this Contract (the "Proposal"), said work to be done and performed in accordance with the Specifications on file in the office of the City which Specifications are hereby made a part of this Contract.

4. PRICE

The City agrees to pay and the Contractor agrees to receive and accept payment in accordance with the prices proposed for the unit items as set forth in the conformed copy of the Proposal hereto attached, which prices shall conform to those in the accepted Proposal. Payments will be made as provided in the Specifications. The prices are set forth as follows:



| <i>Frequency of Cleanings</i> | <i>Price Each</i> |               |               |               |               |
|-------------------------------|-------------------|---------------|---------------|---------------|---------------|
|                               | <i>Year 1</i>     | <i>Year 2</i> | <i>Year 3</i> | <i>Year 4</i> | <i>Year 5</i> |
| Weekly cleanings              | \$ 18.00          | \$ 20.00      | \$ 21.00      | \$ 22.00      | \$ 23.00      |
| Bi-weekly cleanings           | \$ 18.00          | \$ 20.00      | \$ 21.00      | \$ 22.00      | \$ 23.00      |
| Annual cleaning               | \$ 30.00          | \$ 30.00      | \$ 32.00      | \$ 33.00      | \$ 35.00      |
| Emptying of Trash Receptacles | \$ 2.50           | \$ 2.50       | \$ 3.00       | \$ 3.00       | \$ 3.00       |
| Graffiti Clean-up             | \$ 30.00          | \$ 32.00      | \$ 33.00      | \$ 34.00      | \$ 35.00      |
| Broken Glass Clean-up         | \$ 30.00          | \$ 32.00      | \$ 33.00      | \$ 34.00      | \$ 35.00      |
| Bio-Hazard Clean-up           | \$ 30.00          | \$ 32.00      | \$ 33.00      | \$ 34.00      | \$ 35.00      |

## 5. ATTACHMENTS

The Contract consists of the following component parts, all of which are fully a part of this Contract as if herein set out verbatim, or if not attached, as if hereto attached, to wit:

1. Advertisement for Proposals dated April 21, 2022
2. Request for Proposals Scope of Work for Transit Passenger Shelter Maintenance Services dated April 28, 2022
3. All Addendums and Attachments identified in the Request for Proposal (not specified below)
4. Contractor Price Proposal Summary dated May 26, 2022
5. This Contract
6. Federal Contract Clauses
7. Debarment and Suspension Certification (signed by Contractor)
8. Lobbying Certification (signed by Contractor)

## 6. STATE AND FEDERAL FUNDING

It is understood that the validity of this Contract between the City and the Contractor is contingent upon the receipt by the City of State and Federal funding for the operating deficit of the transit system during the time period specified herein. It is further understood that any reduction or loss of State or Federal funding for the operations of the transit system shall be cause for the City, upon thirty (30) days written notification to the Contractor, to terminate this Contract.

## 7. MODIFICATIONS

Both parties will abide by all provisions set out within and agreed upon and detailed within the Proposal, Specifications and all Attachments. Any changes to the provisions of this Contract must be made with a written document that is signed by both parties.

## 8. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor, by submission of its Proposal, assures the City that it will comply with, and be bound by, all applicable federal, state, and local laws, rules, and ordinances.

## 9. EQUAL OPPORTUNITY

The Contractor, as a recipient of City funds, must not discriminate against any worker, employee, applicant, or any member of the public because of race, color, sex, gender, sexual orientation, religion, age, marital status, national origin, veterans status, physical or mental disability or perceived disability, public assistance status, or other criteria protected by law.



The Contractor will hold harmless, indemnify and defend the City from any and all claims arising out of or in any way related to the work under this Contract. Said indemnification will include, inter alia, attorneys' fees, damages, whether punitive, economic or compensatory, and costs and disbursements. However, this paragraph will not apply to suits against the City arising out of the City's negligence or intentional acts, or those of its employees, agents or designees.

11. LICENSURE & INSURANCE

The Contractor must be properly licensed to do business in Fargo during the entire term of this Contract. The Contractor must maintain the appropriate Worker's Compensation and Employer's Liability Insurance and must annually provide the City with a Certificate of Liability Insurance describing the limits of coverage and naming the City of Fargo as an additional insured party. By signing this Contract, the Contractor certifies that it will maintain the specified coverage during the entire term of the Contract. Any Cancellation Policy statement must read: "Should any of the above described policies be canceled or modified before the expiration date thereof, the issuing company will mail forty-five (45) calendar days written notice to the certificate holder named as the additional insured, but shall impose no obligation or liability of any kind upon the company, its agents, or representatives."

12. GOVERNING LAW.

This Contract has been made and entered into under the laws of the State of North Dakota, and said laws will control its interpretation. The parties agree the venue for any litigation arising out of this Contract will be in state District Court within Cass County, North Dakota, and the parties waive any objection to personal jurisdiction.

13. SUBCONTRACTORS

Subcontractors are not permitted under this Contract.

The date of commencement of the Contractor's performance shall be the date of signature by the City of Fargo, North Dakota authorized personnel or August 8, 2022, whichever event occurs later.

CITY OF FARGO

Dated: \_\_\_\_\_, 2022

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

Dated: \_\_\_\_\_, 2022

Attest \_\_\_\_\_  
Steve Sprague, Auditor



CONTRACTOR  
VALLEY GREEN & ASSOCIATES

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Joshua Abrahamson, Owner

Approved as to form and execution this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
[LEGAL REPRESENTATIVE AGENT]



AREA BRIEFS

CLEANUP DAYS ARE COMING IN MAY



MOORHEAD - One of Moorhead's favorite times of the year is almost here...Cleanup Days! In easy May, furniture, household goods, and appliances will be collected at single-family residence curbs on your scheduled garbage day beginning at 5 am at no additional cost.

Cleanup Days will be the OPPOSITE week from your recycling week. If you are Recycling A, Cleanup Days are May 2-6 (including Oakport neighborhood on May 3).

If you are Recycling B, Cleanup Days are May 9-13.

No recycling bins out on Cleanup Days. Excess garbage set out before Cleanup Days will be collected for a fee.

Apartments are not eligible for curbside pickup, but residents may bring excess garbage to the transfer station at the times noted below free of charge with proof of residency.

Cleanup Days require a huge amount of effort, coordination and cooperation. Please follow these guidelines:

This will NOT be collected. Homeowners will need to dispose of them at retail tire stores.

Separate appliances, furniture, brush, household garbage, metal, etc. into piles; different trucks collect specific items.

Use disposable containers such as cardboard boxes (no loose garbage please).

Do not set items out more than one day early. During Cleanup Days, crews will not return to pick up garbage set out after your garbage day.

Two appliances per household will be picked up free of charge. Remove refrigerator and freezer doors for safety.

Do not place food or waste inside appliances. No commercial waste will be accepted.

Keep your garbage tote at least 4 feet away from Cleanup Days items.

Empty propane tanks will also be collected (valves do not need to be removed).

If you would like to get a jump on spring cleanup, bring furniture, household goods, and excess garbage to the Solid Waste Transfer Station from April 25 - May 13 during normal business hours, free of charge. This also applies to apartments. Fees will apply for demolition/construction materials; proof of Moorhead residency required (ie, driver's license).

Crews will not collect the following items curbside (disposal info below): Demolition/construction materials (lumber, concrete, sheet rock, fencing material, windows, doors, asphalt shingles, etc.); fees apply; take items to: Clay Demolition Debris Landfill, 4 miles east of Glynndon on Hwy 10, 218.49L2430 Moorhead Transfer Station, 2727 Hwy 10 E, Moorhead, MN 56565-5465

Residential electronics (computers, computer monitors, computer peripherals, TVs, fluorescent bulbs, LED bulbs, cell phones, rechargeable batteries, and holiday light strings accepted for no fee from Clay County residents at 1300 15 Avenue N every Tuesday evening from 4-6 pm year-round. Call 218.299.3729 with questions.

May 2, 4, 9, 11 from 8 am-4 pm

May 3, 10 from 8 am-noon

May 7 from 8 am-noon

Regular hours (4-6 pm every Tuesday)

resume May 12. Household chemicals (paints, stains, etc.) are accepted for free from Clay County residents at the Clay County Household Hazardous Waste Facility, 2729 Hwy 10 E, Moorhead, every Monday and Wednesday from 8 am-4 pm. The facility is also open the first Saturday each month from April to October from 8 am-noon. Call 218.299.5077 with questions. Special Cleanup Days hours: May 2, 4, 9, 11 from 8 am-4 pm; May 7 from 8 am-noon. If you have any additional questions, please call the Public Works Department at 218.299.5347.

MATBUS CELEBRATES EARTH WEEK APRIL 18-23

FARGO/ MOORHEAD - MATBUS invites the community to celebrate Earth Week April 18-23 and encourages individuals to participate in the Get Your 'Car' on the Bus promotion. MATBUS invites people to ride for free by leaving their cars at home and using on-board free route vehicles. Proceeds from the recycling of collected cans will be donated to the Homeward Animal Shelter. This promotion is not valid on MAT Paratransit.

Public transportation plays an integral role in protecting our environment. Did you know that one MATBUS bus full of people removes up to 50 cars from the road? That's a line of cars approximately four city blocks long. Riding public transportation instead of using a personal vehicle is one of the most effective ways for citizens to reduce their individual carbon footprints.

Community Events: Party for the Planet: April 23 at the Red River Zoo from 11 a.m. until 4 p.m.

Get Your 'Car' on the Bus: April 18-23

DRUG SEIZURE DISRUPTS LOCAL DISTRIBUTION

On Tuesday, April 12, 2022, Moorhead



Police Detectives, working with the Clay County Sheriff's Office and Minnesota State Patrol, conducted a traffic stop on Interstate 94 in Clay County. Investigators obtained specific information showing the suspects were frequently traveling to the Minneapolis area to pick up a shipment of drugs to distribute in our community. During the vehicle search, a Moorhead Police Canine located several large quantities of drugs. Officers found approximately two pounds of suspected methamphetamine, 222 suspected fentanyl pills, and approximately two pounds of suspected marijuana. The street value of the drugs seized is estimated to be \$20,000.

David Keen, Jr. and Samantha Riggles were booked into the Clay County Correctional Facility. The Moorhead Police Department submitted long form complaints to the Clay County Attorney's Office for each to be charged with two counts of First Degree Controlled Substance Distribution and one count of Fifth Degree Controlled Substance Distribution.

The investigation is the second significant seizure that disrupted the distribution of drugs into our community within the last month. In March, two individuals were arrested after investigators intercepted a shipment of powdered fentanyl transported on Interstate 94, in route to the Fargo Moorhead area for distribution.

PUBLIC NOTICES

Office of the Minnesota Secretary of State. Certificate of Assumed Name Minnesota Statutes, 333. The filing of an assumed name does not provide a user with exclusive rights to that name. The filing is required for consumer protection in order to enable customers to be able to identify the true owner of a business.

ASSUMED NAME: Extreme Motorsports. PRINCIPAL PLACE OF BUSINESS: 10414 19th St S, MOORHEAD, MINNESOTA (MN) 56560 USA. NAME/ADDRESS: Reince Holdings, LLC, 10434 19th St S, MOORHEAD, MINNESOTA (MN) 56560 USA. SIGNED BY: Jason Reince, Work Item 13081, 03/30/2022, Original File Number 130819330022.

STATE OF MINNESOTA OFFICE OF THE SECRETARY OF STATE. FLEED 04/08/2022 11:59 PM. STATE OF MINNESOTA COUNTY OF CLAY DISTRICT COURT SEVENTH JUDICIAL DISTRICT PROBATE COURT Court File No. 14-22-22-924. In Re Estate of Gloria J. Gilbertson, aka Gloria Joan Gilbertson, Decedent. NOTICE OF INFORMAL PROBATE OF WILL AND APPOINTMENT OF PERSONAL REPRESENTATIVE AND NOTICE TO CREDITORS.

Any heir, devisee or other interested person may be entitled to appointment as personal representative or may object to the appointment of the personal representative named in the will. Any objection to the appointment of the personal representative or any objection to the will must be filed with the Court, and any properly filed objection will be heard by the Court after notice is provided to interested persons of the date of hearing on the objection.

Unless objections are filed, and unless the Court orders otherwise, the personal representative has the full power to administer the estate, including, after thirty (30) days from the issuance of letters testamentary, the power to sell, encumber, lease, or distribute any interest in real estate owned by the decedent.

Notices is further given that, subject to Minn. Stat. § 52A-801, all creditors having claims against the decedent's estate are required to present the claims to the personal representative or to the Court within 60 months after the date of this notice or the claims will be barred. Request for Proposals for Snow Clearing and Hauling Services for MATBUS Passenger Shelters & Hub Snow Clearing and Hauling Services. The Cities of Fargo, North Dakota, and Moorhead, Minnesota, are requesting proposals for transit passenger shelter maintenance services for the coordinated MATBUS system.

Tasks will include snow clearing in and around shelters, clearing a pathway to and from shelters, and ensuring shelter areas are clear of ice. Tasks will also include snow clearing and hauling from the parking lot and sidewalks at all Ground Transportation Center and snow hauling from the parking lot of the Metro Transit Garage. This contract will not include any shelter window cleaning services.

Specifications and requirements are available by request for this five-year contract from Lori Van Beek, Moorhead Transit Manager, and Julie Bommelmann, Fargo Transit Director, by email at lvanbeek@matbus.com and jrbommelmann@matbus.com or by calling 701.241.8140. Proposals will be received at the office of the Metro Transit Garage at 650 23rd Street North, Fargo, North Dakota 58102, until 2:00 p.m. (CDT) Thursday, May 26, 2022 for MATBUS Passenger Shelter & Hub Snow Clearing and Hauling Services. Proposals received after the specified date and time will be considered late proposals and will not be opened or considered for award.

All bidders will be required to certify that they are not on the Comptroller General's list of ineligible contractors. The Cities reserve the right to reject any and all bids and to waive any informatics, inequalities, or technicalities in the bidding process. Up to 50% of the funding for the MATBUS passenger shelter and hub snow clearing and hauling services contracts may be provided through a Federal Transit Administration operating grant, Catalog of Federal Domestic Assistance (CFDA) #20.507. All bidders are notified that disadvantaged and women-owned business enterprises are encouraged to submit responses to this request. The Cities of Fargo and Moorhead will ensure that respondents to this request will not be discriminated against based on race, color national origin, sex, age, disability/handicap, or socioeconomic status.

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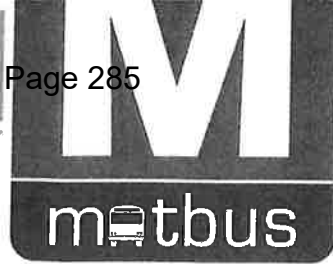
CITY OF MOORHEAD AUCTION Saturday, April 30, 2022 - 10:00 AM (Lot will open at 8:00 AM). LOCATION: 2206 13th Ave N Moorhead, MN 56560. CONTACT: 218.299.5374. INFO: 218.299.5374. BIDDING: 218.299.5374. COMPLETE VEHICLE LIST WILL BE AVAILABLE ON OUR WEB PAGE WHEN AVAILABLE.

Your local agent is your neighbor - someone you can trust and someone who's here for you when it matters most. HERO River's Edge Insurance Agency, Inc. Auto-Owners Insurance. Call Emily or Lori at 800-566-2172.

Public Hearing Notice. Notice is hereby given that the Planning Commission of the City of Moorhead will hold a Public Hearing at the Hjertstrom Center Auditorium, 201 1st Ave N, on Monday, May 2, 2022 at 5:30 pm to consider the following items: 1. Request of Compost Apartments, LLC for a Conditional Use Permit to exceed 45-foot height limit in AUJ 2. Commercial Mixed Use at: 600 30th Ave S - Parcel 58.102.1830 - E 125' 6" of Lots 3 & 4, All of Lots 5-7, Lot 8 excepting 570.667' W 135.8' of Lots 21-23, Lot 24 Less PL, All of Lot 25, Block 8, Brookdale South Addition.







**REQUEST FOR PROPOSALS  
TRANSIT PASSENGER SHELTER MAINTENANCE SERVICES  
CITIES OF FARGO AND MOORHEAD**

**Date Issued: April 21, 2022**

The Cities of Fargo, North Dakota, and Moorhead, Minnesota, are requesting proposals for transit passenger shelter maintenance services for the coordinated Cities (MATBUS) system. Tasks will include washing windows, sweeping, removing trash and yard waste, etc. This contract will not include snow removal services.

Specifications and requirements are available by request for this five-year contract from Lori Van Beek, Moorhead Transit Manager, and Julie Bommelman, Fargo Transit Director, by email at [Lvanbeek@matbus.com](mailto:Lvanbeek@matbus.com) and [JBommelman@matbus.com](mailto:JBommelman@matbus.com) or by calling 701.241.8140.

Proposals will be received at the offices of the Metro Transit Garage, hereinafter called the "MTG", at 650 23rd Street North, Fargo, North Dakota 58102 until 2:00 p.m. (CDT) **Thursday, May 26, 2022** for Transit Passenger Shelter Maintenance Services. Proposals received after the specified date and time will be considered late proposals and will not be opened or considered for award.

The Cities of Fargo and Moorhead reserve the right to reject any and all bids and to waive any informalities, irregularities, or technicalities in the bidding process.

Up to 50% of the funding for the transit passenger shelter maintenance services contracts will be provided through a Federal Transit Administration operating grant, Catalog of Federal Domestic Assistance (CFDA) #20.507.

All bidders are notified that disadvantaged and women-owned business enterprises are encouraged to submit responses to this request. The Cities of Fargo and Moorhead will ensure that respondents to this request will not be discriminated against based on sex, race, color, creed or national origin in consideration of an award.

If you have any questions regarding this request, please contact Lori Van Beek or Julie Bommelman at the E-mail addresses listed below or by calling 701.241.8140.

Lori Van Beek, Moorhead Transit Manager  
[LVanbeek@matbus.com](mailto:LVanbeek@matbus.com)

Julie Bommelman, Fargo Transit Director  
[JBommelman@matbus.com](mailto:JBommelman@matbus.com)

For the purposes of this procurement, the following proposal documents are applicable:

- Request for Proposals Cover Letter
- Instructions to Proposers
- Request for Proposals
- Scope of Work
- Submission of Proposal
- Standard Service Terms and Conditions
- Price Schedule (Appendix A)
- Certification Forms (Appendix B)
- Shelter Locations (Attachment 1)
- Evaluation Points (Attachment 2)
- Bid Proposal Form (Attachment 3)
- Federal Clauses (Attachment 4)

## INSTRUCTIONS TO PROPOSERS

### 1. GENERAL.

The following instructions by the Cities of Fargo and Moorhead are intended to afford proposers an equal opportunity to participate in the contracts.

### 2. SPECIFICATIONS.

- 2.1. Proposers are expected to examine the specifications, standard provisions, and all instructions. Failure to do so will be at the proposer's risk. Proposals that are submitted on other than authorized forms or with different terms or provisions may not be considered as responsive proposals.
- 2.2. The apparent silence of the specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of the specifications shall be made on the basis of this statement.

### 3. INFORMATION REQUIRED.

- 3.1. Each proposer shall furnish the information required by the Request for Proposals. The proposer shall sign the Price Schedule and the proposal, which collectively shall constitute the proposer's offer. Erasures or other changes must be initialed by the person signing the documents. Proposals signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to both Cities.
- 3.2. All prices shall be entered on the Price Schedule and are to be entered into the Excel spreadsheet. Totals shall be automatically calculated and entered in the "Total Price" column of the Price Schedule, and in case of discrepancy between the per shelter unit price and the extended total price, the unit price will be presumed to be correct.
- 3.3. Only signed, written proposals specifically accepting responsibility for meeting the objectives and requirements specified in the Request for Proposals will be considered. The cover letter must bear the signature of a person duly authorized to legally commit for the proposer. All costs of proposal preparation will be borne by the proposer.
- 3.4. Information submitted in response to this RFP will not be released by the Cities during the proposal evaluation process or prior to contract award. Proposers are advised that the Cities may be required to release proposal information, other than trade secrets, after contract award.

4. SUBMISSION OF PROPOSALS.

4.1. Sealed Proposals should be submitted in an envelope marked on the outside with the proposer's name and address and proposal description addressed to:

**ATTN: Lori Van Beek, Moorhead Transit Manager, and  
Julie Bommelman, Fargo Transit Director  
650 23<sup>rd</sup> Street North  
Fargo, North Dakota 58102  
Proposal For: Passenger Shelter Maintenance Services  
Proposal Due Date: Thursday May 26 by 2:00 PM**

**4.2 The Price Schedule should be submitted in a separately sealed envelope** along with the proposal. Proposals must be submitted in sufficient time to be received and time-stamped at the above location on or before the published proposal date and time shown on the Request for Proposals. Proposals received after the published time and date cannot be considered. Any proposals which are mislabeled or do not indicate the proposer's name or address as required above may be opened by the Cities solely for the purpose of identifying the proposer for return of the proposal.

5. PROJECTED SCHEDULE

The following is a schedule of dates/deadlines that pertain to all proposals received:

**Note: Throughout this proposal, COB is "close of business" – this is 4:30 p.m. CDT (Central Daylight Time).**

|                 |  |
|-----------------|--|
| April 21        | Cities release RFP document; publish advertisement, notify private sector.   |
| May 5           | Deadline for proposer's submittal of written request for clarification or modification of the RFP.   |
| May 12          | Cities' response to written request for clarification or modification of the RFP and pre-bid conference.   |
| May 19 COB      | Deadline for proposer's submittal of written bid protests regarding the solicitation (RFP).  |
| May 26          | Deadline for receipt of sealed proposals by 2:00 p.m. CDT in the Metro Transit Garage, 650 23 <sup>rd</sup> Street North, Fargo, North Dakota 58102. |
| May 26 – June 9 | Cities' review and evaluate proposals, interview finalists.  |

Passenger Shelter Maintenance Services

|                   |   |
|-------------------|---|
| June 16           | Deadline for proposer's submittal of written pre-award bid protests.  |
| June 27           | Moorhead City Council award of contract and notice to proceed issued, contingent upon Fargo City Commission approval. |
| June 27           | Fargo City Commission award of contract and notice to proceed issued, contingent upon Moorhead City Council approval. |
| July 5 COB        | Deadline for proposer's submittal of written post-award protests.   |
| July 12           | Cities' response to post-award protests.  |
| July 19           | Deadline for proposer's submittal of written appeal of post-award decision to appropriate City governing board.       |
| July 19 – July 25 | Hold hearing of appeal of post-award decision with Fargo City Commission and Moorhead City Council.                   |
| July 26           | Cities' final written determination on appeal issued. All decisions regarding protests shall be considered final.     |
| August 8          | Successful proposer commences service.  |

6. MODIFICATION OR WITHDRAWAL OF PROPOSALS.

Proposals may be modified or withdrawn by written or email notice received by the Cities prior to the exact hour and date specified for receipt of proposals. A proposal may also be withdrawn in person by a proposer or an authorized representative prior to the proposal deadline; provided the proposer's identity is made known and he or she signs a receipt for the proposal.

7. EVALUATION FACTORS.

The Cities will award contracts based upon the criteria set forth in the Request for Proposals, Attachment 2.

8. ELIGIBILITY FOR AWARD.

8.1. In order for a proposer to be eligible for award of the Contract, the proposal must be responsive to the Request for Proposals; and the Cities must be able to determine that the proposer is responsible to perform the Contract satisfactorily.

Passenger Shelter Maintenance Services

8.2. Responsive proposals are those complying with all material aspects of the Request for Proposals. Proposals which do not comply with all the terms and conditions of the Request for Proposals will be rejected as non-responsive.

8.3. Responsible proposers at a minimum must:

- 8.3.1. Have adequate financial resources or the ability to obtain such resources as required during the performance of the Contract;
- 8.3.2. Have a satisfactory record of past performance;
- 8.3.3. Have necessary management and technical capability to perform;
- 8.3.4. Be qualified as an established firm regularly engaged in the type of business to perform the Contract required by this Request for Proposals;
- 8.3.5. Be otherwise qualified and eligible to receive an award under applicable federal, state, county, or municipal laws and regulations; and
- 8.3.6. Sign the Certification Regarding Debarment; Certify that it is not on the U.S. Comptroller General's list of ineligible contractors – signing and submitting the proposal is so certifying.
- 8.3.7. Sign the Certification of Restrictions on Lobbying
- 8.3.8. Be registered with the State of North Dakota (Appendix B-3)

8.4. A proposer may be requested to submit written evidence verifying that it meets the minimum criteria necessary to be determined a responsible proposer. Refusal to provide requested information shall result in the proposer being declared not responsible, and the proposal shall be rejected.

9. RESERVATION OF RIGHTS.

The Cities of Fargo and Moorhead expressly reserves the right to:

- 9.1. Reject or cancel any or all proposals;
- 9.2. Waive any defect, irregularity or informality in any proposal or proposal procedure;
- 9.3. Waive as an informality, minor deviations from specifications at a lower price than other proposals meeting all aspects of the specifications if it is determined that total cost is lower and the overall function is improved or not impaired;
- 9.4. Extend the proposal due date;
- 9.5. Reissue a Request for Proposals;
- 9.6. Procure any item or services by other means;
- 9.7. The Cities reserve the right to retain all proposals submitted. The selection or rejection of a proposal does not affect this right; and
- 9.8. The Cities reserve the right to negotiate a Contract with the proposer having the best evaluation as determined by the Cities. No award will be made automatically based upon the lowest price or based solely on the proposal submitted. The Cities additionally reserve the right to suspend negotiations with the first proposer

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should it not progress in a manner satisfactory to the Cities and commence negotiations with the next best rated proposer.

10. ADDENDA, REQUESTS FOR MODIFICATION OR CLARIFICATION, PROTEST PROCEDURES

10.1. Addenda: In the event that it becomes necessary to revise any part of this RFP, or if additional information is necessary to enable the Proposer to make an adequate interpretation of the provisions of this RFP, a written addendum to the RFP will be provided to each prospective proposer by mail or e-mail. Receipt of all addenda must be acknowledged by each prospective proposer as requested on the Bid Proposal Form; acknowledgements for email receipt of addenda will be done by recipient sending an email acknowledgement. Oral instructions by the City of Fargo/City of Moorhead representatives are not binding.

10.2. Request for Modification or Clarification: Requests for clarification or modification of this RFP must be in writing. The Cities must receive any such request by **COB May 5, 2022**. Any request must be accompanied by all relevant information supporting the request for modification, interpretation, clarification or amendment of this solicitation.

Inquiries about Fargo-Moorhead Transit services and the Request for Proposal shall be directed to:

Julie Bommelman  
Transit Director  
City of Fargo  
650 23rd Street North  
Fargo, ND 58102  
TEL: (701) 476-6737  
FAX: (701) 241-8558  
jbommelman@matbus.com

or

Lori Van Beek  
Transit Manager  
City of Moorhead  
650 23rd Street North  
Fargo, ND 58102  
TEL: (701) 476-6686  
FAX: (701) 241-8558  
lvanbeek@matbus.com

10.3. Bid Protest Procedures

10.3.1. General: Protests will be accepted from prospective bidders or offerors whose direct economic interest would be affected by the award of a contract or by failure to award a contract. The Fargo Transit Director and the Moorhead Transit Manager will consider all protests or objections filed in a timely manner regarding the award of a contract, whether submitted before or after award. All protests shall be in writing and shall be supported by sufficient information to enable the protest to be considered. A protest will not be considered if it is insufficiently supported, or it is not received within the time limits specified herein. Protest submissions should be concise, logically arranged, and clearly state the ground for the protest. Protests must include at least the following information:

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- Name, address, and telephone number of protestor.
- Identification of the solicitation or bid.
- A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents.
- A statement as to what relief is requested.

Protests should be sent via certified mail through the U.S. Postal Service to:

**City of Fargo  
Transit Director  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102**

**City of Moorhead  
Transit Manager  
650 23<sup>rd</sup> Street North  
Fargo, ND 58102**

Protests must be filed with the Cities in accordance with our procedures and time requirements. The protest to the Cities must be complete and contain all the issues that the protestor believes relevant. The Cities will respond to each substantive issue raised in the protest. Failure to include an issue in the protest to the Cities will preclude raising the issue to FTA, if the protest is appealed to that agency. Following an adverse decision by the Cities, protestor may file a protest with FTA under certain limited circumstances listed in paragraph 10.3.6.

On occasion, when considered appropriate by the Fargo City Administrator and/or the Moorhead City Manager, an informal conference on the merits of the protest with all interested parties may be held.

#### 10.3.2. Protests Before Award

- 10.3.2.1. Solicitation Phase: Protests concerning the solicitation must be submitted in writing by **COB May 19, 2022**. If the written protest is not received by the time specified, award may be made in the normal manner unless the Fargo Transit Director and the Moorhead Transit Manager, upon investigation, find that remedial action is required. Oral protests not followed up by a written protest will be disregarded.

Notice of a protest and the basis therefore will be given to all potential bidders or offerors.

- 10.3.2.2. Pre-Award Phase: When a protest against the making of an award is received after receipt of bids or proposals but prior to award, **COB June 27, 2022**, the Fargo Transit Director and the Moorhead Transit Manager may determine to withhold the award pending disposition of



the protest. The Cities will provide a written response to each material issue raised in the written protest. Notice of a protest as well as the Cities' response will be provided to bidders/proposers who responded to the solicitation and are in line for the award of a contract.

Where a written protest against the making of an award is received by the time specified **(COB June 16, 2022)**, an award will not be made unless the Cities determines that:

- The items to be procured are urgently required;
- Delivery or performance will be unduly delayed by failure to make award promptly; or,
- Failure to make award will otherwise cause undue harm to the Cities or the Federal Government.

If award is made, the Fargo Transit Director and the Moorhead Transit Manager will document the file to explain the need for an award and will give written notice of the decision to proceed with the award to the protestor and, as appropriate, to others concerned.

10.3.3. Protests After Award: A protest received by **COB July 5, 2022**, shall be reviewed by the Fargo Transit Director, the Moorhead Transit Manager, and the Legal Department. The selected contractor will, in any event, be furnished with the notice of protest and the basis therefore. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Cities' interest, the Fargo Transit Director and the Moorhead Transit Manager may consider a mutual agreement with the contractor to suspend performance on a no-cost basis. A written response by the Fargo Transit Director and the Moorhead Transit Manager will be issued by **COB July 12, 2022**.

10.3.4. Post-Award Appeals: Appeals must be sent in writing to the Fargo City Commission and/or the Moorhead City Council by **COB July 19, 2022**. The Fargo City Commission and/or the Moorhead City Council will schedule a hearing between **July 19, 2022 and July 25, 2022**, where the appellant may be heard. The Fargo City Commission and/or the Moorhead City Council will issue the Cities a final written determination **by July 26, 2022**.

The decision of the Commission and/or Council is **final** and **no further appeals** may be made.

10.3.5. Determination of Interested Party: An interested party is an actual prospective bidder or offeror whose direct economic interest would be

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affected by award of a contract or failure to award a contract. This definition specifically excludes subcontractors and suppliers.

10.3.5.1. The ability to qualify as an actual or prospective bidder/proposer ends when the bid/proposal period ends.

10.3.5.2. The offer received from the protestor must be technically responsive.

10.3.5.3. The protestor must be the next in line to receive the award if the protested issues prevail.

10.3.5.4. If not next in line, the protestor must successfully challenge all intervening offers to establish next in line status.

10.3.6. Protests to FTA: Under certain limited circumstances, an interested party may protest to FTA the award of a contract pursuant to an FTA grant. FTA's review of any protest will be limited to alleged failure of the Cities to have or follow its written protest procedures or alleged failure to review a complaint or protest.

10.3.6.1. Time for Filing

An appeal to FTA must be received by FTA Region VIII within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA.

Protests should be addressed to:

**U.S. Department of Transportation  
Federal Transit Administration, Region VIII  
Byron Rogers Federal Building  
1961 Stout Street  
Suite 13-301  
Denver, CO 80294-3007**

Violations of Federal law or regulation will be handled by the complaint process stated within the law or regulation.

10.3.6.2. Submission of Protest to FTA

10.3.6.2.1. A protestor must exhaust all administrative remedies with the Cities before pursuing a protest to FTA.

10.3.6.2.2. Protests to FTA should be sent to the FTA Regional or Headquarters Office. A concurrent copy of the protest must be sent to the Cities.

10.3.6.2.3. The protest filed with FTA shall:

- Include the name and address of the protestor.

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- Identify the Cities and the number/title of the contract solicitation.
- Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure of the Cities to have or follow its protest procedures or the alleged failure to review a complaint or protest.
- Include a copy of the local protest filed with the Cities and a copy of the Cities' decision, if any.

10.3.7. Other Remedies: Contractors may seek remedy in the North Dakota/Minnesota state courts, as applicable, if they desire to do so.

## REQUEST FOR PROPOSALS

### INTRODUCTION

The contractor shall establish a regular cleaning schedule in collaboration with the Transit Administration staff to allow for monitoring of performance. This will include providing monthly reports to the Transit staff (to accompany billing invoice) listing the dates that each of the passenger waiting shelters was cleaned. The contractor will also be required to provide the schedule of future cleanings to allow the Cities' staff to assess performance. Frequency of cleaning and tasks to be performed are dependent upon the shelter location. The shelter locations are listed within Attachment 1 at the end of this document.

### BASIS FOR CONTRACT AWARD

The Cities of Fargo and Moorhead shall select a contractor to provide transit passenger shelter maintenance services on the basis of qualifications, costs, previous experience, references, responsiveness and other relevant information as listed in the evaluation form, Attachment 2. The Contractor shall be required to submit a minimum of two contacts (with telephone and email contact information) for references, along with his or her proposal and assigned Reference Release Form. The Contractor will be required to enter into two separate contracts – one with the City of Fargo and the other with the City of Moorhead; separate invoicing will also be required.

### FREQUENCY

The frequency that each shelter should be cleaned, weekly or bi-weekly (every two weeks), is listed in Attachment 1. Trash receptacles are emptied weekly (even if the shelter where the trash is located is only cleaned bi-weekly). The Marriott in Moorhead (118) has three trash receptacles.

For City of Moorhead-owned transit passenger shelters, the Contractor shall clean the following ~~four~~ six shelters weekly: the two Downtown Center Avenue shelters (shelters 101 & 102), Walmart (108), Marriott Hub (118), Churches United for the Homeless (121), and EasTen Mall (134). Shelter (109) Target shall be cleaned weekly April through October and every two weeks November through March. All other shelters will be cleaned every two weeks. The Contractor will also be responsible for providing a more extensive annual cleaning in the Spring to all the Moorhead Shelters.

For City of Fargo-owned transit passenger shelters, the Contractor shall clean the following ten shelters weekly: Walmart (270), New Horizons (229), Job Service/Scheels (202), VA Hospital (209), 25th Ave S - North Side (210), 25th Ave S – South Side (282), Target (259), Sanford Health (242), Southeast Human Services (231), New Life Center (260). All other shelters will be cleaned every two weeks. The Contractor will also be responsible for providing a more extensive annual cleaning in the Spring to all the Fargo shelters.

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The following shelters are maintained by NDSU and do not require any services: Memorial Union (220), Fargodome Transit Hub (230), Engineering and Tech (247), Wallman Wellness Center (248), High Rises-Residence Halls (249), NDSU Visitor Pay Lot (251), and Stem Building (250).

Shelter (240) is maintained by West Acres and does not require any services.

## SCOPE OF WORK

Contractor will maintain all areas covered by the Contract in a pristine condition. Contractor will provide a task report, completed per service stop, in Excel format. The task report must include date, service location, amenities, and description of maintenance performed. Contractor will keep the work site free from accumulation of litter, waste materials, and debris. This includes, but not limited to any paper products, glass, graffiti, hazardous materials (see special requests), and cigarette butts, etc. Items must be collected and removed from work site after every maintenance service. It is the Contractor's responsibility, at its own expense, to properly dispose of such waste materials and debris. The Contractor shall be responsible for completion of the following tasks each time that he or she cleans a transit passenger shelter:

- Cleaning the benches (all seasons).
- Squeegee both sides of glass panels removing marks and smudges; wipe frames (all seasons).
- Sweeping the floor (mopping if spillage is on concrete except during winter).
- Picking up debris or waste inside the shelter (including yard waste/compost- all seasons).
- 
- Picking up debris or waste within 20 feet of shelter.
- Providing photo documentation through email of graffiti or broken glass on shelters.
- Removing any posters or signs attached to the shelter unrelated to transit services.
- Notifying the Transit Administration of any problems, such as broken windows, cracks in the roof, graffiti, faded schedules, hazing of Plexiglas, loose bench bolts, damaged trash receptacles, roof leaking etc.

A squeegee should be used in the winter when cleaning all glass and Plexiglas panels to reduce streaking. Power washing is preferred in the summer.

### SPECIAL REQUESTS

The Contractor must also include an additional expense for the completion of the following tasks each time that he or she cleans a transit passenger shelter. The additional expense will be listed as a per shelter expense. Hourly rates will not be accepted. Special requests are as follows:

- Removing any and all broken glass present from broken shelter panels within 12 hours of notice or finding.
- Cleaning biohazard waste (additional cost of service if necessary)
- Cleaning graffiti from transit passenger shelters.

### **ANNUAL CLEANING TASK**

Annual cleaning tasks shall pertain to all Moorhead and Fargo shelters. Moorhead shelters are all listed as 100 series and Fargo are listed as 200 series. All shelter locations can be found in Attachment 1. The following items are annual cleaning tasks for each of these shelters:

- Thoroughly scrubbing or power washing the shelter interior and exterior (including the floor, ceiling and roof, benches, trash receptacles and windows).
- Cleaning the inside display case, including the window (keys can be borrowed from the Transit Administration office).
- Removing light covers and cleaning the fixtures (where applicable).

### **TRASH RECEPTACLES**

The Contractor shall be responsible to maintain City-owned trash receptacles placed at high-usage passenger shelter locations. The contractor will be required to empty each receptacle once per week; it is possible that certain receptacles may need to be emptied more frequently. When this occurs, the contractor and Transit Administration will ascertain the necessary frequency. The applicable City will pay the Contractor the same per trash receptacle rate for individual disposal requests as it pays for the weekly per trash receptacle waste disposal rate. Included in the duties is to empty the receptacles, placement of a new plastic liner (which will be provided by the contractor) in the receptacle, disposal of the trash, and be on call for pickup of trash. Recycling is encouraged whenever possible. A listing of trash receptacle locations is provided at the end of this document within Attachment 1.

### **ADDITIONAL SHELTERS & TRASH RECEPTACLES**

As the metropolitan transit system continues its growth and expansion, additional shelters and trash receptacles may be added during the duration of this contract. Accordingly, the Cities reserve the right to amend the contract to include cleaning of the new shelters and maintenance of trash receptacles at the current costs (per cleaning) at time of induction.

### **INDIVIDUAL CLEANING REQUESTS**

In the event that the Transit Administration office receives complaints regarding the lack of cleanliness of a shelter, the Contractor will be contacted. The Contractor must clean the shelter within 24 hours of notification (if such issues arise on a weekday) or within 48 hours if occurring on a weekend. The applicable City will pay the Contractor the same per shelter rate for individual cleaning requests as it pays for the bi-weekly per shelter rate unless it was determined by the Cities that the required cleaning was not performed as pre-scheduled.

## **COMMUNICATIONS**

In addition to a telephone number, the contractor shall be required to provide the Cities with an email address which will be checked at least once per 24-hour period. The Cities will utilize this address to alert the contractor of specific cleaning tasks, problems, etc.

## **DAMAGE TO THE CITIES' PROPERTY**

The Contractor will ensure that all equipment utilized during the duration of the agreement (including cleaning solutions) will not damage the transit passenger shelters' interior and exterior materials, such as (but not limited to) glass panels, Plexiglas, benches, display cases, lighting fixtures, and the concrete base. In the event that such damage occurs, the Contractor shall promptly rectify or reimburse the Cities for the cost to repair such damages.

## **INSURANCE**

If the Contractor does not currently meet the insurance requirements listed below, the Contractor shall submit a letter from a reputable insurance agent stating intent to provide insurance for the prescribed coverage with their proposal. The Contractor shall furnish within fifteen (15) days after contract award evidence of insurance providing coverage for all services provided for the duration of the contract and shall include the following: \$1,000,000 Comprehensive General Liability coverage. Also, the Contractor shall be required to maintain this insurance in force until the project is completed and accepted. In addition, the Contractor shall name the Cities of Fargo and Moorhead as additional named insureds to said policies with regard to the services and products being provided. The policy shall state that the insurance company will give the Cities of Fargo and Moorhead thirty (30) days written notice prior to cancellation of this policy.

## **WORKERS' COMPENSATION**

The Contractor shall be required to obtain and keep in force during the terms of operation covered by this proposal North Dakota and/or Minnesota Worker's Compensation and Employer Liability Insurance and applicable Unemployment Insurance, all as provided more fully below. Certificates evidencing the required insurance will be furnished to the Cities prior to commencing any work under this contract. If the Contractor does not currently meet the requirements listed below, the Contractor shall submit a letter from a reputable insurance agent stating intent to provide insurance for the prescribed coverage.

North Dakota and/or Minnesota Worker's Compensation and Employer Liability Insurance at the limits established by the States of North Dakota and Minnesota. Deductible and Self Insured retainers, if any, shall be identified in the Bidder's proposal. All deductible payments are the responsibility of Contractor.



Each policy of insurance shall contain the following clauses: "It is agreed that these policies shall not be canceled nor the coverage reduced until thirty (30) days after the City of Fargo/City of Moorhead shall have received written notice of such cancellation or reduction by certified mail."

Contractor will provide the City of Fargo and City of Moorhead documentation proving insurance coverage, in the form of a Certificate of Insurance, within fifteen (15) days of notice of contract award or ten (10) days before commencing maintenance service, whichever occurs first.

**SUBMISSION OF PROPOSAL  
REQUIRED COMPETITIVE PROCUREMENT PROPOSAL FORM**

The Cities of Fargo and Moorhead will employ the competitive procurement purchase process in the award of this offer. Offers shall be submitted in two (2) separate packages.

Proposers, which have relevant experience, are invited to complete and submit proposals. To enhance comparability, proposal elements must be addressed in the informational sequence noted below:

- Cover Letter,
- Bid Proposal Form, including Approach and Work Plan,
- Qualifications and References,
- Experience,
- Insurance Certificate or Letter
- Certification Forms, and
- Price Schedule Spreadsheet (submitted in a separately sealed envelope).

**The following documents must be signed and returned with your proposal in order for it to be considered responsive:**

- Response to RFP: one (1) original, five (5) hard copies, and one (1) electronic version in PDF format supplied on a USB Flash Drive,
- Price Schedule (Appendix A): one (1) original in a separately sealed envelope and a copy in Excel supplied on a USB Flash Drive,
- Certifications (Attachment B)
  - Certification Regarding Debarment, Suspension & Other Responsibility Matters
  - Certification of Restrictions on Lobbying

All proposals must be submitted before the deadline in the solicitation and addressed with the information as noted in the "Instructions to Proposers" section 5 above. The proposal contents shall include the following:

**Proposal Contents and Format**

The contents of the proposal shall include the following:

**Cover Letter**

Include appropriate introductory and contact information, including the name of the firm's principal liaison.

### **Bid Proposal Form, Including Approach and Work Plan**

Proposer must complete the Bid Proposal Form and include a detailed work plan outlining all of the specific tasks that will need to be undertaken and the procedures that will be used to accomplish the Scope of Work. Please indicate the equipment and manpower that will be used in providing this service, as well as the cleaning methods and how they may be changed seasonally.

### **Qualifications and References**

Proposer must detail qualifications of firm in performing this type of work and provide references.

### **Experience**

**Firm** - Proposer must submit any information appropriate to the RFP necessary to establish qualifications and experience (i.e.; references with contact name and telephone number).

**Personnel** - Proposer must include detailed work experience and number of specific personnel who will be directly involved ("hands-on" personnel) with this project and identify the proposed project manager.

### **Insurance Certification or Letter**

### **Certification Forms**

### **Price Schedule (Sealed Separately)**

Proposer must submit the Price Schedule with its proposal. All costs to be incurred and billed to the Cities of Fargo and Moorhead will be firm and included in this Schedule. (Failure to complete and return this section will be cause for rejection of this proposal as non-responsive.) Price Schedule must be submitted in a separately sealed envelope.

All information must be legible. Any and all corrections and/or erasures must be initialed. Authorized respondent must sign each proposal and required information must be provided. A neatly typed document of reasonable length, following the RFP outline, is preferred. Expenses incurred in developing and submitting a proposal are borne entirely by bidder. Bidders will not include any such expenses as part of the price proposed in response to this RFP.

Before completing the Bid Proposal Form, Proposers should read the entire Request for Proposals (RFP) carefully to ensure that any proposals submitted are responsive to this request. Particular attention should be made of the completion of all forms enclosed and submission of proposals in required format. Failure to provide all information requested herein may cause the proposal to be rejected as nonresponsive.

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Proposals shall provide a concise delineation of the proposer's capability to satisfy the requirements of the RFP. A duly authorized officer of the company will sign each proposal.

**EVALUATION CRITERIA**

The Cities of Fargo and Moorhead will review all proposals for completeness. Those proposals found incomplete or failing to address the needs of the Cities as stated herein will not be evaluated. Those proposals furnished complete with all required documentation will be evaluated. Proposers are urged to initially submit their best offer. An award (if any) will be made to that proposer whose proposal is deemed most advantageous to, and in the best interest of, each city and the general public. The evaluation factors in order of importance are as follows:

|                               |               |
|-------------------------------|---------------|
| Approach and Work Plan        | 25 pts        |
| Qualifications and References | 25 pts        |
| Experience                    | 20 pts        |
| Price                         | <u>30 pts</u> |
| Total                         | 100 pts       |

**PROPOSAL SECURITY**

**FARGO**

No proposal will be considered by the Cities to be responsive to this request unless accompanied by a cashier's check payable to the City of Fargo by a responsible, solvent bank in the United States in an amount equal to five percent (5%) of the first year of the contract amount; or, a bond executed by a surety company authorized to transact business in the State of North Dakota in an amount equal to five percent (5%) of the first year contract amount. The first year contract amount on which this shall be computed is the Fargo Only total from the Price Schedule. Such surety will be retained by the City of Fargo if the successful proposer fails, neglects or refuses to execute the contract, or fails to commence service as required under the contract. The check or bond of the highest ranked proposer will be returned after the execution of the contract. The check or bond of the second highest ranked proposer will be returned after the execution of the contract with the successful proposer. The checks or bonds of all other proposers will be returned promptly after the award of the contract by the City of Fargo.

**MOORHEAD**

No proposal will be considered by the Cities to be responsive to this request unless accompanied by a cashier's check payable to the City of Moorhead by a responsible, solvent bank in the United States in an amount equal to ten percent (10%) of the first year of the contract amount; or, a bond executed by a surety company authorized to transact business in the State of Minnesota in an amount equal to ten percent (10%) of the first year contract

amount. The first year contract amount on which this shall be computed is the Moorhead Only total from the Price Schedule. Such surety will be retained by the City of Moorhead if the successful proposer fails, neglects or refuses to execute the contract, or fails to commence service as required under the contract. The check or bond of the highest ranked proposer will be returned after the execution of the contract. The check or bond of the second highest ranked proposer will be returned after the execution of the contract with the successful proposer. The checks or bonds of all other proposers will be returned promptly after the award of the contract by the City of Moorhead.

**FEDERAL CLAUSES**

See Federal Clauses Attachment.

**CONFIDENTIALITY OF PROPOSAL INFORMATION**

Each proposal and supporting documents must be submitted in or under cover of a sealed envelope to provide confidentiality of the proposal information prior to the proposal opening.

Financial information required to be submitted with proposals to establish financial responsibility; cost/price proposals; and other financial data, such as overhead rates, etc. shall be handled as confidential data to the extent allowed under applicable law, including Minnesota Government Data Practices Act, M. S. Chapter 13, and utilized on a "need-to-know" basis for proposal evaluation. Such information shall be treated as confidential to the extent allowed under North Dakota's open records law, Chapter 44-04, N.D.C.C. (specifically, N.D.C.C. § 44-04-18.4).

**ACCURACY OF PROPOSAL**

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Each proposal is publicly opened and the name of bidder is made part of the public record. Therefore, it is necessary that any and all information presented is accurate and/or will be that by which the respondent will complete the contract.

**PROPOSALS BINDING**

All proposals submitted in accordance with the terms and conditions of the RFP shall be binding upon the bidder for ninety (90) calendar days after the proposal opening.

**DISCLAIMER OF LIABILITY**

The Cities of Fargo and Moorhead will not hold harmless or indemnify any contractor for any liability whatsoever.

**HOLD HARMLESS**

The Cities of Fargo and Moorhead will be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

**LAWS GOVERNING**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of North Dakota and Minnesota, as applicable.

**CONDITIONAL PROPOSALS**

Conditional proposals are subject to rejection in whole or in part.

**SUBLETTING OF CONTRACT**

The contract that will be derived from this RFP shall not be sublet except with the written consent of the Cities of Fargo and Moorhead. No such consent shall be construed as making the Cities of Fargo and Moorhead a party to such subcontract, or subjecting the Cities of Fargo and Moorhead to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve the Contractor of his or her liability and obligation under his or her contract, and all transactions with the Cities of Fargo and Moorhead must be through the General Contractor.

**ASSIGNABILITY/TRANSFER OF INTERESTS** \_\_\_\_\_

There shall be no assignment/transfer of interests or delegation of Contractor's rights, duties or responsibilities of Contractor under the contract derived from this RFP without the prior written approval of the Cities of Fargo and Moorhead

**SEVERABILITY**

In the event any provision of the contract is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the contract and each provision of the contract will be and is deemed to be separate and severable from each other provision.

**REGULATORY REQUIREMENTS**

The Contractor shall comply with all Federal, State, and local licensing, training, testing and/or regulatory requirements (including permits) for the provision of transit passenger shelter maintenance services. The successful Contractor shall be appropriately licensed for the work required as a result of the contract. The cost for any required licenses or permits shall be the responsibility of the Contractor. Contractor is liable for any and all taxes due as a result of the contract.

**RESPONSIBLE FIRMS**

Page 307 Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals.

**RESERVED RIGHTS**

The Cities of Fargo and Moorhead reserve the right to accept or reject any or all of the proposals submitted, waive informalities and technicalities and negotiate any or all elements of the proposals.

**WAIVER**

By submission of its proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of work or the furnishing of the labor services, supplies, materials, or equipment and facilities called for in the solicitation; that it has checked its proposal for errors and omissions; that the prices stated in its proposal are correct and as intended by it; and, are a complete and correct statement of its prices for performing the labor, services, supplies, materials or equipment and facilities required by the Contract Documents. The Proposer waives any claim for the return of its proposal security (if any) if, on account of errors or omissions claimed to have been made by it in its proposal or for any other reason it should refuse or fail to execute the contract.

**INDEPENDENT PRICE DETERMINATION**

The Proposer certifies that he/she has not colluded, conspired, connived, or agreed, directly or indirectly, with any Proposer or person to put in a sham proposal or to refrain from proposing, and further, that he has not in any manner, directly or indirectly sought by agreement, collusion, communication, or conference, with any person, to fix the proposal amount herein or any other Proposer, or to fix any overhead, profit, or cost element of said proposal amount, or that of any other Proposer, or to secure any advantage against the Cities of Fargo and Moorhead or any person interested in the proposed contract.

**PROHIBITED INTEREST**

No administrator or employee of the Cities of and no member of its governing body shall participate in selection or in the award or administration of a contract if a conflict of interest real or apparent would be involved.

No member or delegate to the North Dakota Legislature, Minnesota State Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.



**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION & OTHER RESPONSIBILITY MATTERS**

Contractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where Contractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.

CONTRACTOR CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Company Name**

**CERTIFICATION OF  
RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_ that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contact, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_.

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

**Vendor Registration for MATBUS (Cities of Fargo, ND, & Moorhead, MN)**

- 1 Name of Business: \_\_\_\_\_
- 2 Business Street Address: \_\_\_\_\_
- 3 Business Mailing Address: \_\_\_\_\_
- 4 City, State, ZIP: \_\_\_\_\_
- 5 Business Website: \_\_\_\_\_
- 6 Business Telephone: \_\_\_\_\_
- 7 Contact Person: \_\_\_\_\_
- 8 Contact Person Title: \_\_\_\_\_
- 9 Contact Person Email: \_\_\_\_\_
- 10 Contact Person Telephone: \_\_\_\_\_
- 11 Business DUNS Number: \_\_\_\_\_

- 12 Is this firm a certified Disadvantaged Business Enterprise in the State of North or State of Minnesota?
- 13 Is this firm a certified Small Business with the U.S. Small Business Administration?
- 14 Has your business registered with the System for Award Management @ [www.sam.gov](http://www.sam.gov)? Note: This is required prior to contracting with MATBUS.
- 15 If a North Dakota business, has your business registered as a vendor with the Secretary of State @ <https://sos.nd.gov/business/vendors> ?
- 16 Have you read the MATBUS Federal Clauses?
- 17 Does your firm agree to comply with the applicable Federal Clauses when doing business with MATBUS and the Cities of Fargo and Moorhead?

| Yes | No |
|-----|----|
|     |    |
|     |    |
|     |    |
|     |    |
|     |    |
|     |    |

Check all of the products or services your firm wishes to bid on:

| X | PRODUCT OR SERVICE  | CLASSIFICATION  | NAICS CODE |
|---|---|---|------------|
|   | Advertising Agencies  | Advertising Agencies  | 541810     |
|   | Architectural Services                                      | Architectural Services  | 541310     |
|   | Auto Body Repair  | All Automotive Repair & Maintenance   | 811198     |
|   | Banking Supplies (coin count bags)                          | Locksmiths  | 561622     |
|   | Batteries   | Automotive Parts and Accessories Stores   | 441310     |
|   | Bearings  | Automotive Parts and Accessories Stores   | 441310     |
|   | Billboards  | Sign Manufacturing  | 339950     |
|   | Building Maintenance and Repairs                            | Commercial and Institutional Building Construction  | 236220     |
|   | Building Maintenance Materials                              | Commercial and Institutional Building Construction  | 236220     |
|   | Bus and Vehicle Repair Parts                                | All Automotive Repair & Maintenance   | 811198     |
|   | Bus Repair Services   | All Automotive Repair & Maintenance   | 811198     |
|   | Bus Wrap Production and Installation                        | Marketing Consulting Services   | 541613     |
|   | Buses   | Charter bus Industry  | 485510     |
|   | Cable & Wire  | Electrical Contractors and Other Wiring Installation Contractors                                | 238210     |
|   | Cable and Other Subscription Programming                    | Cable and Other Subscription Programming  | 515210     |
|   | Commercial Banking  | Commercial Banking  | 522110     |
|   | Commercial Printing - Other                                 | Other Commercial Printing   | 323119     |
|   | Commercial Screen Printing                                  | Commercial Screen Printing  | 323113     |
|   | Computer & Office Machine Repair & Maintenance              | Computer & Office Machine Repair & Maintenance  | 811212     |
|   | Concrete Work   | Concrete Contractors  | 238110     |
|   | Couriers  | Couriers  | 492110     |
|   | Custodial services  | Janitorial Services   | 561720     |
|   | Decals  | Graphic Design Services   | 541430     |
|   | Diagnostic Equipment  | All Automotive Repair & Maintenance   | 811198     |
|   | Direct mail   | Marketing Consulting Services   | 541613     |
|   | Direct Mail Advertising                                     | Direct Mail Advertising   | 541860     |
|   | Direct Property and Casualty Insurance                      | Direct Property and Casualty Insurance  | 524126     |
|   | Driver and Management Services                              | Admin Mgmt & General Mgmt Consulting Services   | 541611     |
|   | Electrical Repair Service                                   | Electrical Contractors and Other Wiring Installation Contractors                                | 238210     |
|   | Electrical Repair   | Electrical Contractors and Other Wiring Installation Contractors                                | 238210     |
|   | Electrical Supplies   | Electrical Contractors and Other Wiring Installation Contractors                                | 238210     |
|   | Emergency Generator Repair and Service                      | Commercial and Institutional Building Construction  | 236220     |
|   | Employment Placement Agencies                               | Employment Placement Agencies   | 561310     |
|   | Engineering Services  | Engineering Services  | 541330     |
|   | Exterminating & Pest Control Services                       | Exterminating & Pest Control Services   | 561710     |
|   | Fasteners   | Automotive Parts and Accessories Stores   | 441310     |
|   | First aid Supplies  | Office Supplies and Stationery Stores   | 453210     |
|   | Fuel  | Petroleum Bulk Stations and Terminals   | 424720     |
|   | Fuel System Repair Service                                  | Other Fuel Dealers  | 454319     |
|   | Furniture   | Furniture Merchant Wholesalers  | 423210     |
|   | Gaskets   | Automotive Parts and Accessories Stores   | 441310     |
|   | Glass   | Glass Repair (Automotive)   | 811122     |
|   | Hotels (except Casino Hotels) and Motels                    | Hotels (except Casino Hotels) and Motels  | 721110     |
|   | HVAC Maintenance  | Plumbing, Heating, and Air-Conditioning Contractors   | 238220     |
|   | HVAC Maintenance Items                                      | Plumbing, Heating, and Air-Conditioning Contractors   | 238220     |
|   | Interior Design Services                                    | Interior Design Services  | 541410     |
|   | Interior Painting   | Painting and Wall Covering Contractors  | 238320     |
|   | Internet Publishing and Broadcasting and Web Search Portals | Internet Publishing and Broadcasting and Web Search Portals                                     | 519130     |
|   | Janitorial Supplies   | Office Supplies and Stationery Stores   | 453210     |
|   | Laminating  | Commercial digital printing (except books)  | 323111     |
|   | Landscaping   | Landscaping Services  | 561730     |
|   | Lighting Equipment  | Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers | 423810     |

Passenger Shelter Maintenance Services

|   |   |        |
|---|---|--------|
| Lighting Fixtures                                       | Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers | 423610 |
| Lubricants  | Automotive Parts and Accessories Stores   | 441310 |
| Magnetic Fare tickets                                   | Graphic Design Services   | 541430 |
| Metal Signs   | Sign Manufacturing  | 339950 |
| Office Equipment  | Office Supplies and Stationery Stores   | 453210 |
| Office supplies   | Office Supplies and Stationery Stores   | 453210 |
| Overhead Door Maintenance                               | Commercial and Institutional Building Construction  | 236220 |
| Paint and Supplies                                      | Painting and Wall Covering Contractors  | 238320 |
| Paper   | Office Supplies and Stationery Stores   | 453210 |
| Plaques   | All Other Miscellaneous Store Retailers (except Tobacco Stores)                                 | 453998 |
| Plumbing Repair Service                                 | Plumbing, Heating, and Air-Conditioning Contractors   | 238220 |
| Printing, Large-format (maps, shelter posters)          | Graphic Design Services   | 541430 |
| Printing, Safety paper coupon books                     | Graphic Design Services   | 541430 |
| Printing, Small-format (brochures, flyers, postcards)   | Graphic Design Services   | 541430 |
| Promotional materials                                   | Graphic Design Services   | 541430 |
| Radio Equipment   | Radio Repair  | 811211 |
| Radio Stations  | Radio Stations  | 515112 |
| Security Equipment                                      | Locksmiths  | 561622 |
| Security Services                                       | Security Guards & Patrol Services/Armored Car Services  | 561612 |
| Shop Equipment  | Automotive Parts and Accessories Stores   | 441310 |
| Small Tools   | Automotive Parts and Accessories Stores   | 441310 |
| Snow Removal Services                                   | Landscaping Services  | 561730 |
| Special Needs Transportation                            | Special Needs Transportation  | 485991 |
| Taxi Service  | Taxi Service  | 485310 |
| Telecommunications Equipment                            | Electrical Contractors and Other Wiring Installation Contractors                                | 238210 |
| Television Broadcasting                                 | Television Broadcasting   | 515120 |
| Tires   | Tire Dealers  | 441320 |
| Uniforms  | Linen & Uniform Supply  | 812331 |
| Van Repair Services                                     | All Automotive Repair & Maintenance   | 811198 |
| Vehicle Purchase and Parts                              | Automotive Parts and Accessories Stores   | 441310 |
| Vehicle Towing  | Motor Vehicle Towing  | 488410 |
| Vending Machines  | Vending Machine Operators   | 454210 |
| Video Production Services                               | Motion Picture and Video Production   | 512110 |
| Waste Receptacles                                       | Office Supplies and Stationery Stores   | 453210 |
| Welding Supplies  | Automotive Parts and Accessories Stores   | 441310 |
| Window Washing Services                                 | Janitorial Services   | 561720 |
| Wireless Telecommunications Carriers (except Satellite) | Wireless Telecommunications Carriers (except Satellite)   | 517210 |

## Passenger Shelter Maintenance Services

| Frequency of Cleanings                    | Number of shelters | Number of Weeks | Annual Number of Cleanings | Year 1            |                    | Year 2            |                    | Year 3            |                    | Year 4            |                    | Year 5            |                    | 5-YEAR TOTAL |
|---|--------------------|-----------------|----------------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|--------------|
|   |                    |                 |                            | Cost per Cleaning | Year 1 Annual Cost | Cost per Cleaning | Year 2 Annual Cost | Cost per Cleaning | Year 3 Annual Cost | Cost per Cleaning | Year 4 Annual Cost | Cost per Cleaning | Year 5 Annual Cost |              |
| <b>CITY OF MOORHEAD - MATBUS:</b>         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Weekly cleanings:                         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Center Mall Downtown                      |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| US Bank Downtown                          |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Walmart                                   |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Target                                    |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Laundrol Hub                              |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Churches United for the Homeless Lutheran |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| McCall                                    | 7                  | 52              | 364                        |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Bi-weekly cleaning - Various              | 23                 | 26              | 598                        |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Annual cleaning - All                     | 30                 | 1               | 30                         |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Each - Emptying of Trash Receptacles      | 17                 | 52              | 884                        |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| <b>TOTAL MOORHEAD</b>                     |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |

| Frequency of Cleanings               | Number of shelters | Number of Weeks | Annual Number of Cleanings | Year 1            |                    | Year 2            |                    | Year 3            |                    | Year 4            |                    | Year 5            |                    | 5-YEAR TOTAL |
|--------------------------------------|--------------------|-----------------|----------------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|--------------|
|                                      |                    |                 |                            | Cost per Cleaning | Year 1 Annual Cost | Cost per Cleaning | Year 2 Annual Cost | Cost per Cleaning | Year 3 Annual Cost | Cost per Cleaning | Year 4 Annual Cost | Cost per Cleaning | Year 5 Annual Cost |              |
| <b>CITY OF FARGO - MATBUS:</b>       |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Weekly cleanings:                    |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| ND Job Service / Scheels             |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| VA Hospital                          |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Hub 1 (14th St and 25th Ave S)       |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Hub 2 (14th St and 25th Ave S)       |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| New Horizons                         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Southeast Human Services             |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Forford Health (west-side)           |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Target                               |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| New Life Center                      |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Walmart (11th Ave)                   | 18                 | 52              | 936                        |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Bi-weekly cleaning - Various         | 60                 | 26              | 1560                       |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Annual cleaning - All                | 20                 | 1               | 20                         |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| Each - Emptying of Trash Receptacles | 24                 | 52              | 1248                       |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |
| <b>TOTAL FARGO</b>                   |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |              |

5-YEAR GRAND TOTAL - FARGO & MOORHEAD \$ -

NAME OF COMPANY: \_\_\_\_\_

| Description                                    | Year 1 Price Each | Year 2 Price Each | Year 3 Price Each | Year 4 Price Each | Year 5 Price Each | 5-YEAR TOTAL PRICE EACH |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------------|
| <b>SPECIAL REQUESTS - FARGO &amp; MOORHEAD</b> |                   |                   |                   |                   |                   |                         |
| Garage Cleanup                                 |                   |                   |                   |                   |                   | \$ -                    |
| Basement Clean-up                              |                   |                   |                   |                   |                   | \$ -                    |
| Basement Clean-up                              |                   |                   |                   |                   |                   | \$ -                    |
| <b>TOTAL FARGO &amp; MOORHEAD:</b>             | \$ -              | \$ -              | \$ -              | \$ -              | \$ -              | \$ -                    |

DATE: \_\_\_\_\_

\*Do NOT enter an hourly cost for clean up. The price should be listed per shelter.



Transit Shelter/Hub Locations & Information (Attachment 1)

| Number | Name  | MOORHEAD & DILWORTH Locations                | Schedule Tool       | Shelter Size | Cleaning Schedule   | Trash Receptacle |
|--------|---|--|---------------------|--------------|---|------------------|
| 101.   | Center Mall Downtown                          | Center Ave & 5th St                          | Socket wrench 5/16  | 5' x 10'     | Weekly  |                  |
| 102.   | US Bank Downtown                              | Center Ave & 5th St                          | Double-pronged      | 5' x 10'     | Weekly  |                  |
| 103.   | River View                                    | 2nd Ave & 8th St N                           | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 106.   | Regal Estates                                 | 4th Ave 24th St N                            | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 108.   | Walmart                                       | 8th Ave & 34th St N                          | Double-pronged      | 5' x 10'     | Weekly  |                  |
| 109.   | Target  | Hwy 10 Frontage Road near 34th St            | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly + Weekly during the summer months (April - Nov) | X                |
| 110.   | Romkey Addn.                                  | 20th St & 18th Ave S                         | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 111.   | M State (Tech College)                        | 28th Ave S                                   | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   |                  |
| 113.   | Belsly Blvd. - Lakeland                       | 11th St & 32nd Ave S                         | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   | X                |
| 114.   | Concordia Campus                              | 8th St S & 11th Ave S                        | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 115.   | Days Inn                                      | 30th Ave & 5th St S                          | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   | X                |
| 116.   | A Place for Hope                              | 12th Ave & 25th St                           | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   |                  |
| 117.   | Brookdale Mall                                | 24th Ave & Rivershore Dr S                   | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 118.   | Marriott Hub                                  | 11th St & 26th Ave S                         | Phillips            | 8' x 20'     | Weekly  | X X X            |
| 121.   | Churches United for the Homeless              | 1st Ave N & 19th St                          | Double-pronged      | 5' x 10'     | Weekly  | X                |
| 122.   | Public Library                                | 5th St & 2nd Ave S                           | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   |                  |
| 124.   | Apartment Buildings                           | 20th Street South (midblock 12th & 14th Ave) | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 125.   | Moorhead High                                 | 4th Ave Oak Way S                            | Double-pronged      | 5' x 10'     | Bi-weekly   |                  |
| 127.   | MSUM Campus                                   | 11th St at Center for Business               | Double-pronged      | 5' x 10'     | Bi-weekly   |                  |
| 128.   | MSUM Campus                                   | 14th St S                                    | Double-pronged      | 10'x10'      | Bi-weekly   |                  |
| 129.   | Concordia Campus                              | 5th St S & 9th Ave S                         | Double-pronged      | 7'x12'       | Bi-weekly   | X                |
| 130.   | 34th Street                                   | 12th Ave & 34th Street South Circle          | Double-pronged      | 5' x 10'     | Bi-weekly   |                  |
| 131.   | Azool Hornbachers                             | 40th Ave and 9th St S                        | Double-pronged      | 5' x 10'     | Bi-weekly   |                  |
| 132.   | Horizon Middle School                         | 40th St South between 12th Ave & Ridgewood   | Double-pronged      | 5' x 10'     | Bi-weekly   |                  |
| 133.   | Bright Sky Apartments                         | 34th St & 3rd Ave N                          |                     | 5' x 10'     | Bi-weekly   | X                |
| 134.   | EasTen Mall                                   | 34th St near Highway 10                      |                     | 5' x 10'     | Weekly  | X                |
| 135.   | Queen's Shelter                               | Belsly Blvd & 18th St S                      | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   |                  |
| 136.   | St Joes Church                                | 2nd Ave & 11 St S                            | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   | X                |
| 137.   | Clay County Courthouse                        | 11th St N & 8th Ave                          | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   | X                |
| 138.   | AXIS Clinicals                                | 34th St near 4th Ave N                       | Socket wrench 5/16  | 5' x 9'      | Bi-weekly   |                  |
|        | Bench to Street                               | 1st Ave N & 8th St                           |                     |              | N/A   |                  |
| Number | Name  | FARGO & WEST FARGO Locations                 | Schedule Tool       | Shelter Size | Cleaning Schedule   | Trash Receptacle |
| 201.   | ND Job Service/ Wendy's                       | Westrac & 13th Avenue South                  | Standard Phillips   | 5' x 9'      | Bi-weekly   | X                |
| 202.   | ND Job Service/ Scheel's                      | 32nd Street & 13th Avenue South              | Standard Phillips   | 5' x 9'      | Weekly  | X                |
| 203.   | CVS Pharmacy                                  | 25th Street & 13th Avenue South              | Yellow Hex          | 5' x 9'      | Bi-weekly   | X                |
| 204.   | Market Square (Ameriprise Financial)          | Demores Drive & 13th Avenue South            | Standard Phillips   | 5' x 9'      | Bi-weekly   | X                |
| 205.   | Benson Bunker Fieldhouse (NDSU)               | University Drive & Centennial Blvd.          | Red Hex             | 5' x 9'      | Bi-weekly   |                  |
| 206.   | Essentia Clinic / Sanford                     | 12th Street & 17th Avenue South (north side) | Red Hex             | 5' x 9'      | Bi-weekly   | X                |
| 207.   | Essentia Clinic / Sanford                     | 12th Street & 17th Avenue South (south side) | Standard Phillips   | 5' x 9'      | Bi-weekly   |                  |
| 208.   | Community Homes                               | 23rd Street & 6th Avenue South               | Standard Phillips   | 5' x 9'      | Bi-weekly   |                  |
| 209.   | VA Hospital                                   | Elm Street & 21st Avenue North               | Red Hex             | 5' x 9'      | Weekly  |                  |
| 210.   | 25th Ave S - North Side                       | 14th Street & 25th Avenue South              | Red Hex             | 5' x 9'      | Weekly  | X                |
| 282.   | 25th Ave S - South Side                       | 14th Street & 25th Avenue South              | Double-pronged      | 5' x 15'     | Weekly  |                  |
| 211.   | Fraser Halls                                  | University Drive & 8th Avenue South          | Blue Hex            | 5' x 9'      | Bi-weekly   |                  |
| 212.   | Island Park                                   | 4th Street & 6th Avenue South                | Blue Hex            | 5' x 9'      | Bi-weekly   |                  |
| 213.   | Evaluation & Training Ctr.                    | 4th Street & 9th Avenue South                | Standard Phillips   | 5' x 9'      | Bi-weekly   |                  |
| 214.   | University Drive Manor                        | 12th Street & 1st Avenue North               | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 216.   | Colliseum                                     | 10th Street & 17th Avenue North              | Standard Phillips   | 5' x 9'      | Bi-weekly   |                  |
| 217.   | Sanford Health Athletic Complex - SHAC (NDSU) | University Drive & 17th Avenue North         | Blue Hex            | 5' x 9'      | Bi-weekly   |                  |
| 218.   | Trollwood Village                             | Broadway & 31st Avenue North                 | 7/16 socket         | 5' x 9'      | Bi-weekly   |                  |
| 219.   | Fargo North High                              | Broadway & 19th Avenue North                 | Double-pronged      | 5' x 9'      | Bi-weekly   | X                |
| 221.   | Washington Elementary                         | Broadway & 17th Avenue North                 | Red Hex             | 5' x 9'      | Bi-weekly   |                  |
| 220.   | Memorial Union Transit Hub (NDSU)             | Administration Avenue                        | NDSU Key            | 10' x 40'    | NDSU-maintained   | X                |
| 222.   | Casey's General Store                         | Broadway & 15th Avenue North                 | Red Hex             | 5' x 9'      | Bi-weekly   |                  |
| 223.   | Sanford Health (east-side)                    | Broadway & 8th Avenue North                  | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 224.   | Saint Mary's Cathedral                        | Broadway & 6th Avenue North                  | Standard Phillips   | 5' x 9'      | Bi-weekly   |                  |
| 225.   | Bison Court (NDSU)                            | University Drive & 15th Avenue North         | Yellow & Double Prn | 5' x 9'      | Bi-weekly   |                  |
| 226.   | FamilyFare                                    | University Drive & 7th Avenue North          | Blue Hex            | 5' x 9'      | Bi-weekly   |                  |
| 227.   | Essentia Health                               | 30th Street & 32nd Avenue South              | 5/16 socket         | 5' x 9'      | Bi-weekly   |                  |
| 228.   | Residential Area                              | 17th Avenue South & East Gateway Circle      | Allen Wrench 5/32   | 5' x 9'      | Bi-weekly   | X                |
| 229.   | New Horizons                                  | Broadway & 25th Avenue North                 | Blue Hex            | 5' x 9'      | Weekly  | X                |
| 231.   | Southeast Human Services                      | Midblock & 9th Avenue South                  | Double-pronged      | 7.5' x 15'   | Weekly  | X                |
| 230.   | Fargodome Transit Hub (NDSU)                  | Albrecht Boulevard & 17th Avenue North       | NDSU Key            | 10' x 40'    | NDSU-maintained   | X                |
| 232.   | Lewis & Clark Elementary                      | 16th Street & 17th Avenue South              | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 233.   | YWCA / Friendship                             | University Drive & 31st Avenue South         | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 235.   | NDSU  | University Drive & 19th Avenue North         | Double-pronged      | 5' x 9'      | Bi-weekly   | X                |
| 236.   | Sanford SouthPointe                           | 23rd Street & 32nd Avenue South              | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 237.   | Bethany Homes                                 | University Drive & 3rd Avenue South          | 7/16 Ratchet        | 5' x 9'      | Bi-weekly   |                  |
| 238.   | Essentia Clinic / Sanford                     | University Drive & 18th Avenue South         | Double-pronged      | 5' x 9'      | Bi-weekly   | X                |
| 239.   | Apartment loop (west-side)                    | 33rd Street & 31st Avenue South              | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 241.   | Cass County Government                        | 10th Street & 2nd Avenue South               | Double-pronged      | 5' x 9'      | Bi-weekly   | X                |
| 240.   | West Acres Transit Hub                        | Roger Maris Wing - West Acres (13th Ave S.)  | West Acres Key      | 10' x 40'    | West Acres-maintained                                     | X                |
| 242.   | Sanford Health (west-side)                    | Broadway & 8th Avenue North                  | Blue Hex            | 5' x 9'      | Weekly  | X                |
| 243.   | Prairie Psychiatric                           | 4th Street & 6th Avenue South                | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 244.   | Candlewood Suites (NDSU)                      | 18th Street North & Research Park Drive      | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 245.   | Holiday Station / Pioneer Manor               | 11th Street & 2nd Avenue North               | Double-pronged      | 5' x 9'      | Bi-weekly   | X                |
| 246.   | Islamic Society of FM                         | 28th Street & 6th Avenue South               | Double-pronged      | 5' x 9'      | Bi-weekly   |                  |
| 247.   | Engineering & Tech (NDSU)                     | Albrecht Boulevard & Centennial Boulevard    | Double-pronged      | 5' x 9'      | NDSU-maintained   | X                |
| 248.   | Wallman Wellness Center                       | Centennial Boulevard & 18th Street North     | Double-pronged      | 5' x 9'      | NDSU-maintained   | X                |

|     |   |  |  |          |                 |   |
|-----|---|--|--|----------|-----------------|---|
|     | High Rises--Residence Halls (NDSU)                    | Albrecht Boulevard & 15th Avenue North           | Double-pronged                           | 5' x 9'  | NDSU-maintained | X |
| 254 | Visitor Pay Lot (NDSU)                                | Albrecht Boulevard (mid-block)                   | Double-pronged                           | 5' x 15' | NDSU-maintained |   |
| 250 | Science Technology Engineering & Math (STEM) Building | University Drive between 13th Ave N. & 12th Ave. |  |          | NDSU-maintained | X |
| 252 | University Village (NDSU)                             | 12th Street & 17th Avenue North                  | Double-pronged                           | 5' x 15' | Bi-weekly       |   |
| 253 | Criminal Justice & Public Policy (NDSU)               | 17th Street & 12th Avenue North                  | Double-pronged                           | 5' x 15' | Bi-weekly       |   |
| 255 | Library / Credit Union (NDSU)                         | 14th Street & 12th Avenue North                  | Double-pronged                           | 5' x 15' | Bi-weekly       |   |
| 256 | Niskanen Housing Complex (NDSU)                       | University Drive & 18th Avenue North             | Double-pronged                           | 8' x 25' | Bi-weekly       | X |
| 257 | Fargodome (northeast corner)                          | University Drive & 19th Avenue North             | Two-pronged (HH)                         | 5' x 10' | Bi-weekly       |   |
| 258 | Apartments (NDSU)                                     | Dakota Drive & 16th Street North                 | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 259 | Target  | 43rd Street & 13 1/2 Avenue South                | Double-pronged                           | 5' x 10' | Weekly          | X |
| 260 | New Life Center                                       | 20th Street & 3rd Avenue North                   | Double-pronged                           | 5' x 10' | Weekly          |   |
| 261 | Residential Area                                      | 27th Avenue & 15th Street South                  | Blue Hex                                 | 5' x 10' | Bi-weekly       |   |
| 262 | Apartment Loop (east-side)                            | 31st Avenue & 32nd Street South                  | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 263 | Saint Anthony's Catholic Church                       | 8th Avenue & 10th Street South                   | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 264 | Whale-of-a-Wash                                       | 32nd Street & 12th Avenue North                  | Double-pronged                           | 5' x 10' | Bi-weekly       | X |
| 265 | Walmart at the District                               | 37th Street & 55th Avenue South                  | Double-pronged                           | 5' x 10' | Bi-weekly       | X |
| 266 | Apartments (east of Interstate 29)                    | 17th Avenue South & 35th Street                  | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 267 | Rosewood on Broadway                                  | 13th Avenue North & Broadway                     | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 268 | Stevens Hall (NDSU)                                   | Centennial Boulevard & Bolley Dr                 | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 269 | Apartments (NDSU)                                     | 11th Avenue & 18th Street North                  | Double-pronged                           | 5' x 10' | Bi-weekly       |   |
| 270 | Walmart (13th Avenue)                                 | 47th Street & 11th Avenue South                  | Double-pronged                           | 5' x 20' | Weekly          | X |
| 271 | Gate City Bank  | 25th Avenue North & Broadway                     | Two-pronged (HH)                         | 5' x 10' | Bi-weekly       | X |
| 274 | Osgood Hornbacher's                                   | 40th Avenue South (midblock)                     | Two-pronged (HH)                         | 5' x 10' | Bi-weekly       | X |
| 275 | Sheyenne High School                                  | 40th Avenue South & Veteran's Boulevard          | Two-pronged (HH); solar-powered lighting | 5' x 10' | Bi-weekly       | X |
| 276 | NDSU Research Park (Phoenix Intl.)                    | NDSU Research Park Drive & Phoenix driveway      | Two-pronged (HH)                         | 5' x 15' | Bi-weekly       |   |
| 278 | Fargo High Rise                                       | 2nd St and 4th Street S                          | Two-pronged (HH)                         | 5' x 10' | Bi-weekly       |   |
| 279 | Metro Transit Garage                                  | 650 23rd St N                                    |  | 5' x 10' | Bi-weekly       | X |
| 280 | 710 Lofts   | 10th Street North & 7th Avenue North (midblock)  |  | 5' x 10' | Bi-weekly       |   |
| 281 | Residential Area                                      | 10th Street North & 9th Avenue North             |  | 5' x 10' | Bi-weekly       |   |
| 291 | North of Roosevelt Elementary                         | 10th Street & 12th Avenue North                  | Red Hex                                  | 5' x 9'  | Bi-weekly       |   |
|     | GTC Transfer Hub Smoking Shelter                      | NP Avenue & 4th Street N                         |  |          | Bi-weekly       |   |

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| Indicates shelters with NDSU signage and brochure holders |
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Revised 3/22/2022



**EVALUATION FORM  
SHELTER CLEANING SERVICES FARGO-MOORHEAD**

Evaluator's Name \_\_\_\_\_ Date \_\_\_\_\_

Company Name \_\_\_\_\_

**Technical and Price Evaluation**

| Description                   | Maximum Points | Score |
|-------------------------------|----------------|-------|
| Approach and Work Plan        | 25             |       |
| Qualifications and References | 25             |       |
| Experience                    | 20             |       |
| * Price                       | 30             |       |
| <b>TOTAL</b>                  | <b>100</b>     |       |

\* *Price Evaluation:* The lowest proposed price will receive 30 points. The other proposers will receive points in direct proportion to the lowest price. For example, if the lowest total cost is \$60,000 and someone bid \$66,000, they would receive 27 points ( $6,000/60,000 = 10\%$ ,  $100\% - 10\% = 90\%$ ,  $90\% \times 30 = 27$  points)

**BID PROPOSAL FORM**

**TRANSIT PASSENGER SHELTER MAINTENANCE SERVICES  
CITIES OF FARGO AND MOORHEAD – TRANSIT DIVISIONS**

Sealed proposals must be received by the Cities of Fargo, ND, and Moorhead, MN, by 2:00 p.m. Central Daylight Time on, **May 9, 2022**, in the Metro Transit Garage, 650 23<sup>rd</sup> Street North, Fargo, ND 58102.

If additional space is needed, additional sheets may be attached to this form, which must be clearly referenced back to the specific section addressed, for example "1.7-List of Owners and/or Officers of the Organization."

**SECTION 1. FIRM DATA/QUALIFICATIONS**

1.1 Firm's Name: \_\_\_\_\_

1.2 Firm's Address: \_\_\_\_\_

1.3 Firm's Phone Number: \_\_\_\_\_

1.4 Contact Person (Name & Title): \_\_\_\_\_

1.5 Contact Email and Phone Number: \_\_\_\_\_

1.6 Legal Status of Organization: \_\_\_\_\_  
(i.e. corporation, non-profit, partnership, sole proprietorship, other)

1.7 Date Firm Started Business: \_\_\_\_\_

1.8 List Owners and/or Officers of the Organization:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.9 Description of Organization: Provide a brief description of the major business functions, history and organization structure of the responding organization.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.10 Service References: Provide references from clients for which the respondent organization has provided similar service during the past five (5) years using the forms attached labeled "1.10 - Service References."

1.11 Subcontractors: Provide names, addresses, telephone numbers and role of proposed subcontractors; specify if the firm is a DBE/SBE or not. If more space is needed, attach and label as "1.11 – Subcontractors Information."

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1.12 Has respondent, or any officer or partner of respondent, failed to complete a contract? If yes, explain.

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1.13 Pending Litigation: Is any litigation current or pending against respondent or any officer or partner of respondent? If yes, give details. If more space is needed, attach and label as "1.13 – Pending Litigation."

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1.14 Describe your firm's strategy, route and timeline for completing the shelter cleaning services, including personnel resources and equipment. Identify the project manager and their work experience. If more space is needed, attach and label as "1.14 –Service Work Plan."

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1.15 Briefly indicate why you consider your firm to be the best to perform this contract. Explain your cleaning approach and methods, including a seasonal approach during cold weather conditions that would provide a high quality of service. If more space is needed, attach and label as "1.15 – Respondent Organization's Ability to Perform Contract."

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Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive, which will require rejection of proposal.

**SECTION 6: PROPOSER CERTIFICATION STATEMENT**

The undersigned certifies that he/she is legally authorized by the Proposer to make the statements and representations contained in this document and represents and warrants that the foregoing information is true and accurate to the best of his knowledge and intends that the Cities of Fargo, North Dakota and Moorhead, Minnesota, rely thereon in evaluating the Proposer.

PROPOSER'S NAME: \_\_\_\_\_

DATE OF SIGNING: \_\_\_\_\_

SIGNATURE BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

NOTARY: \_\_\_\_\_

NOTARY SEAL:

**1.10 - SERVICE REFERENCES**

Firm Name: \_\_\_\_\_

Street: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Contract Person: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Length of Service: from \_\_\_\_\_ to \_\_\_\_\_

Please describe the services respondent provided to this organization by checking as many of the following as apply:

**NOTE: Include completed References Release**

This contract may be funded up to 50% through an operating grant from the Federal Transit Administration, catalog of Federal Domestic Assistance (CFDA) #20.507. As such, all applicable federal clauses and regulations apply.



1. **No Government Obligation to Third Parties:** *Applies to all third-party contracts that are federally funded.*

- a. 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.
- b. 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.



2. **Access to Records and Reports:** *Applies to all contracts funded in whole or in part with FTA funds.*

- 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-agreements, leases, subcontracts, arrangements, other third-party agreements 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.



3. **Federal Changes:** *Applies to all contracts.*

The 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 the Agency and FTA, and they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.



4. **Civil Rights and Equal Opportunity:** *Applies to all contracts.*

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 Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- a. 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.
- b. 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.

- c. 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.
- d. 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. **Incorporation of FTA Terms:** *Applies to all contracts.*

The preceding provision includes, 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 FTA Circular 4220.1 as amended, 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 Agency requests which would cause the Agency to be in violation of the FTA terms and conditions.



6. **Energy Conservation:** *Applies to all contracts. The Recipient agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6201 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, 'Requirements/or Energy Assessments,' 49 C.F.R. part 622, subpart C.*

The Contractor shall recognize 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 (42 USC Section 6321 et seq).



7. **Veterans Employment:** *Applies to capital projects, to the extent practicable*

As provided by 49 U.S.C. § 5325(k): a. To the extent practicable, the Contractor agrees that it:

- a. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third-party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and
- b. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee, and

The Contractor also assures that its sub-recipients will:

- a. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third-party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and
- b. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.



8. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:** *Applies to all contracts.*

The Contractor is prohibited from obligating or expending federal funds to:

- a. Procure or obtain
- b. Extend or renew a contract to procure or obtain; or
- c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment or services" is:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)
  - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
- d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

The Contractor shall not provide covered telecommunications equipment or services in the performance of this contract.



9. **Termination Provisions:** *Applies to all contracts over \$10,000.*

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 closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to the 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 only be paid 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.5

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 the Agency's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within ten [10] days after receipt by Contractor or written notice from the Agency setting forth the nature of said breach or default, the 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 the 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 the Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by the Agency shall not limit the Agency's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

This termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.



10. **Debarment, Suspension, Ineligibility and Voluntary Exclusion:** *Applies to contracts in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.*

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. 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 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a. Debarred from participation in any federally assisted Award;

- b. Suspended from participation in any federally assisted Award;
- c. Proposed for debarment from participation in any federally assisted Award;
- d. Declared ineligible to participate in any federally assisted Award;
- e. Voluntarily excluded from participation in any federally assisted Award; or
- f. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the Bidder or Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the Agency. If it is later determined by the Agency that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the Agency, 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. part 1 80, subpart C, as supplemented by 2 C.F.R. part 1 200, 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.



11. **Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, Abuse, or Other Legal Matters** : *Applies to all contracts exceeding \$25,000.*

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify City Utilities, which will promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which City Utilities is located. The Contractor must 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.

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.

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 between the FTA and City Utilities, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

**Additional Notice to U.S. DOT Inspector General.** The Contractor must promptly notify the Agency, which will promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Agency is located, if the Contractor 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 with the Agency involving a principal, officer, employee, agent, or Third-Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a 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 Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.



12. **Lobbying Restrictions:** *Applies to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the payor must complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.*

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

The undersigned certifies (Note: A separate certification will be required to be signed if the contract meets this criteria), to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of

any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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



- 13. **Buy America:** *Applies to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project.*

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.



- 14. **Clean Air Act and the Federal Water Pollution Control Act:** *Applies to all contracts exceeding \$150,000.*

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq and the Federal Water Pollution Control Act as amended, 33 U.S.C. § 1251-1388. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.



15. **Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate:** *Applies to all contracts in excess of the Simplified Acquisition Threshold (currently set at \$250,000) and those contracts shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.*

- a. Disputes will be presented in writing to the appropriate Agency personnel - in Fargo, the Fargo Transit Director, in Moorhead, the Moorhead Transit Manager. Agency personnel and the Contractor will attempt to resolve any dispute arising in the performance of the contract.

*Fargo:* If the Transit Director and Contractor cannot resolve the dispute, the issue will be presented in writing to the Fargo City Administrator within ten [10] working days of dispute. If the dispute cannot be resolved by the City Administrator, it will be submitted in writing within ten [10] working days of the Fargo City Administrator's decision to the Fargo City Commission - it is the sole responsibility of the Contractor to schedule a hearing with the Fargo City Commission. 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 at the hearing.

*Moorhead:* If the Transit Manager and Contractor cannot resolve the dispute, the issue will be presented in writing to the Moorhead City Manager within ten [10] working days of the dispute. If the dispute cannot be resolved by the City Manager, it will be submitted in writing within ten [10] working days of the Moorhead City Manager's decision to the Moorhead City Council - it is the sole responsibility of the Contractor to schedule a hearing with the Moorhead City Council. 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 at the hearing.

The decision of the Fargo City Commission or Moorhead City Council shall be binding upon the Contractor and the Contractor shall abide by the decision.

- b. Unless otherwise directed by the Cities of Fargo/Moorhead, the Contractor shall continue performance under this contract while matters in dispute are being resolved.



- c. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
- d. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Cities of Fargo and/or Moorhead and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the applicable state.



16. **Cargo Preference:** *Applies to all contracts involving equipment, materials, or commodities that may be transported by ocean vessels.*

The Contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.



17. **Fly America:** *Applies to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.*

*Definitions. As used in this clause—*

"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.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- a. 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, recipients, 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.
- b. 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.
- c. 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]:

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(End of statement)

The 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.



18. **Davis-Bacon Act and Copeland Act – Prevailing Wage and Anti-Kickback:**

*Applies to all FTA funded contracts for all prime construction, alteration or repair contracts in excess of \$2,000. The recipient will ensure that each third-party contractor complies with all federal laws, regulations, and requirements, including:*

a. Prevailing Wage Requirements

- i. *Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA 's 'Davis-Bacon Related Act');*
- ii. *The Davis-Bacon Act, 40 USC. §§ 3141-3144, 3146, and 3147; and*
- iii. *U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.*

b. "Anti-Kickback" Prohibitions

- i. *Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874;*
- ii. *Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 USC. § 3145; and*
- iii. *US. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 C.F.R. part 3.*

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.



19. **Contract Work Hours & Safety Standards Act:** *Applies to all FTA funded contracts in excess of \$100,000 that involve the employment of mechanics or laborers. Certain employee protections apply to all FTA funded contracts with particular emphasis on construction related projects. The recipient will ensure that each third-party contractor complies with all federal laws, regulations, and requirements, including:*
- a. *Contract Work Hours and Safety Standards*
    - i. *Contract Work Hours and Safety Standards Act, as amended, 40 USC §§ 3701- 3708; and supplemented by Department of Labor (DOL) regulations, 29 C.F.R. part 5; and A-38*
    - ii. *U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. part 1926.*
  - b. **For Construction Contracts:**
    - i. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, 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. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.
    - ii. In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the 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 this clause 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 this clause.
    - iii. The FTA 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 this section.

- iv. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

**c. For Awards Not Involving Construction:**

- i. The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
- ii. The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- iii. Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.



20. **Bonding:** *The Common Grant Rules require bonds for all construction contracts exceeding the simplified acquisition threshold (exceeding \$150,000. Minnesota State Statute 574.26 limit is \$100,000) unless FTA determines that other arrangements adequately protect the Federal interest. FTA's bonding policies are as follows:*

- a. A bid guarantee from each bidder equivalent to five [5] percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond,

certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
  - i. 50% of the contract price if the contract price is not more than \$1 million;
  - ii. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - iii. \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond. Bid Bond Requirements (Construction)

Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by the Agency to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of ninety [90] days subsequent to the opening of bids, without the written consent of the Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within ninety [90] days after the bid opening without the written consent of the Agency, shall refuse or be unable to enter into this contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of the Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting Bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by the Agency as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense the Agency for the damages occasioned by default, then the

undersigned bidder agrees to indemnify the Agency and pay over to the Agency the difference between the bid security and the Agency's total damages, so as to make the Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive. Performance and Payment Bonding Requirements (Construction)

**The Contractor shall be required to obtain performance and payment bonds as follows:**

Performance bonds

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the Agency determines that a lesser amount would be adequate for the protection of the Agency.
- b. The Agency may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

Payment bonds

- a. The penal amount of the payment bonds shall equal:
  - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
  - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million;
  - iii. Two and one half million if the contract price is more than \$5 million.
- b. If the original contract price is \$5 million or less, the Agency may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the Agency's interest.

The following situations may warrant a performance bond:

- a. The Agency's property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
- b. A contractor sells assets to or merges with another concern, and the Agency, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

- c. Substantial progress payments are made before delivery of end items starts.
- d. Contracts are for dismantling, demolition, or removal of improvements.

When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

- a. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the Agency determines that a lesser amount would be adequate for the protection of the Agency.
- b. The Agency may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.  
The Agency may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- c. A payment bond is required only when a performance bond is required, and if the use of payment bond is in the Agency's interest.
- d. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

The penal amount of payment bonds shall equal:

- I. Fifty percent of the contract price if the contract price is not more than \$1 million;
- II. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- III. Two and one half million if the contract price is increased.

#### Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The Agency shall determine the amount of the advance payment bond necessary to protect the Agency.

#### Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished, and the financial responsibility of the Contractor is unknown or doubtful. The Agency shall determine the amount of the patent indemnity to protect the Agency.

#### Warranty of the Work and Maintenance Bonds

The Contractor warrants to the Agency, the architect and/or engineer that all materials and equipment furnished under this contract will be of highest quality and new unless otherwise specified by the Agency, free from faults and defects and in conformance with the contract documents. All work not so conforming to these standards shall be



considered defective. If required by the project manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

The work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the work against defective materials or faulty workmanship for a minimum period of one [1] year after final payment by the Agency and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the Agency. As additional security for these guarantees, the Contractor shall, prior to the release of final payment, furnish separate maintenance (or guarantee) bonds in form acceptable to the Agency written by the same corporate surety that provides the performance bond and labor and material payment bond for this contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one [1] year after final payment and shall be written in an amount equal to ONE HUNDRED PERCENT [100%] of the CONTRACT SUM, as adjusted (if at all).

21. **EEO:** *Applies to all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3*

All Firms will be required to follow Federal Equal Employment Opportunity (EEO) policies. The Agency will affirmatively assure that on any project constructed pursuant to this advertisement, equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, and marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.

22. **Seismic Safety:** *Applies only to contracts for the construction of new buildings or additions to existing buildings.*

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

23. **Transit Employee Protective Arrangements:** *Applies to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.*

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- a. 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.
- b. 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.
- c. 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.



**24. Charter Service Operations:** *Applies to contracts for operating public transportation 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:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(d);
- b. FTA regulations, "Charter Service," 49 C.F.R. part 604;
- c. Any other federal Charter Service regulations; or
- d. 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:

- a. Barring it or any subcontractor operating public transportation under its award that has provided prohibited charter service from receiving federal assistance from FTA;

- b. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA 's Charter Service regulations; or
- c. 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.



**25. School Bus Service Operations:** *Applies to contracts for operating public transportation service.*

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:

- a. Federal transit laws, specifically 49 U.S.C. § 5323(f);
- b. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
- c. Any other Federal School Bus regulations; or
- d. Federal guidance, except as FTA determines otherwise in writing.

If the Contractor violates this school bus agreement, FTA may:

- a. Bar the Contractor from receiving Federal assistance for public transportation; or
- b. 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.



**26. Substance Abuse Requirements: Drug & Alcohol Testing:** *Applies to third party contractors who perform safety-sensitive functions. Contractors must comply with FTA 's substance abuse management program under 49 C.F.R. part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:*

- a. *Operating a revenue service vehicle, including when not in revenue service;*

- b. *Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;*
- c. *Controlling dispatch or movement of a revenue service vehicle;*
- d. *Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts or such services; or an employer who receives funding under 49 USC § 5311 and contracts out such services.*
- e. *Carrying a firearm for security purposes.*

*Additionally, third-party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."*

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 of North Dakota and/or Minnesota, or the Cities of Fargo/Moorhead, 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 before February 1 and to submit the Management Information System (MIS) reports before February 1 to the City of Moorhead Transit Manager and City of Fargo Transit Director. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.



**27. Rights to Inventions Made Under a Contract or Agreement:** *Applies when entering into a contract (or subcontract) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work under the FTA award. The recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, "and any implementing regulations issued by the awarding agency. Except in the case of an "other agreement" in which the Federal Government has agreed to take more limited rights, the Federal Government is entitled to a non-exclusive, royalty free license to use the resulting invention, or patent the invention for Federal Government purposes. The FTA has the right to:*

- a. *Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and*
- b. *Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.*

Intellectual Property Rights: This project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the contract.

- a. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
  - i. Any subject data developed under the contract, whether or not a copyright has been obtained; and
  - ii. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
- b. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this contract agrees to permit FTA to make available to the public, either FTA 's license in the copyright to any subject data developed in the course of the contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this contract, is not completed for any reason whatsoever, all data

developed under the contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

- c. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- d. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- e. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the contract work.
- f. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.



**28. Disadvantaged and Small Business Enterprise (DBEs):** *Applies to FTA recipients receiving planning, capital and/or operating assistance that will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year.*

*For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:*

The Contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:

- a. Withholding monthly progress payments;
- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the Contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

In connection with the performance of this service, the Contractor will cooperate with the Agency in the utilization of disadvantaged business enterprises including women-owned business enterprises for the duration of the contract and will use its best efforts to ensure that disadvantaged business enterprises have the maximum practicable opportunity to compete for subcontract work. In order to ensure that a fair proportion of the purchases of supplies and services is placed with disadvantaged business enterprises, the Contractor agrees to take affirmative action to identify disadvantaged business firms, solicit bids or quotations from them for supplies and services related to this proposal.

The Contractor agrees to meet any goals established by Agency for purchases pertaining to this contract to the best of the Contractor's ability and will provide the Agency with the necessary certification and records for reporting purposes. When the majority of the contract is labor, which is not a contracting opportunity, DBE goals will not be set but Contractors are encouraged to use DBE businesses.

The Contractor will be required to report its DBE participation obtained through race neutral means throughout the period of performance.

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.

#### Fostering Small Business Participation

The Agency has established a small business element to its DBE program, pursuant to 49 CFR 26.39. This program aims to provide opportunities and foster small business enterprises (SBE)/participation in contracting with the Agency. This program is race and gender-neutral, however SBEs can also count towards DBE goals.



**29. Prompt Payment and Return of Retainage:** *Applies to all contracts.*

Recipients must establish a contract clause to require prime Contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days (payment required within 10 days or paying interest at 1 ½ percent per Minnesota State Statute 4 71.425 subd. 4a) from receipt of each payment the recipient 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 recipient's written consent; and that, unless the recipient'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).



**30. 6002 of the Solid Waste Disposal Act:** *Applies to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.*

The Contractor agrees to comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6962) by the Resource Conservation and Recovery Act (RCRA), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.



**31. Americans with Disabilities Act Access (ADA):** *Applies to all contracts.*

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this agreement.

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112 and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor agrees that it will comply with the requirements of U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and U.S. Department of Transportation regulations, "Americans with Disabilities Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38, pertaining to facilities and equipment to be used in



public transportation. In addition, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. The Contractor also agrees to comply with any implementing requirements FTA may issue.

The Contractor understands that it is required to include this Article in all subcontracts. 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.



**32. Assignability Clause:** *Applies to all contracts.*

Procurements through assignments: Neither the Agency nor the Contractor shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other.



**33. Program Fraud & False or Fraudulent Statements & Related Acts:** *Applies to all third-party contracts that are federally funded.*

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1) on the Contractor, to the extent the Federal Government deems appropriate.

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



**34. Bus Testing:** *Applies only to the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by FTA. Recipients are responsible for determining whether a vehicle to be acquired requires full or partial testing or has already satisfied the bus testing requirements by achieving a passing test score in accordance with 49 C.F.R. part 665. Recipients must certify compliance with FTA 's bus testing requirements in all grant applications for FTA funding for bus procurements.*

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FT A's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.



**35. Pre-Award and Post-Delivery Audits of Rolling Stock Purchases:** *Applies to the purchase of revenue service rolling stock with FTA funds and must comply with the pre-award and post-delivery audit requirements set forth in 49 U.S.C. 5323(111) and supplemented by 49 C.F.R. part 663.*

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance



**36. Safe Operation of Motor Vehicles:** *Applies to all federally funded third party contracts.*

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 Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.



**ADDENDUM #1**  
**REQUEST FOR PROPOSALS**  
**MATBUS SHELTER MAINTENANCE**

Issued April 17, 2022

The following clarifications are provided to assist all proposers in making an adequate interpretation of the provisions of the RFP:

- The Pre-Bid Conference minutes are attached to this addendum.
  
- ***RFP Page 10, Protests to FTA:***  
Sections 10.3.6.2 – 10.3.6.2.3 have been removed from the RFP to clarify that the FTA's involvement in bid protests is limited. The Uniform Guidance, as adopted by DOT, no longer includes the language in 49 C.F.R. §18.36(b)(12) that provided for a direct appeal to FTA of a recipient's final decision on a bid protest.

# MINUTES

**PRE-BID CONFERENCE  
REQUEST FOR PROPOSALS  
TRANSIT PASSENGER SHELTER MAINTENANCE SERVICES  
CITIES OF FARGO AND MOORHEAD**

**THURSDAY, MAY 12, 2022 - 3:00 PM  
METRO TRANSIT GARAGE  
650 23<sup>RD</sup> ST N, FARGO, ND 58102**

**1. Introductions**

Introductions were made of all persons present at the meeting.

- Eric Olson, Fert-L-Lawn (employed by current contractor)
- Mergim Vllahiu, Pristine Cleaning Services
- Lori Van Beek, Moorhead Transit Manager, MATBUS
- Cole Swingen, Fargo Assistant Transit Director – Operations, MATBUS
- Jackie Engel, Moorhead Office Specialist, MATBUS

Swingen opened the online meeting in Teams. No attendees were present online and the connection was closed.

**2. Review of RFP Documents (Page 2)**

Van Beek went over the list of applicable documents and noted that all of the documents should be read prior to submitting a proposal. The RFP documents will become an attachment to the contract entered into with the awarded vendor.

**3. Projected Schedule (Pages 4-5)**

- Proposals are due May 26, 2022 at 650 23<sup>rd</sup> St N, Fargo, 2:00 pm CDT
- Contract begins/work commences August 8, 2022

After going over the projected schedule, Van Beek stated that the current contract goes through the end of May. The Cities will be contacting the current contractor for a month-by-month extension until the new contract starts.

**4. Review of Basis for Contract Award (Page 12 of RFP)**

Van Beek stated that the contractor will be chosen on the basis of qualifications, costs, previous experience and references.

Van Beek explained that there will be two separate contracts – one with the City of Moorhead and one with the City of Fargo. An evaluation team will use the criteria and points provided on page 20 (Form is Attachment 2) to select the contractor. If the vendor with the highest points and the Cities can't reach agreement during negotiations, then they will begin negotiations with the second ranked vendor.

**5. Review Scope of Work (Page 14-17)**

Van Beek went through the scope of work and explained what is needed in the weekly cleanings, the annual cleanings, and special requests. MATBUS staff will contact the vendor by email with special requests in case of a complaint by a citizen. The Cities can add or delete shelters from the list throughout the contract term. She indicated that the contractor must have insurance, including workers compensation insurance. Proof of insurance or insurability is submitted with the proposal. Proof of insurance will be required prior to contract start.

**6. Forms to be Submitted with Proposal (Page 18)**

- Federal Clauses and Certifications
- Shelter Locations
- Price Proposal Spreadsheet

Van Beek spoke about the submission of proposals and what is expected of the contractor. She explained that the written proposal should be in a separate sealed envelope from the price proposal. The written proposal will be reviewed to determine if the contractor is qualified before the price proposal is opened.

The two certifications in Appendix B-1 and B-2 must be signed and submitted with the proposal.

Van Beek also explained that Disadvantaged Business Enterprises (DBEs) who are owned and operated 51% or more by women or minorities should get certified by the State. Certain federal grantees must check this list for vendors prior to requesting bids.

7. **There have been no written requests for clarifications and modifications (were due May 5, 2022)**

Van Beek handed out a summary of the current contractor's price per shelter for the past five years. This information was requested by email from an interested company and will be provided to all interested vendors.

8. **Questions and Answers**

- Vllahiu asked what the numbers mean on the price list provided from the current contract.
  - Van Beek brought up the Price Proposal Excel spreadsheet located on the MATBUS.com web page under "Current Procurements". Vendors should enter their proposed price per shelter for each of five years of the proposal. There is a section for Moorhead shelters and a section for Fargo shelters. The spreadsheet will do all of the computations and totals automatically.
- Vllahiu asked how many shelters there are.
  - Van Beek stated that there are approximately 100, and stated that the list of shelters is in the RFP and in the Price Proposal spreadsheet. The listing provides the shelter number, name, location, cleaning frequency and whether there is a trash receptacle. The Marriott hub in Moorhead has three trash receptacles. The list includes what tools are needed to open the display case in each shelter for the annual cleaning.
- Vllahiu asked if the proposals had to be physically delivered or if they could be emailed.
  - Van Beek noted that Page 18 requires the original signed copy, plus five paper copies, and an electronic copy to be submitted. They can be mailed or dropped off in person, in addition to an email copy.
- Olson asked if they have to be registered with SAM.gov before they submit their proposal.
  - Van Beek stated that they only have to be registered before the contract is signed.
- Vllahiu asked if the original and 5 hard copies required of the proposal have to be hard copies or can they be scanned and emailed.
  - Van Beek stated that the hard copies are needed for the evaluation team. The proposal can be emailed in addition to providing the hard copies. All must be received prior to the bid opening date and time.
- Olson asked if the only federal clauses they have to adhere to were the ones that were checked.
  - Van Beek confirmed this.
- Vllahiu asked if all the green highlighted shelters on the list provided were maintained by NDSU.
  - Van Beek stated that the green highlighted shelters are located on NDSU campus and have signage and brochure holders. The column "cleaning schedule" will say NDSU-maintained for the shelters that are not included in this contract. Only those will be maintained by NDSU.
- Olson asked about the shelters along 13<sup>th</sup> Avenue South. He stated that they are so hard to get to because they are close to the street and the traffic does not wait for anyone on that road.
  - Van Beek suggested placing orange cones in the lane prior to cleaning the shelter. Swingen stated that a change to some of those shelters are planned, which will change the shelter orientation and move the windows further from the street.
- Vllahiu asked what happens when the snow plows come by the shelters and fill them up with snow ridges.
  - Van Beek stated that the shelter snow removal contractor takes care of snow on the path from the shelter to the street. After the snow plow goes by, the snow removal contractor will, within 24 hours, remove any snow ridges. They will also take care of de-icing. The shelter maintenance contractor should use the appropriate equipment during winter months to not leave behind icy patches. Chemicals can be put in the water to prevent freezing and ledges should be wiped

down. The vendor should explain in their proposal how they plan to meet the requirements during all seasons.

- Van Beek indicated that there are a few shelters located within two-feet of the roadway where snow will pile up against the shelter windows making those areas hard to reach.
- Olson asked if they should propose a price for each shelter, since some shelters are much bigger than others.
  - Van Beek suggested averaging that into their price per shelter.
- Vlahiu asked if all the current contracts are for five years.
  - Van Beek stated that they have three Request for Proposals currently advertised (custodial, snow removal/hauling and shelter cleaning); they are all five-year contracts.
- Olson asked on Appendix B-3, which of the listed boxes should be selected.
  - Van Beek replied that the services are listed in alphabetic order and suggested that "Window Washing Services/Janitorial Services" be selected.
- Olson noted that there are two shelters that are not on the list, specifically the one at Noridian and the one at Share House.
  - Swingen indicated that those two shelters are being removed this summer and will not be on this contract.
- Olson suggested that the City of Fargo place concrete between the shelter and parking lot by Walmart/Toys R Us location, as this will reduce the mud and dirt inside the shelter.
- Olson stated he currently finds people sleeping in the shelters when he comes to clean them, specifically the Fargo Walmart and Churches United for the Homeless locations. Most comply when he asks them to move. Can he call the police to remove them if needed.
  - Van Beek stated that he can call the police if needed, but they may not be available to respond immediately.



| <i>Frequency of Cleanings</i> | <i>Price Each</i> |               |               |               |               |
|-------------------------------|-------------------|---------------|---------------|---------------|---------------|
|                               | <i>Year 1</i>     | <i>Year 2</i> | <i>Year 3</i> | <i>Year 4</i> | <i>Year 5</i> |
| Weekly cleanings              | \$ 13.50          | \$ 13.75      | \$ 14.00      | \$ 14.25      | \$ 14.50      |
| Bi-weekly cleanings           | \$ 13.50          | \$ 13.75      | \$ 14.00      | \$ 14.25      | \$ 14.50      |
| Annual cleaning               | \$ 25.00          | \$ 25.00      | \$ 25.00      | \$ 25.00      | \$ 25.00      |
| Emptying of Trash Receptacles | \$ 2.00           | \$ 2.00       | \$ 2.00       | \$ 2.00       | \$ 2.00       |
| Grafitti Clean-up             | \$ 25.00          | \$ 25.00      | \$ 25.00      | \$ 25.00      | \$ 25.00      |
| Broken Glass Clean-up         | \$ 25.00          | \$ 25.00      | \$ 25.00      | \$ 25.00      | \$ 25.00      |
| Bio-Hazard Clean-up           | \$ 25.00          | \$ 25.00      | \$ 25.00      | \$ 25.00      | \$ 25.00      |



Appendix A

| Frequency of Cleanings                        | Number of shelters | Number of Weeks | Annual Number of Cleanings | Year 1            |                    | Year 2            |                    | Year 3            |                    | Year 4            |                    | Year 5            |                    | 5-YEAR TOTAL  |
|---|--------------------|-----------------|----------------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|-------------------|--------------------|---------------|
|   |                    |                 |                            | Cost per Cleaning | Year 1 Annual Cost | Cost per Cleaning | Year 2 Annual Cost | Cost per Cleaning | Year 3 Annual Cost | Cost per Cleaning | Year 4 Annual Cost | Cost per Cleaning | Year 5 Annual Cost |               |
| <b>CITY OF MOORHEAD - MATBUS:</b>             |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Weekly cleanings:                             |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Center Mall Downtown                          | 7                  | 52              | 364                        | \$ 18.00          | \$ 6,552.00        | 20.00             | \$ 7,280.00        | 21.00             | \$ 7,644.00        | 22.00             | \$ 8,008.00        | 23.00             | \$ 8,372.00        | \$ 37,856.00  |
| US Bank Downtown                              | 23                 | 26              | 598                        | \$ 18.00          | \$ 10,764.00       | 20.00             | \$ 11,960.00       | 21.00             | \$ 12,558.00       | 22.00             | \$ 13,156.00       | 23.00             | \$ 13,754.00       | \$ 62,192.00  |
| Walmart                                       | 30                 | 1               | 30                         | \$ 30.00          | \$ 900.00          | 30.00             | \$ 900.00          | 32.00             | \$ 960.00          | 33.00             | \$ 990.00          | 35.00             | \$ 1,050.00        | \$ 4,800.00   |
| Target  | 12                 | 52              | 624                        | \$ 2.50           | \$ 1,560.00        | 2.50              | \$ 1,560.00        | 3.00              | \$ 1,872.00        | 3.00              | \$ 1,872.00        | 3.00              | \$ 1,872.00        | \$ 8,736.00   |
| Marriott Hub                                  |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Churches United for the Homeless EastTen Mall |                    |                 |                            |                   | \$ 19,776.00       |                   | \$ 21,700.00       |                   | \$ 23,034.00       |                   | \$ 24,026.00       |                   | \$ 25,048.00       | \$ 113,594.00 |
| Bi-weekly cleaning - Various                  |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Annual cleaning - All                         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Each - Emptying of Trash Receptacles          |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| <b>TOTAL MOORHEAD</b>                         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| <b>CITY OF FARGO - MATBUS</b>                 |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Weekly cleanings:                             |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| ND Job Service / Scheel's                     | 10                 | 52              | 520                        | \$ 18.00          | \$ 9,360.00        | 20.00             | \$ 10,400.00       | 21.00             | \$ 10,920.00       | 22.00             | \$ 11,440.00       | 23.00             | \$ 11,960.00       | \$ 54,080.00  |
| VA Hospital                                   | 60                 | 26              | 1560                       | \$ 18.00          | \$ 28,080.00       | 20.00             | \$ 31,200.00       | 21.00             | \$ 32,760.00       | 22.00             | \$ 34,320.00       | 23.00             | \$ 35,880.00       | \$ 162,240.00 |
| Hub 1 (14th St and 25th Ave S)                | 70                 | 1               | 70                         | \$ 30.00          | \$ 2,100.00        | 30.00             | \$ 2,100.00        | 32.00             | \$ 2,240.00        | 33.00             | \$ 2,310.00        | 35.00             | \$ 2,450.00        | \$ 11,200.00  |
| Hub 2 (14th St and 25th Ave S)                | 24                 | 52              | 1248                       | \$ 2.50           | \$ 3,120.00        | 2.50              | \$ 3,120.00        | 3.00              | \$ 3,744.00        | 3.00              | \$ 3,744.00        | 3.00              | \$ 3,744.00        | \$ 17,472.00  |
| New Horizons                                  |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Southeast Human Services                      |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Sanford Health (west-side)                    |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Target  |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| New Life Center                               |                    |                 |                            |                   | \$ 42,660.00       |                   | \$ 46,820.00       |                   | \$ 49,664.00       |                   | \$ 51,814.00       |                   | \$ 54,034.00       | \$ 244,992.00 |
| Walmart (13th Ave)                            |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Bi-weekly cleaning - Various                  |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Annual cleaning - All                         |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| Each - Emptying of Trash Receptacles          |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |
| <b>TOTAL FARGO</b>                            |                    |                 |                            |                   |                    |                   |                    |                   |                    |                   |                    |                   |                    |               |

**5-YEAR GRAND TOTAL - FARGO & MOORHEAD** \$ **358,576.00**

NAME OF COMPANY: Valley Green and Associates

DATE: 5/26/2022

| Description                       | Year 1 Price Each | Year 2 Price Each | Year 3 Price Each | Year 4 Price Each | Year 5 Price Each | 5-YEAR TOTAL PRICE EACH |
|-----------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------------|
| Graffiti Clean-up                 | \$ 30.00          | \$ 32.00          | \$ 33.00          | \$ 34.00          | \$ 35.00          | \$ 164.00               |
| Broken Glass Clean-up             | \$ 30.00          | \$ 32.00          | \$ 33.00          | \$ 34.00          | \$ 35.00          | \$ 164.00               |
| Bio-Hazard Clean-up               | \$ 30.00          | \$ 32.00          | \$ 33.00          | \$ 34.00          | \$ 35.00          | \$ 164.00               |
| <b>TOTAL FARGO &amp; MOORHEAD</b> | \$ 90.00          | \$ 96.00          | \$ 99.00          | \$ 102.00         | \$ 105.00         | \$ 492.00               |

\*Do NOT enter an hourly cost for clean up. The price should be listed per shelter.

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION & OTHER RESPONSIBILITY MATTERS**

Contractor certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for 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; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where Contractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.

CONTRACTOR CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

5/26/22  
Date

Nicole Seaberg  
Signature

Valley Green  
Company Name

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, Nicole Seaberg hereby certify on behalf of Valley Green that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contact, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Executed this 26th day of May 2022.

By: Nicole Seaberg  
Office Manager - Valley Green

(31)

June 22, 2022

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

**Subject:** EPA Comment Period for State Revolving Fund Program Requirements

Dear Commissioners:

Water Utility staff is seeking to provide comments to the EPA regarding new State Revolving Fund (SRF) program requirements. The Water Utility has used low-interest SRF loans to fund a number of past and current capital projects. The new requirements called Build America, Buy America (BABA) may affect three (3) projects that are currently in design and have been in planning for several years. The comments will be specific to waiver language to exempt projects from the new BABA requirements. The North Dakota Department of Environmental Quality and regional consultants will also be submitting comments to the EPA.

Your consideration is greatly appreciated in this matter.

Sincerely,



Troy B. Hall  
Water Utility Director

**SUGGESTED MOTION:**

Approve Water Utility personnel to provide written comments to the EPA regarding new State Revolving Fund program requirements.

34

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-21-H1 Type: Change Order #3
Location: 24th Ave S, east of 45th St Date of Hearing: 6/20/2022

Routing Date
City Commission 6/27/2022
PWPEC File X
Project File Matthew Jennings

The Committee reviewed the accompanying correspondence from Project Manager, Matthew Jennings, for Change Order #3 in the amount of \$39,512.07 for additional work.

Staff is recommending approval of Change Order #3 in the amount of \$39,512.07, bringing the total contract amount to \$2,352,366.73.

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of Change Order #3 to Dakota Underground.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve Change Order #3 in the amount of \$39,512.07, bringing the total contract amount to \$2,352,366.73 to Dakota Underground.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Infrastructure Funds & Special Assessments

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

COMMITTEE

Table with 4 columns: Name, Present, Yes, No, Unanimous. Rows include 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; Terri Gayhart, Finance Director.

ATTEST:

Brenda E. Derrig, P.E. City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Matthew Jennings, Project Manager  
**Date:** June 20, 2022  
**Re:** Improvement District No. BN-21-H1 – Change Order No. 3

---

**Background:**

Improvement District No. BN-21-H1 is on 24<sup>th</sup> Avenue South, east of 45<sup>th</sup> Street.

Dakota Underground is the Prime Contractor on this project.

The attached Change Order No. 3 in the amount of \$39,512.07 (0.58% of the original contract), which increases the total contract amount to \$2,352,366.73, is for additional work as shown on Change Order No. 3.

**Recommended Motion:**

Approve Change Order No. 3 in the amount of \$39,512.07, bringing the total contract amount to \$2,352,366.73, for Improvement District No. BN-21-H1.

MCJ/klb

Attachment





**CHANGE ORDER REPORT**  
**NEW PAVING AND UTILITY CONSTRUCTION**  
**IMPROVEMENT DISTRICT NO. BN-21-H1**  
**ON 24TH AVENUE SOUTH AND ON 26TH AVENUE SOUTH, EAST OF 45TH STREET SOUTH.**

**Change Order No** 3      **Change Order Date** 6/4/2022  
**Contractor** Dakota Underground Co Inc

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

**EXPLANATION OF CHANGE**      Change Order # 3

This change order is for four items. 1. The relocation of a hydrant installed 30' east from the proposed location during 2021, 2. The correction of the previous hydrant fix and repairing mainline WM, 3. Del patch used in lieu of pavement remove/replace, 4. The addition of a bid item "F&I Pavement 7" Thick Reinf Conc" used for driveways.

| Section                         | Line No | Item Description                     | Unit | Orig Qty | Prev C/O Qty | Prev Cont Qty | Curr C/O Qty | Tot Cont Qty | Unit Price (\$)    | C/O Ext Price (\$) |
|---------------------------------|---------|--------------------------------------|------|----------|--------------|---------------|--------------|--------------|--------------------|--------------------|
| Change Order 3                  | 148     | Relocate Hydrant                     | EA   | 0        | 0            | 0             | 1            | 1            | \$5,272.63         | \$5,272.63         |
|                                 | 149     | Install Salvaged Hydrant             | EA   | 0        | 0            | 0             | 1            | 1            | \$9,874.52         | \$9,874.52         |
|                                 | 150     | Repair Pavement - Partial Depth Conc | SF   | 0        | 0            | 0             | 1            | 1            | \$439.92           | \$439.92           |
|                                 | 151     | F&I Pavement 7" Thick Reinf Conc     | SY   | 0        | 0            | 0             | 319          | 319          | \$75.00            | \$23,925.00        |
| <b>Change Order 3 Sub Total</b> |         |                                      |      |          |              |               |              |              | <b>\$39,512.07</b> |                    |

Summary.

|                                  |  |
|----------------------------------|--|
| Source Of Funding                | General Infrastructure Funds (TIF-401) & Special Assessments |
| Net Amount Change Order # 3 (\$) | \$39,512.07  |
| Previous Change Orders (\$)      | \$24,628.67  |
| Original Contract Amount (\$)    | \$2,288,225.99   |
| Total Contract Amount (\$)       | \$2,352,366.73   |

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

  
 Dinkora Upea  
 Project Manager

APPROVED  
 For Contractor  
 Title

APPROVED DATE *7-16-22*  
 Department Head *T. Lee*  
 Mayor  
 Attest

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. BN-22-F1 Type: Private Utility Relocation

Location: Tillstone Drive Date of Hearing: 6/20/2022

|                 |                         |
|-----------------|-------------------------|
| <u>Routing</u>  | <u>Date</u>             |
| City Commission | <u>6/27/2022</u>        |
| PWPEC File      | <u>X</u>                |
| Project File    | <u>Jason Satterlund</u> |

The Committee reviewed the accompanying correspondence from Project Manager, Jason Satterlund, regarding the relocation of a private utility in Tillstone right of way.

Lumen (Century Link) has a utility hand hole located within the public utility easement on the south side of 55 Avenue South. When the District of Fargo 4<sup>th</sup> platted Tillstone Drive, the utility hand hole now falls within Tillstone right of way and in the middle of a proposed sidewalk. Lumen has provided a proposal of \$1,227.18 to relocate the hand hole.

On a motion by Steve Sprague, seconded by Bruce Grubb, the Committee voted to recommend approval payment to Lumen in the amount of \$1,227.18 for the private utility relocation.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve payment to Lumen in the amount of \$1,227.18 for relocation of a utility hand hole.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: Sales Tax Funds & Special Assessments


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

COMMITTEE

|  | <u>Present</u>                      | <u>Yes</u>                          | <u>No</u>                | <u>Unanimous</u>                    |
|--|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Tim Mahoney, Mayor                       | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Nicole Crutchfield, Director of Planning | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mark Williams                       |
| Steve Dirksen, Fire Chief                | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Bruce Grubb, City Administrator          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Ben Dow, Director of Operations          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Steve Sprague, City Auditor              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Brenda Derrig, City Engineer             | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| Terri Gayhart, Finance Director          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |

ATTEST:

C: Kristi Olson

  
 Brenda E. Derrig, P.E.  
 City Engineer

# Memorandum

**To:** Members of PWPEC  
**From:** Jason Satterlund, Project Engineer  
**Date:** June 14, 2022  
**Re:** Improvement District No. BN-22-F1 – Private Utility Relocation

---

## Background:

Improvement District No. BN-22-F1 is for new utility and paving construction on Tillstone Drive as part of The District of Fargo 4<sup>th</sup> Addition.

Lumen (Century Link) has a utility hand hole located within the public utility easement on the south side of 55<sup>th</sup> Avenue South. When The District of Fargo 4<sup>th</sup> platted Tillstone Drive, the utility hand hole now falls within Tillstone right of way and in the middle of a proposed sidewalk. Lumen has provided a proposal of \$1,227.18 to relocate the hand hole.

The estimated cost from Lumen:

- Cass County Electric - **\$1,227.18**
  - Covers cost to move a hand hole and all splicing and testing activities.

Attached for your review are the cover letter and proposal from Lumen to complete the work.

## Recommended Motion:

Approve the invoice payments of \$1,227.18 to Lumen for the relocation of the above-mentioned utility.

JTS/klb

Attachments

May 31, 2022

**RE: EXCESS CONSTRUCTION**

**ATTN: Steve Moss**

File #: 63923

Dear Customer,

We have received information from the Lumen Area Plant Supervisor for the Fargo, North Dakota area, Tim Armstrong, indicating that you have requested a cost estimate for excess construction near 55<sup>th</sup> Avenue S and 38<sup>th</sup> Street SW in Fargo, North Dakota. The work will consist of moving a handhole. All splicing and testing activities will be completed. This work falls into the excess construction category, which is billable back to the customer.

Before we can begin construction, it will be necessary for you to agree to the following terms for facility placement. Your portion of the expense will be \$1,227.18 (\$0.00 in material & \$1,227.18 in labor).

Lumen is not legally authorized to break costs down any further than the labor and material totals that are currently provided. Labor costs include all time for Municipality permitting, construction crews, general contractors and all Lumen internal teams involved in designing and turning up the service, which is confidential pursuant to our Contracts. The ability to recover these costs are driven and supported by the North Dakota State Tariffs and the North Dakota PUC.

If you have any further questions on this matter or would care to proceed with a payment of **\$1,227.18** please email me to have a work proposal forwarded to you from the Resource Allocation Group in Littleton, CO.

Specific site or construction questions need to be directed to the Lumen Area Plant Supervisor, Tim Armstrong at (701) 241-3300.

PLEASE NOTE that the work proposal will need to be signed and returned with a check or signed purchase order document before the work can begin and that this proposal can be withdrawn if it is not accepted within 30 days.

Thank you for your time. Very respectfully,

*Danielle Knisley*

Engineer-Special Construction  
Omaha, Nebraska 68144  
Danielle.Knisley@centurylink.com



06/08/22

City of Fargo Engineering Dept.  
Attn: Jason Satterlund  
225 4th St N  
Fargo, ND 58102

Re: FARGO, ND

BAN Number BN2NDA08

Dear Jason Satterlund,

Enclosed for your review is a Special Construction Proposal ("proposal") outlining details and obligations of the Aid to Construction process and required charges.

If the proposal is acceptable, please return a signed copy to [sconstr@Lumen.com](mailto:sconstr@Lumen.com). We also will send a separate email with instructions and a link for you to submit an electronic ACH payment in the amount of \$1,227.18.

**Regarding your Aid to Construction payment, we require ACH payment and are unable to accept other payment methods.**

Please note -- we are unable to schedule your service installation until we receive the signed proposal and your payment as described above.

Upon receipt of the signed proposal and payment, we will return a fully executed copy for your records. The fully executed proposal will constitute the agreement between you and CenturyLink for the work described in the proposal. NO ADDITIONAL TERMS AND CONDITIONS WILL BE ACCEPTED.

If you have any questions about scheduling or cancelling this work, please contact your CenturyLink representative, Danielle Knisley at +14024165641.

Special Construction Billing  
Email: [sconstr@Lumen.com](mailto:sconstr@Lumen.com)

Enclosures

**Special Construction Proposal**

Contract No No  
 Job Authorization No: BN2NDA08  
 CTL Affiliate: Qwest Corporation

|  |                                  |
|--|----------------------------------|
| Date: <u>06/08/22</u>                            |                                  |
| Billing Address:                                 | Work Location:                   |
| Customer: <u>City of Fargo Engineering Dept.</u> | <u>55th Ave S and 38th St SW</u> |
| Attention: <u>Jason Satterlund</u>               | <u>County CASS</u>               |
| <u>225 4th St N</u>                              | <u>FARGO, ND</u>                 |
| <u>Fargo, ND 58102</u>                           |                                  |

This Proposal is governed by the terms and conditions set forth herein as well as any applicable state or federal tariffs filed with the appropriate state or federal regulators. Description and/or specifications of work to be performed by an operating affiliate of CenturyLink Inc. ("CenturyLink") under this Proposal ("Work") is as follows:

The work will consist of moving a handhole. All splicing and testing activities will be completed. This work falls into the excess construction category, which is billable back to the customer.

Advance Payment (required before work begins): \$1,227.18

Total Charges: One Thousand Two Hundred Twenty-Seven Dollars and 18/100

For the Work performed hereunder, Customer will be responsible for the actual charges incurred. The estimated charges above shall be paid prior to commencement of the Work ("Advance Payment"). Amounts due from Customer in excess of estimated amounts shall be paid by Customer within thirty days of invoice, or such longer time, if any, as set forth on such invoice. Refunds due Customer, if any, shall be refunded as required by applicable tariff. All past due, undisputed amounts due from Customer to Company will be assessed a late fee at 14% APR. Where applicable, Customer shall also be responsible for foreign, federal, state and local taxes assessed in connection with the Work, including without limitation, all use, sales, value added, surcharges, excise, franchises, commercial, gross receipts, license, privilege or other similar charges, whether charged to or against Company or Customer, but excluding any taxes based on Company's net income.

For **Governmental Customers only**, Company will submit an invoice of charges upon completion of the Work, payable within forty-five (45) days of receipt. Past due undisputed amounts will be assessed a late fee in accordance with the applicable state and/or federal laws

\*The Work proposed here is separate from any work that may be performed pursuant to any other order or agreement, including but not limited to a Pre-Service Request for cell site provisioning. This Proposal shall be deemed withdrawn by Company if not accepted by the Customer within 30 days. **Upon execution by both parties, this Proposal and the terms and conditions of any applicable tariffs or Rates and Services Schedules on file with the applicable regulatory authorities shall constitute a binding agreement upon the parties.**

**CenturyLink**  
 Authorized Signature: \_\_\_\_\_  
 Name Printed/Typed: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Customer**  
 Authorized Signature: \_\_\_\_\_  
 Name Printed/Typed: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

36

Improvement District No. BR-21-C1 Type: Time Extension (Change Order #3)  
 Location: 21<sup>st</sup> Ave S, 15<sup>th</sup> St to Gold Dr Date of Hearing: 6/20/2022

|                 |             |
|-----------------|-------------|
| <u>Routing</u>  | <u>Date</u> |
| City Commission | 6/27/2022   |
| PWPEC File      | X           |
| Project File    | Aaron Edgar |

The Committee reviewed the accompanying correspondence from Project Manager, Aaron Edgar, regarding a time extension (Change Order #3) requested by Border States Paving. This time extension to the Substantial and Final Completion Dates is needed due to work not being able to be started as early as anticipated because of load restrictions that were in place until May 17, 2022.

Staff is recommending approval of the time extension (Change Order #3) as shown below:

| Original Completion Dates   | Revised Previously   | Revised This Memo  |
|---|--|--|
| Substantial – October 3, 2021<br>Final – October 31, 2021<br>Phase 4 Interim – October 26, 2021 | Substantial – September 21, 2022<br>Final – October 19, 2022<br>Phase 4 Interim – October 30, 2021 | Substantial – October 1, 2022<br>Final – October 31, 2022<br>- |

On a motion by Ben Dow, seconded by Steve Dirksen, the Committee voted to recommend approval of the time extension (Change Order #3) to Border States Paving.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the time extension (Change Order #3) to the Substantial and Final Completion Dates to October 1, 2022 and October 31, 2022 to Border States Paving Inc.

PROJECT FINANCING INFORMATION:

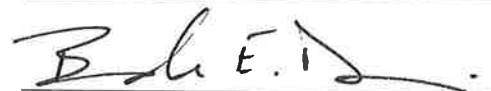
Recommended source of funding for project: Utility Funds, Sales Tax, State & Special Assessments

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

COMMITTEE

|  | Present                             | Yes                                 | No                       | Unanimous                           |
|--|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Tim Mahoney, Mayor                       | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Nicole Crutchfield, Director of Planning | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Mark Williams</u>                |
| Steve Dirksen, Fire Chief                | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>        </u>                     |
| Bruce Grubb, City Administrator          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>        </u>                     |
| Ben Dow, Director of Operations          | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>        </u>                     |
| Steve Sprague, City Auditor              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>        </u>                     |
| Brenda Derrig, City Engineer             | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>        </u>                     |
| Terri Gayhart, Finance Director          | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> | <u>        </u>                     |

ATTEST:

  
 Brenda E. Derrig, P.E.  
 City Engineer

C: Kristi Olson



# Memorandum

**To:** Members of PWPEC  
**From:** Aaron Edgar, Project Manager  
**Date:** June 13, 2022  
**Re:** Improvement District No. BR-21-C1 – Time Extension (CO #3)

**Background:**

Improvement District No. BR-21-C1 is on 21<sup>st</sup> Avenue South from 15<sup>th</sup> Street to Gold Drive.

Border States is the Prime Contractor on this project.

Border States is requesting a time extension to the Substantial and Final Completion Dates, due to them not being able to start this project as early as anticipated. Last year, on CO #2, we changed the completion dates due to a delay in the manufacturing of the 36" PVC water main pipe. When we changed the Substantial and Final Completion Dates, we anticipated the Contractor being able to start by May 7, 2022. Due to the load restrictions not being lifted until May 17, 2022, the Contractor was not able to start as early as anticipated.

The Contractor is asking for a time extension, due to the load restrictions not being lifted until May 17, 2022. This would change the Substantial Completion Date from September 21, 2022 to October 1, 2022 and the Final Completion Date from October 19, 2022 to October 31, 2022.

**Recommended Motion:**

Approve the Time Extension (CO #3) for a time extension to the Substantial and Final Completion Dates as shown below:

| Original Completion Dates   | Revised Previously   | Revised This Memo  |
|---|--|--|
| Substantial – October 3, 2021<br>Final – October 31, 2021<br>Phase 4 Interim – October 26, 2021 | Substantial – September 21, 2022<br>Final – October 19, 2022<br>Phase 4 Interim – October 30, 2021 | Substantial – October 1, 2022<br>Final – October 31, 2022<br>- |

ADE/klb  
 Attachment



**CHANGE ORDER REPORT**  
**WATER MAIN REPLACEMENT, STORM SEWER, STREET RECONSTRUCTION & INCIDENTALS**  
**IMPROVEMENT DISTRICT NO. BR-21-C1**  
**ON 21ST AVENUE SOUTH FROM GOLD DRIVE TO THE EAST SIDE OF 15TH STREET.**

**Change Order No** 3 **Change Order Date** 6/10/2022  
**Contractor** Border States Paving Inc

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

**EXPLANATION OF CHANGE** Change Order # 3

This change order is for a time extension on the substantial and final completion dates. Change Order #3 changes the substantial completion date to October 1, 2022 and the final completion date to October 31, 2022.

| 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 (\$) | Sub Total |
|---------|---------|------------------|------|---------------|--------------|---------------|--------------|--------------|-----------------|--------------------|-----------|
|         |         |                  |      |               |              |               |              |              |                 |                    | \$0.00    |

Summary

Source Of Funding  
 Net Amount Change Order # 3 (\$)   
 Previous Change Orders (\$)   
 Original Contract Amount (\$)   
 Total Contract Amount (\$)

Waste Water Utility, Water utility, Sales Tax, State Funds, Special Assessments  
 \$0.00  
 \$62,070.00  
 \$3,097,221.28  
 \$3,159,291.28

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

APPROVED  
 For Contractor  
 Title  
*Joel Paur*

6-10-2022  
 Border States Paving Inc.  
 Area Manager

APPROVED DATE  
 Department Head  
 Mayor  
 Attest

*TRILL*  
 6/23/22

June 20, 2022

Board of City Commissioners  
City of Fargo  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Re: Permanent Storm Sewer Easement  
Improvement District #BN-21-E1

Dear Commissioners:

Accompanying for City Commission review and approval is an original permanent storm sewer easement from V V Estates, LLC in association with Improvement District #BN-21-E1.

RECOMMENDED MOTION:

Approve permanent storm sewer easement from the V V Estates, LLC.

Please return the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Nancy Morris  
Will Bayuk

**PERMANENT EASEMENT**  
**(Storm Sewer)**

**KNOW ALL MEN BY THESE PRESENTS** that **V V ESTATES, LLC**, a North Dakota limited liability company, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing, operating, maintaining and repairing a storm sewer, together with the customary appurtenances, said tract being more particularly described as follows:

Parcel "A" Description:

A tract of land in Block 4 of VALLEY VIEW ESTATES SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

That part of Lots 11 and 12, said Block 4 lying within 5.00 feet of the northwest corner of said Lot 11.

Said tract contains 40 square feet, more or less.

Parcel "B" Description:

A tract of land in Lot 1, Block 4 of VALLEY VIEW ESTATES SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

That part of said Lot 1 lying within 5.00 feet of a point on the north line of said Lot 1, said point lying 15.00 feet westerly of the northeast corner of said Lot 1 as measured along said north line.

Said tract contains 39 square feet, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said storm sewer and customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises, and Grantor expressly warrants and states that no buildings or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said storm sewer including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said storm sewer and customary appurtenances was begun.

(Signatures on following page.)

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this \_\_\_\_ day of \_\_\_\_\_, 2022.

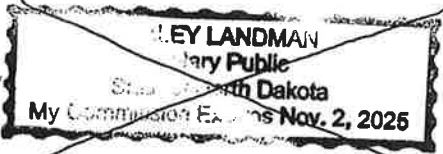
GRANTOR:  
V V ESTATES, LLC,  
a North Dakota limited liability company



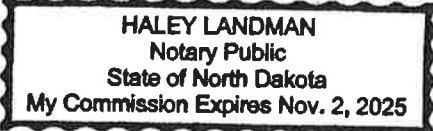
By: \_\_\_\_\_  
President  
Its: \_\_\_\_\_

STATE OF ND )  
COUNTY OF Cass ) ss.  
)

On this 7<sup>th</sup> day of June, 2022, before me, a notary public in and for said county and state, personally appeared James Bullis, the president of V V Estates, LLC, a North Dakota limited liability company, described in and who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same.

(SEAL) ~~~~

  
Notary Public  
Cass County, North Dakota



IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this \_\_\_\_ day of \_\_\_\_\_, 2022.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

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

ATTEST

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, a notary public in and for said county and state, personally appeared DR. TIMOTHY J. MAHONEY, M.D. and STEVE SPRAGUE, to me known to be the Mayor and City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

\_\_\_\_\_  
Notary Public  
Cass County, ND  
My Commission expires:

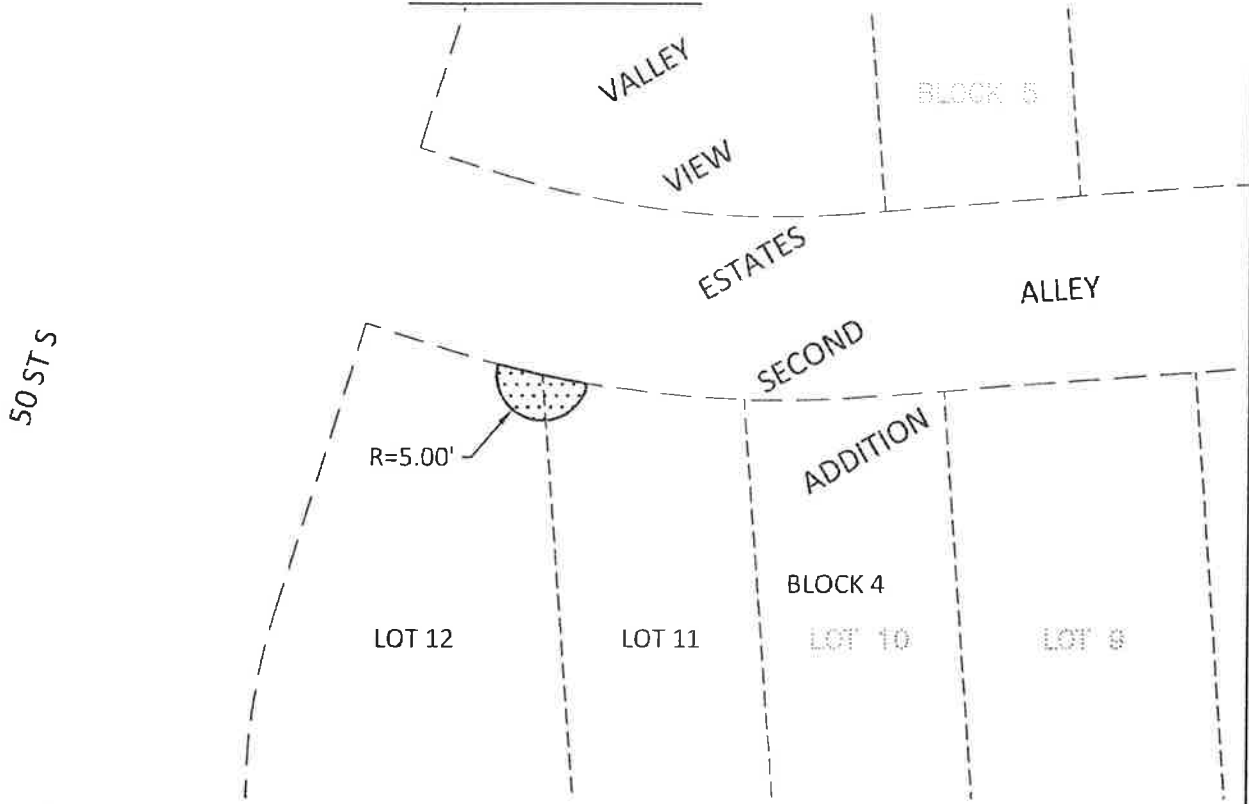
(SEAL)

The legal description was prepared by:  
Brent W. Wacha, LS-5068  
City of Fargo, Engineering Department,  
225 4th Street North  
Fargo, ND 58102  
701-241-1545

This document was prepared by:  
Nancy J. Morris  
City Attorney  
Serkland Law Firm  
10 Roberts Street North  
Fargo, ND 58102  
701-232-8957  
[nmorris@serklandlaw.com](mailto:nmorris@serklandlaw.com)



# EXHIBIT A




**Parcel "A" Description:**

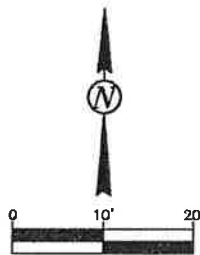
A tract of land in Block 4 of VALLEY VIEW ESTATES SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

That part of Lots 11 and 12, said Block 4 lying within 5.00 feet of the northwest corner of said Lot 11.

Said tract contains 40 square feet, more or less.

**LEGEND**

-  NEW EASEMENT
-  RIGHT-OF-WAY
-  LOT LINE



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



ENGINEERING DEPT.

## PERMANENT EASEMENT

LOTS 11 & 12, BLOCK 4, VALLEY VIEW ESTATES SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

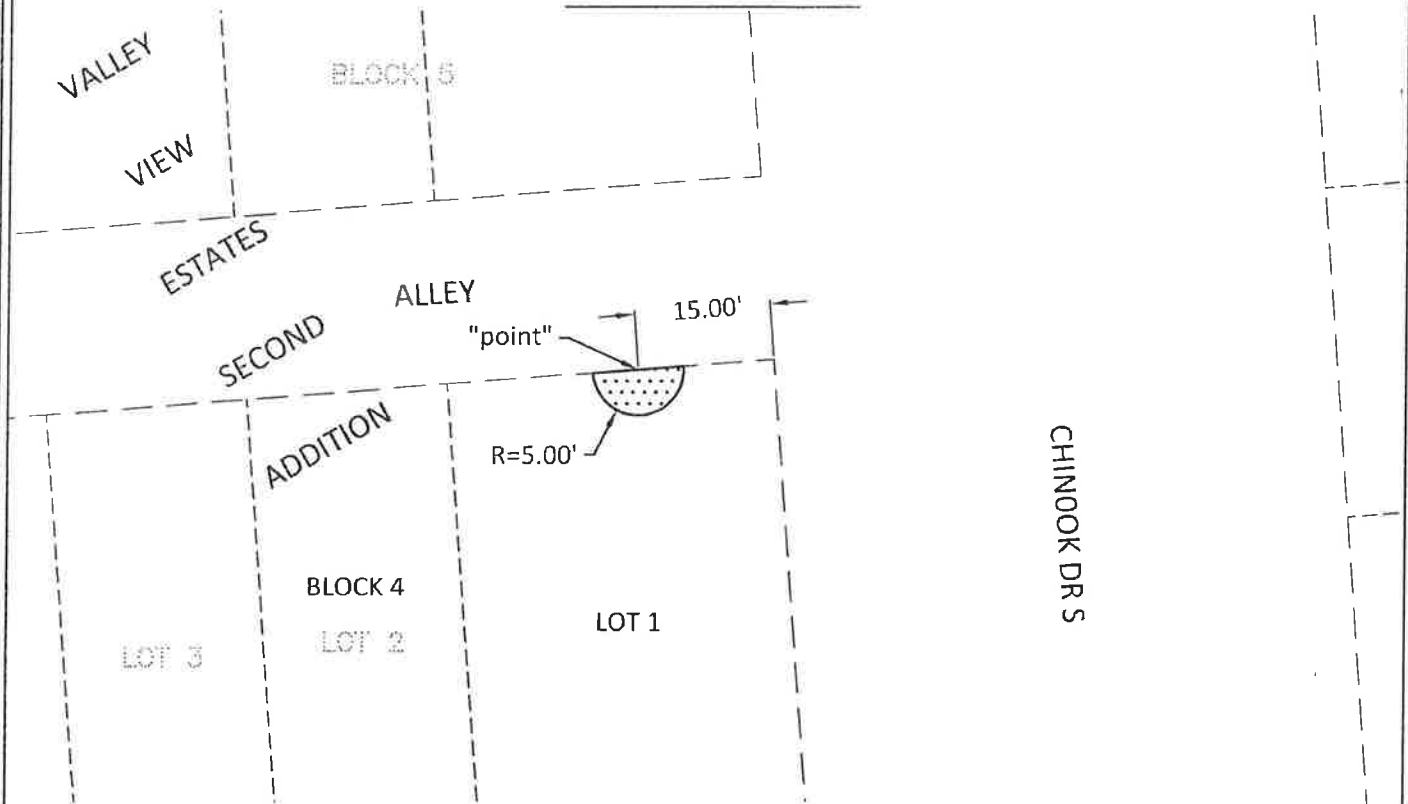
DRAWN BY: BWW

APPROVED BY: BWW

DATE: MAY 17, 2022

SHEET 1 OF 2

# EXHIBIT A






Parcel "B" Description:

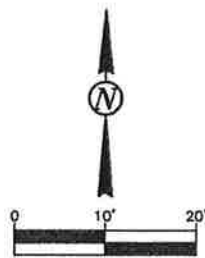
A tract of land in Lot 1, Block 4 of VALLEY VIEW ESTATES SECOND ADDITION to the City of Fargo, Cass County, North Dakota more particularly described as follows:

That part of said Lot 1 lying within 5.00 feet of a point on the north line of said Lot 1, said point lying 15.00 feet westerly of the northeast corner of said Lot 1 as measured along said north line.

Said tract contains 39 square feet, more or less.

LEGEND

-  NEW EASEMENT
-  RIGHT-OF-WAY
-  LOT LINE



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



ENGINEERING DEPT.

## PERMANENT EASEMENT

LOT 1, BLOCK 4, VALLEY VIEW ESTATES SECOND ADDITION,  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: BWW

APPROVED BY: BWW

DATE: MAY 17, 2022

SHEET 2 OF 2

38

June 20, 2022

Board of City Commissioners  
City of Fargo  
225 4<sup>th</sup> Street North  
Fargo, ND 58102

Re: Permanent Storm Sewer Easement  
Improvement District #BN-22-J1

Dear Commissioners:

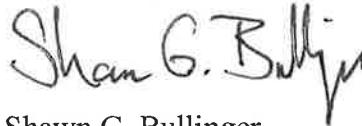
Accompanying for City Commission review and approval is an original permanent storm sewer easement from 76<sup>th</sup> Street Holdings, LLC in association with Improvement District #BN-22-J1.

RECOMMENDED MOTION:

Approve permanent storm sewer easement from 76<sup>th</sup> Street Holdings, LLC.

Please return the signed original.

Respectfully submitted,



Shawn G. Bullinger  
Land Acquisition Specialist

C: Nancy Morris  
Will Bayuk

**PERMANENT EASEMENT**  
**(Storm Sewer)**

**KNOW ALL MEN BY THESE PRESENTS** that **76TH STREET HOLDINGS, LLC**, a North Dakota limited liability company, hereinafter referred to as "Grantor", whether one or more, for and in consideration of the sum of One and no/100 Dollars (\$1.00) and other valuable consideration, to it in hand paid the receipt whereof is hereby acknowledged, **HEREBY GRANTS UNTO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA**, a municipal corporation, its successors and assigns, hereinafter referred to as "Grantee", a permanent and perpetual easement over, upon and in the land hereinafter described for the purpose of constructing, operating, maintaining and repairing a storm sewer, together with the customary appurtenances, said tract being more particularly described as follows:

A 5.00 foot wide strip of land in Block 1, GOLDEN VALLEY THIRD ADDITION in the Northeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota lying easterly of and adjacent to the following described line:

Beginning at the northwest corner of Lot 1, said Block 1; thence South 02°16'07" East, on the west lines of Lots 1 through 6, inclusive, said Block 1, GOLDEN VALLEY THIRD ADDITION, a distance of 333.03 feet and there terminating.

Sidelines of said strip shall be lengthened or shortened so as to terminate on the south right-of-way of 67th Avenue South on the north.

Said strip contains 1,665 square feet, more or less.

The said property is pictorially represented on Exhibit "A" attached hereto and incorporated herein by reference.

Grantor, its successors and assigns, hereby covenant to and with Grantee that Grantee's officers, contractors, agents and employees may at any and all times when necessary or convenient to do so, go over and upon said above-described tract of land and perform any and all acts necessary or convenient to carry into effect the purpose for which the grant is made.

Grantor, its successors and assigns, further agrees that it will not disturb, injure, molest or in any manner interfere with said storm sewer and customary appurtenances, or with material for laying, maintaining, operating or repairing the same, in, over or upon the above-described premises, and Grantor expressly warrants and states that no buildings or other obstacles of any kind shall be placed or located upon the tract so as to interfere in any manner with the construction, operation, maintenance or repair of said storm sewer including customary appurtenances, provided that Grantee, at its own expense, shall refill any excavation it makes and level the ground thereafter, leaving the premises in as good condition as it was prior to the time of constructing of said storm sewer and customary appurtenances was begun.

(Signatures on following page.)

IN WITNESS WHEREOF, Grantor has set its hand and caused this instrument to be executed this 12 day of June, 2022.

GRANTOR:

76th Street Holdings, LLC,  
a North Dakota limited liability  
company

*[Handwritten Signature]*  
By: \_\_\_\_\_  
Its: President

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

On this 12 day of June, 2022, before me, a notary public in and for said county and state, personally appeared James Bullis, to me known to be the President, respectively, of 76th Street Holdings, LLC, a North Dakota limited liability company, described in and who executed the within and foregoing instrument, and acknowledged to me that he executed the same.

**KARISSA RUDE**  
Notary Public  
State of North Dakota  
My Commission Expires Oct. 11, 2023

*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public  
Cass County, North Dakota

IN WITNESS WHEREOF, Grantee has set its hand and caused this instrument to be executed this \_\_\_\_ day of \_\_\_\_\_, 2022.

GRANTEE:

City of Fargo, a North Dakota municipal corporation

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

ATTEST

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

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

On this \_\_\_\_ day of \_\_\_\_\_, 2022, 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 City Auditor, respectively, of the City of Fargo, Cass County, North Dakota, the municipal corporation described in and that executed the within and foregoing instrument, and acknowledged to me that said municipal corporation executed the same.

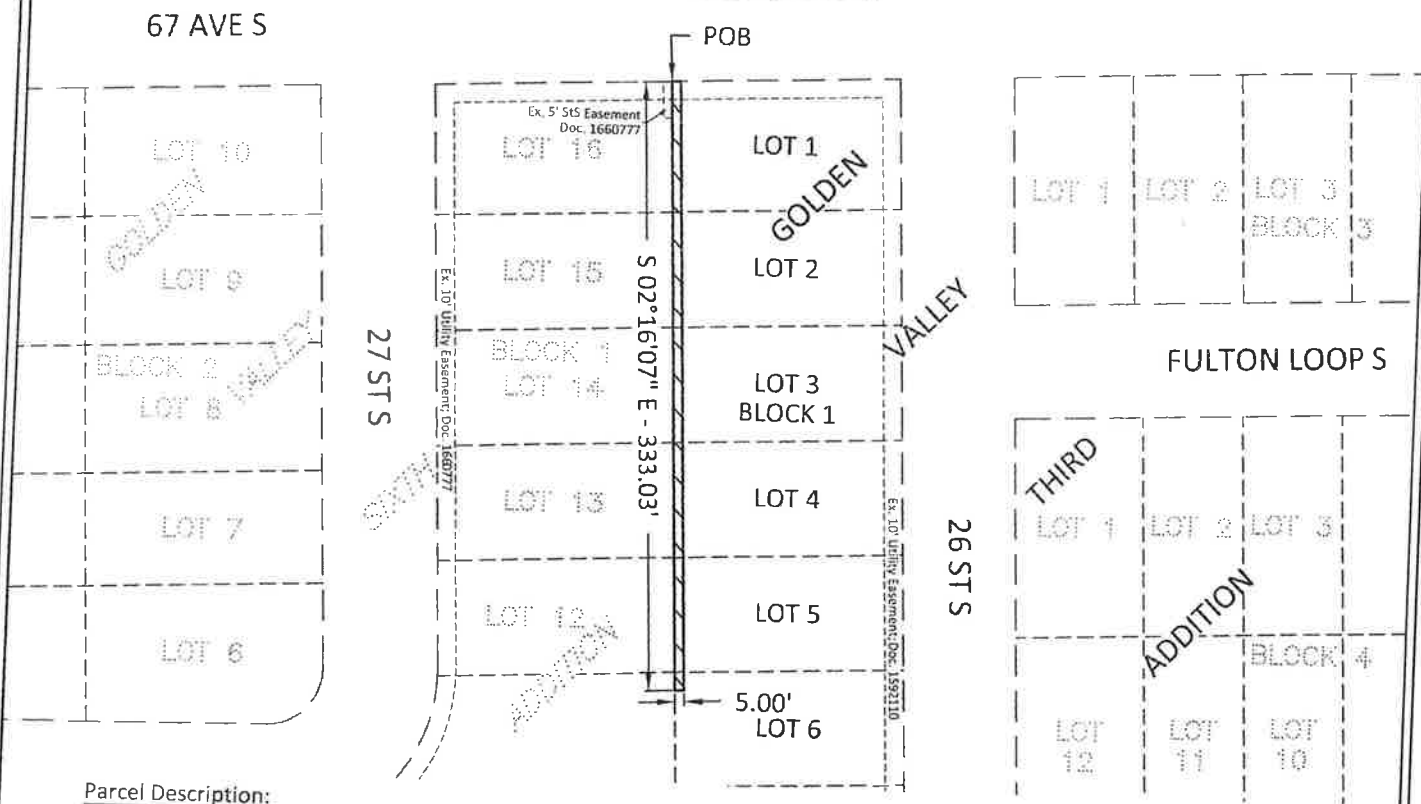
\_\_\_\_\_  
Notary Public  
Cass County, ND  
My Commission expires:

(SEAL)

The legal description was prepared by:  
Brent W. Wacha, LS-5068  
City of Fargo, Engineering Department,  
225 4th Street North  
Fargo, ND 58102  
701-241-1545

This document was prepared by:  
Nancy J. Morris  
City Attorney  
Serkland Law Firm  
10 Roberts Street North  
Fargo, ND 58102  
701-232-8957  
[nmorris@serklandlaw.com](mailto:nmorris@serklandlaw.com)

# EXHIBIT A



**Parcel Description:**





A 5.00 foot wide strip of land in Block 1, GOLDEN VALLEY THIRD ADDITION in the Northeast Quarter of Section 11, Township 138 North, Range 49 West of the Fifth Principal Meridian, City of Fargo, Cass County, North Dakota lying easterly of and adjacent to the following described line:

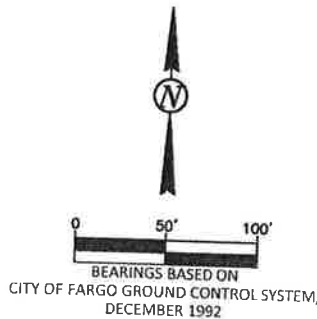
Beginning at the northwest corner of Lot 1, said Block 1; thence South 02°16'07" East, on the west lines of Lots 1 through 6, inclusive, said Block 1, GOLDEN VALLEY THIRD ADDITION, a distance of 333.03 feet and there terminating.

Sidelines of said strip shall be lengthened or shortened so as to terminate on the south right-of-way of 67th Avenue South on the north.

Said strip contains 1,665 square feet, more or less.

**LEGEND**

-  NEW EASEMENT
-  RIGHT-OF-WAY
-  LOT LINE
-  EXISTING EASEMENT



ENGINEERING DEPT.

## PERMANENT EASEMENT

BLOCK 1, GOLDEN VALLEY THIRD ADDITION  
CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

DRAWN BY: BWW

APPROVED BY: BWW

DATE: MAY 17, 2022

SHEET 1 OF 1



(39)

PUBLIC WORKS PROJECTS EVALUATION COMMITTEE

Improvement District No. PN-22-A1 Type: Asphalt Modification Use ACE Fiber

Location: 25th St btwn 32nd Ave & Rose Creek Date of Hearing: 6/20/2022

| <u>Routing</u>  | <u>Date</u>  |
|-----------------|--------------|
| City Commission | 6/27/2022    |
| PWPEC File      | X            |
| Project File    | Kevin Gorder |

The Committee reviewed the accompanying correspondence from Division Engineer, Kevin Gorder, regarding a proposal from Brock White, along with Border States Paving, to use ACE Fibers in the asphalt as a measure to try and improve the services life of the pavement.

ACE Fibers are used in many industries and applications including ballistic protection, heat and cut protection, ropes and cables, etc. The ACE Fibers are mixed in with the oil and rock to provide 3-dimensional reinforcement throughout the asphalt layer. The total estimated additional cost to the project (PN-22-A1) is \$86,625.00.

Staff is seeking approval of the addition of ACE Fibers to the Mill & Overlay Project and to direct Engineering to execute a change order.

On a motion by Steve Sprague, seconded by Ben Dow, the Committee voted to approve the use of ACE Fibers with no modifications to the asphalt oil to the Mill & Overlay project and direct Engineering to execute a change order associated with Improvement District PN-22-A1.

RECOMMENDED MOTION

Concur with recommendations of PWPEC and approve the use of ACE Fibers with no modification to the asphalt oil and the associated change order for Improvement District PN-22-A1.

PROJECT FINANCING INFORMATION:

Recommended source of funding for project: N/A

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

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

COMMITTEE

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

| <u>Present</u>                      | <u>Yes</u>                          | <u>No</u>                | <u>Unanimous</u>                    |
|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mark Williams                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |                                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/> |                                     |

ATTEST:

*B. E. Derrig*  
Brenda E. Derrig, P.E.  
City Engineer

C: Kristi Olson

# Memorandum

**To:** Members of PWPEC  
**From:** Kevin Gorder, Division Engineer  
**Date:** June 16, 2022  
**Re:** Asphalt Modification Using ACE Fiber (PN-22-A1)

---

**Background:**

Engineering bid a project to mill and overlay 25<sup>th</sup> Street between 32<sup>nd</sup> Avenue and Rose Creek. The project is a preventative maintenance type project with the goal of extending the pavement life 12-15 years. The last mill and overlay on this roadway was completed in 2009, so it has lasted 13 years.

Brock White, along with Border States Paving, approached Engineering with a proposal to use ACE Fibers in the asphalt as a measure to try and improve the service life of the pavement. ACE Fibers are used in many industries and applications including ballistic protection, heat and cut protection, ropes and cables, etc. The ACE Fibers are mixed in with the oil and rock to provide 3-dimensional reinforcement throughout the asphalt layer.

The goal of the fibers is to increase the asphalt's resistance to cracking, rutting, and fatigue.

The quote for the ACE Fiber is \$15.75/ton in addition to the bid price of the asphalt. Multiple studies have shown that you can use a lower grade Asphalt Oil with the ACE Fiber to get the desired results. Lowering the grade of Asphalt Oil would result in a savings of \$3.56/ton. The difference is \$12.19/ton. The estimated quantity for the project is 5,500 tons. Total estimated additional cost to the project is \$67,045. Estimated bid price for this portion of the project is approximately \$750,000.

More information on ACE Fibers can be found at <https://www.brockwhite.com/acefibers>.

**Recommended Motion:**

Approve the addition of ACE Fiber to this mill and overlay project and direct Engineering to execute a change order.

KOG/klb